

# CHANGE MANAGEMENT POLICY

## July 2019

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Date Issued:	
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## **1. INTRODUCTION**

The NHS Hull Clinical Commissioning Group (hereafter referred to 'the CCG') aims to provide all employees with the highest possible level of employment and security; however service development and the need to continually improve organisational effectiveness will sometimes necessitate changes to staffing levels, structures, roles and ways of working. This policy will provide a clear process to follow when implementing change and the organisation is committed to ensuring the change is managed in a way that is sensitive, consistent, fair and in line with statutory requirements, Agenda for Change (AfC), and best practice.

## **2. SCOPE**

This document applies to all NHS staff employed by the CCG with Agenda for Change (AfC) terms and conditions of employment, including those who are seconded out to another organisation and will be applied consistently and equitably to all staff. It does not apply to staff employed elsewhere and seconded into the CCG (those staff are the responsibility of their substantive employer) or to agency staff.

## **3. POLICY PURPOSE AND AIMS**

The purpose of this document is to set out the CCG's approach to the management of organisational change and the procedures that should be followed by managers wishing to implement major change. Where national change management processes apply, these will supersede local arrangements.

The principles and procedures support the aim of managing strategic and operational change in a way that is both supportive to staff and enhances the assurance of the highest quality provision of patient care.

## **4. GENERAL DATA PROTECTION REGULATION (GDPR)**

The CCG is committed to ensuring that all personal information is managed in accordance with current data protection legislation, professional codes of practice and records management and confidentiality guidance. More detailed information can be found in the CCGs Data Protection and Confidentiality and related policies and procedures.

## **5. IMPACT ANALYSIS**

### **5.1 Equality**

In applying this policy, the CCG will have due regard to the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability,

gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, socio-economic class or any other personal characteristic.

In addition, section 14.1 below states, 'staff will be treated as individuals with due regard to their personal and employment circumstances and their career aspirations at all stages of the change management procedure'. As a result of performing the analysis, it is evident that a risk of discrimination exists and this risk may be removed or reduced by implementing the actions detailed within the *Action Planning* section of this document.

An Equality Impact Assessment is attached at Appendix 1.

## 5.2 Bribery Act 2010

NHS Hull Clinical Commissioning Group has a responsibility to ensure that all staff are made aware of their duties and responsibilities arising from The Bribery Act 2010.

The Bribery Act 2010 makes it a criminal offence to bribe or be bribed by another person by offering or requesting a financial or other advantage as a reward or incentive to perform a relevant function or activity improperly performed. The penalties for any breaches of the Act are potentially severe. There is no upper limit on the level of fines that can be imposed and an individual convicted of an offence can face a prison sentence of up to 10 years.

For further information see <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-quick-start-guide.pdf>.

If you require assistance in determining the implications of the Bribery Act please contact the Local Counter Fraud Specialist on telephone number 01482 866800 or email at [nikki.cooper1@nhs.net](mailto:nikki.cooper1@nhs.net).

The Bribery Act is particularly relevant to this policy. Consistent application and monitoring of this policy will mitigate bribery in relation to Change Management.

## 6. NHS CONSTITUTION

6.1 The CCG is committed to:

Designing and implementing services, policies and measures that meet the diverse needs of its population and workforce, ensuring that no individual or group is disadvantaged.

6.2 This Policy supports the NHS Constitution as follows:

**The NHS aspires to the highest standards of excellence and professionalism** in the provision of high-quality care that is safe, effective and focused on patient experience; in the planning and delivery of the clinical and other services it provides; in the people it employs and the education, training and development they receive; in the leadership and management of its organisations; and through its commitment to innovation and to the promotion and conduct of research to improve the current and future health and care of the population.

## 7. DEFINITIONS

For the purpose of applying the provisions contained in this document, the following definitions shall have the following meanings:

**Agenda for Change (AfC)** is the National Health Service (NHS) grading and pay system for NHS staff, with the exception of doctors, dentists, and some senior managers.

Organisational changes may include the reorganisation, relocation, merger, significant expansion or reduction of a function, competitive tendering or outsourcing, or a major change in working practice. All such changes will be conducted in accordance with this document which incorporates AfC, best practice and legal requirements and aims to provide a framework for common understanding for managers, staff and trade unions.

Affected by Change staff are those who may be affected by the change e.g. change of line manager, changes to responsibilities but are not at risk of redundancy

**At Risk** staff are those whose posts may potentially be redundant as a result of organisational change if suitable alternative employment cannot be found.

**Continuous Service** means full or part time employment with the CCG or any previous NHS employer provided there has not been a break of more than one week (Sunday to Saturday) between employments. This reflects the provisions of the Employment Rights Act 1996 and AfC handbook (where applicable) on continuous employment.

**COSOP** means Cabinet Office Statement of Practice. National NHS guidance should be referred to if COSOP applies.

**Mutually Agreed Resignation Scheme (MARS)** is a scheme under which an individual employee, in agreement with their employer, chooses to leave employment in return for a severance payment.

**Reckonable Service** means continuous service plus any service with a previous NHS employer where there has been a break of 12 months or less which will then relate to

annual leave and sickness leave calculations. At the CCG's discretion any period of employment outside the NHS which is relevant to NHS employment may be counted as reckonable service. For further information, refer to the AfC handbook and the CCG's Starting Salaries Policy.

**Redeployment** means the transferring or recruitment of Staff at risk into a suitable alternative post.

**Ring fencing** means the process by which staff at risk will be considered for a post in a new staffing or management structure which is similar to their current post and where there is more than one contender for that post.

**Slotting In** means the process by which staff who are at risk are confirmed into a post in a new staffing or management structure which is similar to their current post and where that individual is the only contender for that post. Slotting in may occur where a post is in the same band as the individual's current post or where it remains substantially the same with regard to job content, responsibility, grade, status and requirements for skills, knowledge, experience and location.

**Suitable Alternative Employment (SAE)** describes an equivalent post defined in terms of pay, working hours, status, grade, duties and responsibilities, location and location allowances. It must be suitable to personal circumstances, skills and experience. It may be on any site operated by the CCG subject to individual travel considerations.

**TUPE** means the Transfer of Undertaking (Protection of Employment) Regulations 2006. Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014

## **8. ROLES / RESPONSIBILITIES / DUTIES**

Staff are central to the achievement and success of organisational change. The CCG acknowledges that change can cause concern and uncertainty and should therefore be managed fairly and consistently in accordance with established good practice.

The CCG will engage with Trade Unions and consult staff in any change management procedure. Staff also have a role to play in this procedure in engaging with the consultation process.

Managers are critical to the change management process and shall therefore be regularly briefed by Senior Managers, so that they are in a position to respond to the concerns of staff in their teams. In turn, managers should provide information to staff and trade unions so that they are able to make meaningful contributions to the consultation process.

Managers must ensure that no member of staff is discriminated against on the grounds of contractual status, caring responsibilities, any protected characteristic as defined by the

Equality Act e.g. ethnic origin, nationality, race, disability, gender, marital or partnership status, age, religion or belief, sexual orientation or transgender status, when applying this policy. Managers must ensure they complete the statutory / mandatory training in Equality and Diversity.

Managers should liaise with HR to ensure the CCG is not open to claims of discrimination as a result of a change management process and should be mindful of the need to consider making reasonable adjustments at the job design stage, when considering the suitability of alternative employment for an individual and in the arrangements for filling posts.

Staff are expected to play an active role during the pre-consultation and consultation stages, in the further processes of implementation and in identifying new career opportunities; particularly if they are at risk of redundancy.

Trade unions play a vital role in advising and representing staff undergoing organisational change and in working with managers to ensure that organisational change is managed with the least disruption and in accordance with the principle of avoiding compulsory redundancies wherever possible. The CCG will formally notify the trade unions of any proposed organisational changes and will undertake consultation with them in line with legal requirements.

The CCG will arrange additional paid facility time for agreed Trade Union representative members, where necessary, to ensure they are able to fully participate in this process.

## **9. IMPLEMENTATION**

This policy will be communicated to staff via email and will be available on Hull CCG's website.

Any deliberate breaches in the application of this policy and procedure may be investigated and may result in the matter being treated as a disciplinary offence under Hull CCG's disciplinary procedure.

## **10. TRAINING AND AWARENESS**

A copy of the policy will be available on the CCG website. Guidance and support will be provided to all Line Managers, by the HR Team, in the implementation and application of this policy upon request.

## **11. MONITORING AND EFFECTIVENESS**

The implementation of this policy will be monitored on an annual basis by the CCG and



reported to the Senior Leadership Team.

## 12. POLICY REVIEW

The policy (and procedure) will be reviewed every 4 years following implementation by the Human Resources Team in conjunction with operational managers and trade union representatives. Where review is necessary due to legislative change, or changes to the NHS national terms and conditions of employment, this will happen immediately.

## 13. ASSOCIATED DOCUMENTATION

- Disciplinary Policy
- Grievance Policy
- [Equality and Diversity Policy](#)
- Travel and Expenses Policy
- Pay Protection Policy
- Redeployment Policy
- Starting Salaries Policy
- Maternity, Maternity Support (Paternity), Adoption and Parental Leave Policy
- Agenda for Change Handbook

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## 14. SECTION 2 - CHANGE MANAGEMENT PROCEDURE

### 14.1 Statement and principles

Organisational change is driven by the business needs of the CCG. Change can be triggered either by the external environment or by an internal review of organisational requirements. Examples of significant organisational change include the reorganisation, relocation, merger, expansion or closure of a service, competitive tendering or outsourcing, or a major change in working practice.

In order to meet changing business needs more effectively, there may be occasions when managers need to implement relatively minor changes. Reasonable minor changes and adjustments to duties and working practices may be implemented without recourse to the formal procedures in this document but will require reasonable consultation with staff affected, for example an individual job description. Any situation which may lead to redundancy will not be deemed to be a minor change.

The CCG is responsible for deciding the size and most efficient use of the workforce but in doing so is committed to the following principles for managing organisational change:

- the CCG will provide such information about the proposed organisational change in accordance with good employee relations practice to disclose to staff and the trade unions
- the CCG will work in partnership with the Trade Union and Staff Organisation representatives from the earliest stage possible
- staff will receive notice of any organisational change which may affect their futures at the earliest opportunity
- staff will be treated as individuals with due regard to their personal and employment circumstances and their career aspirations at all stages of the change management procedure
- staff will have the right to be accompanied by a trade union representative or workplace colleague at formal meetings to discuss the organisational change
- requests by the employee for additional support at any individual meetings should be considered on an individual basis e.g. where disability is involved and familiarity with the impairment or the individual or specialist input would be beneficial
- the CCG will consider all reasonably practicable steps to avoid compulsory redundancies
- staff will be able to access training and development, as appropriate to meet new skill requirements and where appropriate to identify new career opportunities, with funding and time to attend training and development activities given
- career support is available from the HR Team. This may include access to support in seeking SAE e.g. interview skills.

Staff will be considered against their substantive post and contractual arrangements throughout the process e.g. regarding their suitability for slotting in and ring fencing.

## **15. CONSULTATION**

### **15.1 Purpose of consultation**

In accordance with legislation and the partnership working principles of the NHS, the CCG commits itself to meaningful and appropriate consultation with trade unions and staff affected by the organisational change with a view to reaching agreement on the way forward although there will be times when organisational

change will need to proceed without a consensus being reached on all issues. The timing and extent of consultation will be proportionate to the degree of proposed change, the number of staff affected and the impact on individuals.

The purpose of the consultation meetings with trade unions and staff will be:

- to receive and where possible address any questions on the consultation document
- to consider any comments or views on the consultation document including any alternative proposals and costings (which the CCG shall as far as practicable make available) before determining any final decision to proceed
- to clarify any change processes and timeframes specific to the proposed organisational change exercise under discussion.

## 15.2 Consultation Procedure

Managers shall prepare a consultation document on the proposed organisational change having gathered information to support the need for change and consulted with HR as appropriate.

The consultation document may include details of the following, as appropriate:

- current situation analysis including staffing structure
- impact on service/business
- impact on other areas / services
- consideration of any relevant health and safety assessment
- the need for change and the rationale behind the change
- the options that have been considered
- the proposals for change including the proposed staffing structure(s) and any location change
- the financial, staffing and workload implications of the proposals
- the number and grades/bands of staff who may be at risk of redundancy as a result of the proposal

- proposed timescale for consultation and implementation of the proposed change
- the way in which staff will be selected for posts within the new structure or transferred
- if necessary, the selection criteria for redundancy
- **MAR** scheme details, if available
- the measures to be taken to avoid compulsory redundancies which may include natural wastage, redeployment with retraining, or voluntary early retirement or voluntary redundancy
- details of any suitable alternative employment which may exist
- details of how this information will be disseminated to staff
- description of the consultation process, including planned meetings, timetable, how staff and representatives can respond and the deadline.

**Comment [WU1]:** Needs to be spelt out in full the first time it's used in the document

The consultation document will include an equality impact assessment.

### 15.3 Time periods for consultation

In all cases the CCG will allow sufficient time for meaningful consultation with staff and their representatives. In exceptional circumstances where changes need to be made very quickly, the trade unions will be briefed immediately and the verbal briefing will be followed by a written brief.

In a collective redundancy scenario, consultation will commence for a period of no less than the statutory time scales:

- where 20 - 99 redundancies are proposed then consultation should commence at least 30 days before the first redundancy takes place
- where 100 or more redundancies are proposed then consultation should commence at least 45 days before the first redundancy takes place.

The employer and the staff representatives can mutually decide that they have informed and consulted on the issues in a period less than the statutory timescales above. If that is the case, then the organisational change can begin to be implemented earlier, including sending out dismissal notices, if applicable. Note that this can only happen if the staff representatives agree that they have been fully informed and consulted as per section 15.2 above.

Trade unions and staff may request additional information or an extension of time if this is necessary to enable them to understand and contribute to an informed discussion on the merits of the proposal. Such requests will not unreasonably be refused, and where they cannot be accommodated a reason will be given.

#### 15.4 **Consultation with the trade unions**

Early informal consultation with the trade unions is encouraged and should occur where possible. This is also known as pre-consultation. Meaningful pre-consultation often leads to an agreed shorter formal consultation time and greater staff satisfaction with the process.

Formal consultation (see section 15.2 above) with the trade unions will commence within the minimum timescales above once any informal comments have been considered and the consultation document has been finalised. This will take the form of:

- ongoing discussions with the local accredited representatives
- trade unions representing staff affected by the change should be invited to the first meeting with all affected staff and given reasonable notice to attend.

In a redundancy scenario, the information provided in writing to the trade unions shall include the following:

- the numbers and descriptions of employees whom it is proposed to dismiss as redundant
- the total number of employees of any such description employed by the CCG at the establishment in question
- the proposed method of selecting employees who may be dismissed
- the proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect (reference NHS Terms and Conditions Handbook: section 16)
- the proposed method of calculating the amount of any redundancy payments to be made (over and above the statutory redundancy payment) to employees who may be dismissed.

During a period of change, management will ensure that trade unions are kept informed of developments and will meet with the trade unions as appropriate.

## 15.5 **Consultation with individual staff**

A meeting will be held with all staff affected by the organisational change to announce the proposed change and explain the consultation process which will follow.

Each member of staff affected by the organisational change will be provided with a copy of the consultation document. Staff who are absent from work for any reason including maternity leave, sickness absence, secondment to another organisation, career breaks etc will be sent a copy of the consultation document at their home address/other suitable address so that they can participate in the consultation process and should be offered the opportunity to discuss the documentation further.

Each member of staff, including those absent from work, will be offered the opportunity of at least one individual meeting with their manager at which they have the right to be accompanied by a trade union representative or workplace colleague. HR advisory support will also be offered to support the process including engaging with manager, staff member and staff representatives. In a redundancy scenario, the meeting will be to discuss the issues set out at section 15.4.

At the meeting, each member of staff will be invited to comment and respond to the proposals, including how they may impact on their personal circumstances. It is recognised that staff may require time to respond and may not be able to do so at that particular meeting. Staff will therefore be made aware of their right to request further meetings with their manager during the consultation period.

A written record of the individual meetings will be kept and provided to the employee and their trade union representative where applicable. The record will be a note of the main points discussed at the meeting, not verbatim notes.

Regular updates and frequently asked questions may be circulated to staff throughout the formal consultation period. Throughout this period staff should be encouraged to discuss their concerns and queries with their line manager and trade union.

In addition to the individual consultation meetings, staff can be kept informed as appropriate by management, team meetings and briefings, newsletters, trade union meetings, email and other written communication and information supplied by the trade unions.

## 15.6 **End of consultation**

At the end of the consultation period the manager will give full consideration to all comments received from staff and the trade unions and will make a decision on the

way forward. A written report will be provided to the staff and trade unions covering the change process to be followed and the timeframe. The report should (where appropriate) include:

- the reasons for the decision
- any relevant health and safety assessments
- an explanation where the management decision is in conflict with the views of the trade unions representatives/staff and any actions taken in an effort to resolve any areas of conflict; or where the proposal has changed as a result of consultation
- identification of posts which are the same or substantially the same in the old and new structures
- arrangements for filling posts via slotting in or ring fencing
- selection arrangements for posts within the new structure
- measures that will be taken to avoid compulsory redundancies
- arrangements for seeking suitable alternative employment
- reference to the CCG's protection arrangements and how these will apply
- support for staff who are affected by the change, including career counselling and reasonable time off to seek other employment or undertake training
- proposed timescales for each stage of the change process.
- equality impact assessment on the outcome of the consultation and the proposed changes on the individuals affected

Where redundancies are inevitable the CCG will set selection criteria for inclusion in the final consultation report. These criteria should be objective, clearly defined, measurable and non-discriminatory. Managers should seek advice from HR on the selection criteria to be used to ensure the CCG is not open to legal challenge. Selection criteria will be discussed, and agreed, with trade unions.

Under normal circumstances, staff will be selected on the basis of their relevant skills, experience and qualifications to undertake the remaining jobs, as assessed through formal interviews held in accordance with CCG selection procedures. However there may be occasions where additional selection criteria are agreed with the trade unions during the consultation process, such as for example,

- Conduct and performance (as evidenced through the disciplinary and performance review records)
- Attendance records (with due regard to the causes of absence, whether these are disability related, in which additional support is available, and the equality impact of use of this criterion)

In considering any measures to avoid compulsory redundancies, including requests for voluntary redundancy or early retirement, operational efficiency and service needs must be taken into consideration. If a member of staff volunteers for redundancy/early retirement, approval of the request will be subject to the needs of the service and the cost implications. Care must be taken to ensure that decisions are based on sound organisational reasons and do not breach equality legislation. All efforts will be made to mitigate redundancies.

## **16. Support for staff**

All staff affected by the organisational change will be encouraged to seek the advice and support of their trade union. Relevant support will be available and may include:

- help with the production of CVs/application forms (including assistance with NHS Jobs) and preparation for interviews from the HR Team
- support in developing coping strategies and stress management, with support of the counselling service, through Occupational Health
- time to meet with recognised trade union representatives to discuss the change
- further assistance to staff who are at risk of redundancy will include reasonable time off to seek other employment or undertake training
- placement on the CCG's at risk register via the HR Team.

Even after the change has taken place, the CCG acknowledges that staff may take some time to adjust to the change itself. Managers should remain available to staff to manage any issues that arise and support staff through the transition.

### **16.1 The process for filling posts in the new structure**

There will be three stages in the process for filling posts in a new structure:



- Stage One. For those staff that are affected by the change. Posts in the new structure are filled either by slotting in or by ring fencing (see section 7 Definitions).
- Stage Two. Any posts that remain vacant in the new structure following Stage One will be opened up to access by any staff on the CCG at risk register for whom the post is considered suitable alternative employment, this could include ring fencing to a specific department in the first instance. This may include posts a lower pay band, in which case pay protection might apply. Priority will be given to employees who are in a redundancy notice period over employees who are on the register for other reasons e.g. pay protection.
- Stage Three. Any posts that still remain vacant will be advertised internally and/or externally, in line with the normal recruitment process.

The three stages may run concurrently but priority will still be implemented in this order to ensure that all reasonably practicable steps will be taken to avoid compulsory redundancies. Priority will be given to employees that are affected by the change.

Job descriptions and person specifications will be produced for new posts. Jobs will be matched or evaluated in partnership in accordance with the national NHS job evaluation scheme.

In cases of workforce re-profiling the principles of AfC Annex 24 shall be applied.

Selection criteria for all posts in the new structure (whether or not there is competition) must be non-discriminatory, fair, objective, clearly defined and based on the skills and competency requirements of the post. The selection criteria must be made available with the consultation document.

Staff who are offered posts during Stage One will be deemed to have been offered suitable alternative employment by the CCG. This will be confirmed in writing by the manager. [This is on the basis that if staff are slotted in or offered ring fenced posts it will be assumed that the posts offered are suitable alternative employment and hence the consequences of refusing to accept these posts will be as per refusing suitable alternative employment.]

Employees shall have the right to appeal during Stage One against the decision to be chosen to slot/not to slot in to a post or for selection or non-selection to a ring-fenced pool. Employees shall have 5 working days from the date of the letter to submit an appeal in writing to the appointing manager. The appeal shall be considered by an independent manager equal to or above the change manager and shall be responded to within 5 working days from receipt of the letter.

Employees should only be turned down for posts where they fail to meet the essential criteria or where others in the at risk pool are considered to meet the requirements better (the fact that there may be better candidates in the external labour market is not a reason for non-selection). Any member of staff who is not appointed to a post in the new structure will be offered post-interview feedback and further support where appropriate, and has the right to appeal via local grievance procedures.

## 16.2 Staff At Risk

When changes in staffing levels or skill mix are proposed which will lead to a reduction in the numbers of staff employed in particular grades, occupational groups or specialties, management will identify the positions, individual staff or pool of staff who are at risk of redundancy as a result of the changes in line with the agreed criteria (see section 15.6). Staff who are acting up or on a secondment will be placed in the pool relating to their substantive post.

The identification of being at risk of redundancy is not a notice of redundancy.

Staff at risk will be invited to a meeting(s) with their manager and trade union representative or work colleague to:

- discuss how the proposed changes affect the individual
- explain why the individual is at risk of redundancy
- discuss ideas for avoiding redundancy dismissals, reducing the number of Staff at risk who are made redundant and mitigating the consequences of any redundancy dismissals
- explore the possibility of redeployment
- explain the process for redeployment
- explain the arrangements for protection of pay and terms and conditions where applicable
- offer support and assistance
- discuss any other relevant issues and processes which may include providing a redundancy payment estimate if requested.

Following the meeting, Staff at risk will be given a letter within five working days to confirm their at risk status and the key points discussed at the meeting including

answers, wherever possible, to questions raised at the meeting for which there were no immediate answers available at the time.

Staff at risk will be given prior consideration for posts within the new structure where they meet the selection criteria, under Stage One of the process. Where they are selected for a new post they will normally be given the offer in writing within seven working days of the interview. Any training required will be discussed with the member of staff as part of the offer process; and they will have a right to a four week trial period to allow both sides to decide if the work provides a suitable alternative, whilst still protecting the individual's right to a redundancy payment (see section 17 below).

In the case of significant change which spans a number of NHS organisations, the CCG will endeavour to reach an agreement with those organisations regarding the establishment of job redeployment opportunities. The agreement will contain a commitment to equality of opportunity for all staff who will then have the same access to opportunities and vacant posts with any of the organisations.

Staff who are not selected for a post in the new structure will be formally declared at risk of redundancy and given notice of redundancy in accordance with the contract of employment. They will continue to be listed on the CCG's at risk register until their contract ceases or they are successfully redeployed.

There may be situations where it is necessary to give notice of redundancy in accordance with the contract of employment at the end of the consultation process.

Staff at risk will be required to register with NHS Jobs and apply for suitable posts within the NHS. The HR Team will use the full functionality of NHS Jobs (including "internal only" and "restricted vacancy" functionality) to support redeployment of staff at risk.

Staff at risk will be given prior consideration for other posts that are or become vacant in the CCG and, subject to the arrangements regarding suitable alternative employment and trial periods, they will remain on the register until their last day of service or until successful redeployment.

Special provision is made in law where an employee's job becomes redundant while he or she is absent on maternity, adoption, paternity, or parental leave; the employee is entitled to be offered any suitable alternative vacancy before the existing contract ends, in preference to employees who are not absent on such leave (even if other employees are more suitable for the role).

## **17. Redundancy**

### **17.1 Definition of redundancy**

A member of staff may become redundant if they are dismissed and the reason for the dismissal is wholly or mainly due to:

- the fact that the CCG has ceased, or intends to cease, to carry on the activity for the purposes of which the individual was employed, or has ceased, or intends to cease, to carry out the activity in the place where the individual was employed OR
- the fact that the requirements of the CCG for staff to carry out work of a particular kind in the place where they were so employed, have ceased or diminished or are expected to cease or diminish.

## 17.2 Suitable Alternative Employment

Suitable alternative employment will be an equivalent post defined in terms of pay, working hours, status, grade, duties and responsibilities, location and location allowances. It must be suitable to the individual's personal circumstances, skills and experience. It may be on any site operated by the CCG subject to individual travel considerations. Staff at risk will be given prior consideration for suitable posts in line with their skills, experience and capabilities and where appropriate will receive protection of pay.

Where there are insufficient numbers of vacant posts within the CCG, the Human Resources Team will endeavour to identify suitable redeployment opportunities within the wider NHS and draw these to the attention of the staff.

Staff are reminded that under Agenda for Change terms and conditions an unreasonable refusal to accept suitable alternative employment offered by the CCG, or another NHS employer, will mean that they are not entitled to a redundancy payment (see section 16 of the AfC handbook).

In considering suitable alternative employment priority will be given to staff with a Contract of Employment with the CCG.

Following identification of potentially suitable posts at either Stage One or Stage Two, individual staff at risk will be offered the position in writing and be given a copy of the job description/person specification and a deadline of at least five working days within which to apply. In some circumstances e.g. annual leave and other types of leave, this period may be appropriately extended. During this period the individual may meet with the appropriate manager informally to discuss their interest.

If the individual is offered the post, this will be treated as an offer of suitable alternative employment and a trial period will apply.

Staff who unreasonably refuse an offer of suitable alternative employment may lose their right to a redundancy payment.

### 17.3 **Trial Periods and Training**

A trial period will only apply to Staff at risk where a formal offer of suitable alternative employment has been made. This also includes those staff who have been offered SAE whilst absent on maternity, adoption, paternity, or parental leave.

The purpose of a trial period is for both the manager and the individual to assess the suitability of the post as alternative employment.

Where staff have the potential ability but not the immediate experience to undertake full duties of the role, they will be provided with appropriate skills development/training. This will be provided where it is reasonable, practical and cost effective and where the member of staff demonstrates a willingness to learn and can apply the new skills within an agreed timeframe.

The trial period will normally last for four weeks but may be extended by mutual agreement in special circumstances, including where a member of staff requires additional training and development.

If the trial period is unsuccessful, as determined by the individual and/or the manager concerned, redundancy arrangements will apply as from the date when the original contract of employment will terminate. Until the end of their notice period Staff at risk will be considered for other suitable alternative employment if available which will be subject to the same arrangements including a trial period.

### 17.4 **Change of location**

If, as a result of organisational change, there is a requirement to move staff from their normal place of work to another location within the CCG on a temporary or permanent basis and this results in increased travel costs to and from work, staff may be reimbursed their extra daily travelling expenses in line with the CCG's Travel and Expenses Policy and section 17 of the AfC handbook.

### 17.5 **Redundancy arrangements**

A member of staff will have their contract of employment terminated on the grounds of redundancy if no suitable alternative employment can be found or if a trial period is unsuccessful.

The terms under which a redundancy payment and/or early retirement benefit are payable are available in section 16 of the AfC handbook.

- Some staff may be subject to locally-agreed contractual arrangements in respect of redundancy which will need to be honoured.
- In some circumstances tax benefit may be applied to the payments. Individuals should source independent financial advice.

Staff will not be entitled to redundancy payments/early retirement on the grounds of redundancy if they:

- are dismissed for reasons of misconduct
- at the date of the termination of the contract have obtained without a break, or with a break not exceeding four weeks, suitable alternative employment with the CCG or other NHS employer
- unreasonably refuse to accept or apply for suitable alternative employment with the CCG or another NHS employer
- leave their employment before expiry of notice, except if they are being released early
- are offered a renewal of contract with the substitution of a new employer for the CCG.

Staff whose employment is subject to TUPE transfer will not be redundant and therefore will not be entitled to redundancy payments/early retirement on the grounds of redundancy.

For further information please refer online to Part 3, section 16, of Agenda for Change: NHS Terms and Conditions of Service Handbook or to NHS Pensions, or seek further advice from the CCG's HR department or your trade union.

The manager will liaise with HR in order to obtain details of redundancy entitlements and other aspects of the redundancy process. The manager will provide, in writing, the individual and their trade union representative with the following details:

- the number of weeks' notice, in accordance with the contractual notice period
- the effective date of the redundancy, which will also be the last day of service

- the number of days' outstanding annual leave, where applicable, to be paid in lieu
- the amount of redundancy payment/enhanced pension benefits that will be paid, where applicable
- what efforts will be made to assist the individual in seeking suitable alternative employment during the notice period
- what support is offered during the notice period e.g. help with job search, CV and interview preparation
- what work the individual will be expected to undertake during their notice period
- that reasonable time off with pay will be given to seek and prepare for alternative work
- that early release will normally be given, unless there are compelling service reasons to the contrary, if the individual is successful in obtaining other employment outside the NHS and wishes to take this up during the notice period; the date of early release will then become the revised date of redundancy for the purpose of calculating any entitlement to a redundancy payment
- the right of appeal against selection for redundancy or the terms of the redundancy.

## **18. Pay Protection arrangements**

Protection of Pay Policy provisions will be put in place in order to support staff who, as a result of organisational change, are required to move to a new post which would entail a reduction of earnings and certain terms and conditions of employment.

Pay protection will apply for the agreed periods as set out in the Pay Protection Policy or until the member of staff moves voluntarily to a new post within the CCG.

## **19. Transfer of Undertakings (TUPE)**

### **19.1 Transfers of services and staff**

Where there is a proposal to transfer services and staff to a different employer, there will be consultation with the trade unions at the earliest opportunity. This will

usually be a minimum of 30 days (unless otherwise agreed) and where 100 or more staff are affected will be 45 days where reasonably practicable.

When services are transferred from one organisation to another in line with TUPE or by virtue of a Transfer Order under the National Health Service Act 1977, which mirrors TUPE, the employment of staff who are assigned to the services which are being transferred will transfer to the new organisation. TUPE applies in contracting out scenarios, retendering and where the services are brought back into the NHS.

Where TUPE is applicable, all the terms and conditions within the transferring employee's contract of employment (including relevant policies and procedures) will transfer with them and should not be changed as a consequence of the transfer.

Where staff have responsibilities spanning more than one NHS organisation or more than one service, discussions will take place with the individual, their trade union representative and the organisations concerned to determine if their employment should transfer. The options in this situation might be that the individual will transfer to one organisation with an agreement to provide services to the other(s), or have more than one contract of employment, or, in exceptional circumstances, to be declared at risk.

In all of these circumstances, for the purposes of the consultation that will be carried out, the manager will identify the functions, posts and individual staff that will transfer or be affected in accordance with the obligations of TUPE and shall write to the staff affected and the trade unions informing them of the intention that staff will transfer. They will also share information relating to the implications of the transfer and any measures which will be taken in connection with the transfer as declared by the receiving organisation.

The manager will then hold one-to-one meetings with individual staff and their trade union representative to discuss the implications of the transfer, measures to be taken in connection with the transfer, answer any concerns or queries, discuss possible options if appropriate and consider personal circumstances. These discussions will be documented and confirmed in writing. Every possible support will be given to staff to understand the reasons for and implications of the transfer and to ensure they have the necessary information with which to prepare themselves.

Formal notice of a transfer will be issued as long before the date of the transfer as possible in order to comply with the obligations of TUPE and this policy. The CCG will make every effort to give up to 3 months' notice of a transfer, where possible. Where 3 months' notice is not possible, for example where the timing of external announcements or decisions of approval, a shorter notice period will be provided after consultation with the Partnership Forum.



## **20. Appeal Process**

Appeals against the selection criteria for redundancy or the decision to dismiss an employee by reason of redundancy or against the offer of a suitable alternative post will be heard in accordance with the CCG's Grievance Policy. The decision of the Appeal Panel will be final and there will be no further opportunity for recourse to the Grievance Procedure.

Complaints about slotting or ring fence pool decisions or misapplication of the Change Management Policy and Procedure in the way that the consultation or redeployment processes have been handled will be dealt with in accordance with the CCG's Grievance Policy.

## **21. Mutually Agreed Resignation Scheme (MARS)**

MAR is a scheme under which an individual employee, in agreement with their employer, chooses to leave employment in return for a severance payment. MAR is not a redundancy or a voluntary redundancy. Severance payments should not be made where the circumstances entitle an employee to a contractual redundancy payment or redundancy benefits under the NHS Pension Scheme Regulations

There may be a risk of a future redundancy claim if an employee is paid under MARS when their post is in fact redundant.

A MAR is viewed as being a voluntary resignation on the part of the individual employee, in return for a severance payment. As there may be significant financial implications, employees may wish to seek advice from a regulated financial advisor. Refer to section 20 of the AfC handbook for further information.

## **APPENDIX**

Appendix 1 Equality Impact Analysis

APPENDIX 1



Clinical Commissioning Group

HR / Corporate Policy Equality Impact Analysis:	
<b>Policy / Project / Function:</b>	Change Management Policy
<b>Date of Analysis:</b>	July 2019
<b>Completed by: (Name and Department)</b>	HR Team
<b>What are the aims and intended effects of this policy, project or function?</b>	<p>The aim of this policy is to set out the CCG's approach to the management of organisational change and the procedures that should be followed by managers wishing to implement major change.</p> <p>The principles and procedures support the aim of managing strategic and operational change in a way that is both supportive to staff and enhances the assurance of the highest quality provision of patient care.</p>
<b>Are there any significant changes to previous policy likely to have an impact on staff / other stakeholder groups?</b>	No
<b>Please list any other policies that are related to or referred to as part of this analysis</b>	<ul style="list-style-type: none"> <li>• Disciplinary Policy</li> <li>• <u>Grievance Policy</u></li> <li>• <u>Equality and Diversity Policy</u></li> <li>• Travel and Expenses Policy</li> <li>• Pay Protection Policy</li> <li>• Redeployment Policy</li> <li>• Starting Salaries Policy</li> <li>• Maternity, Maternity Support (Paternity), Adoption and Parental Leave Policy</li> <li>• Agenda for Change Handbook</li> </ul>

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<b>Who will the policy, project or function affect?</b>	Employees
<b>What engagement / consultation has been done, or is planned for this policy and the equality impact assessment?</b>	<p>Consultation has taken place both locally and nationally with Trade Unions and staff</p> <ul style="list-style-type: none"> <li>• SLT</li> <li>• CCG Employees</li> <li>• SPF Sub group</li> <li>• SPF</li> <li>• Governing Body (ratify)</li> </ul>
<p><b>Promoting Inclusivity and Hull CCG's Equality Objectives.</b></p> <p>How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation?</p> <p>How does the policy promote our equality objectives:</p> <ol style="list-style-type: none"> <li>1. Ensure patients and public have improved access to information and minimise communications barriers</li> <li>2. To ensure and provide evidence that equality is consciously considered in all commissioning activities and ownership of this is part of everyone's day-to-day job</li> <li>3. Recruit and maintain a well-supported, skilled workforce, which is representative of the population we serve</li> <li>4. Ensure the that NHS Hull Clinical Commissioning Group is welcoming and inclusive to people from all backgrounds and with a range of access needs</li> <li>4.5. <u>To demonstrate leadership on equality and inclusion and be an active champion of equalities in partnership programmes or arrangements</u></li> </ol>	<p><del>The Policy does not specifically promote inclusivity but provides a framework for the management of change in order to reduce the risk of discrimination.</del> <u>The Policy provides a framework for the management of change in order to reduce the risk of discrimination, and supports equality objectives 2 &amp; 4.</u></p>

**Comment [AH2]:** Would suggest rewording to: The Policy provides a framework for the management of change in order to reduce the risk of discrimination, and supports equality objectives 2 & 4.

Equality Data	
<b>Is any Equality Data available relating to the use or</b>	Yes <input checked="" type="checkbox"/>

<p><b>implementation of this policy, project or function?</b></p> <p>Equality data is internal or external information that may indicate how the activity being analysed can affect different groups of people who share the nine <i>Protected Characteristics</i> – referred to hereafter as ‘<i>Equality Groups</i>’.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <p>1: Recruitment data, e.g. applications compared to the population profile, application success rates  2: Complaints by groups who share / represent protected characteristics  4: Grievances or decisions upheld and dismissed by protected characteristic group  5: Insight gained through engagement</p>	<p>No <input type="checkbox"/></p> <p>Where you have answered yes, please incorporate this data when performing the <i>Equality Impact Assessment Test</i> (the next section of this document). If you answered No, what information will you use to assess impact?</p> <p><b>Please note that due to the small number of staff employed by the CCG, data with returns small enough to identify individuals cannot be published. However, the data should still be analysed as part of the EIA process, and where it is possible to identify trends or issues, these should be recorded in the EIA.</b></p>
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<b>Assessing Impact</b>				
Is this policy (or the implementation of this policy) likely to have a particular impact on any of the protected characteristic groups? (Based on analysis of the data / insights gathered through engagement, or your knowledge of the substance of this policy)				
Protected Characteristic:	No/Neutral Impact:	Positive Impact:	Negative Impact:	Evidence of impact and, if applicable, justification where a <i>Genuine Determining Reason</i> <sup>1</sup> exists (see footnote below – seek further advice in this case)
It is anticipated that these guidelines will have a positive impact as they support policy writers to complete meaningful EIAs, by providing this template and a range of potential issues to consider across the protected characteristics below. There may of course be other issues relevant to your policy, not listed below, and some of the issues listed below may not be relevant to your policy.				
Gender	✓			Any redeployment should take account of the employee’s ability to work a particular pattern. This is covered in 14.1 <i>staff will be treated as individuals with due regard to their personal and employment</i> This is important for staff with caring responsibilities  Human Rights Commission in their report <i>How Fair is Britain?</i>

1. <sup>1</sup> The action is proportionate to the legitimate aims of the organisation (please seek further advice)

				<p><i>'Throughout their lives, women are much more likely than men to take on unpaid care responsibilities both for children, and for older people.'</i></p> <p>In addition the following data is available from the 2011 ONS census: <i>Just over half (58%) of the 5.41 million people providing some level of unpaid care in England are female and 42% are male. Female carers are representative of 11.9% of the total female population of England and Wales, and male carers are representative of 9% of the male population.</i></p> <p>It is possible that para 14.1 will have a potential positive impact on women carers as a group undergoing redeployment, though the same consideration will be given to men.</p>
<b>Age</b>			✓	<p>The policy applies irrespective of age but does refer to the fact that eligible employees have the option of accessing early retirement.</p> <p><u>Negative Impact</u> If costs are viewed as a method of determining voluntary redundancies, this could be considered a disadvantage to older people.</p>
<b>Race / ethnicity / nationality</b>	✓			<p>As the policy is written in English there is a potential impact on employees whose first language is not English and therefore may struggle reading the policy. However this potential impact is minimised as the policy is available in different formats and languages as detailed in the action plan. An employee of the CCG would require sufficient language proficiency to undertake their job roles. Any risk is also mitigated by being able to be accompanied at meetings so to be able to understand policy implications to each individual's circumstances</p>
<b>Disability</b>	✓			<p>Para 6.1 states <i>Managers ..... should be mindful of the need to consider making reasonable adjustments</i> and para 14.1 states <i>staff will be treated as individuals with due regard to their personal and employment circumstances.</i></p> <p>Discrimination by association should</p>

				<p>also be considered here ensuring the rights for employees who for example need to care for a disabled child.</p> <p>The above are clear and positive statements to staff with disabilities <a href="#">and intended to mitigate any potential negative impact.</a></p>
<b>Religion or Belief</b>	✓			This has been considered and has a neutral impact.
<b>Sexual Orientation</b>	✓			This has been considered and has a neutral impact.
<b>Pregnancy and Maternity</b>	✓			<p>Policy makes specific reference to ensure that staff on maternity leave are given the opportunity to participate in consultation.</p> <p>Special provisions in place where staff who are absent due to maternity, adoption or paternity leave would have preference for roles over staff who are not absent on such leave, even if they are not the most suitable for the role.</p>
<b>Transgender / Gender reassignment</b>	✓			This has been considered and has a neutral impact.
<b>Marriage or civil partnership</b>	✓			This has been considered and has a neutral impact.

### Action Planning:

**As a result of performing this analysis, what actions are proposed to remove or reduce any risks of adverse impact or strengthen the promotion of equality?**

Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:
As the policy is written in English there is a potential impact on employees who <a href="#">may have communication barriers so first language is not English and therefore may struggle reading the policy.</a>	The external website signposts individuals to alternative formats such as large print, braille or another language.	CCG Communications	When policy is implemented	When policy is reviewed

If costs are viewed as a method of determining voluntary redundancies, this could be considered a disadvantage to older people	Careful consideration should be given to groups of staff where voluntary redundancy is refused on the basis of cost	Head of HR	When policy is implemented	When policy is reviewed
Negative impacts could affect the criteria for selections for posts	Ensure that a fair and transparent process for assessing the protected characteristics of a staff member is completed so the any disadvantage is remedied.	Head of HR	When policy is implemented	When policy is reviewed

**Sign-off**

**All policy EIAs must be signed off by Mike Napier, Associate Director of Corporate Affairs**

**I agree / disagree with this assessment / action plan**

**If *disagree*, state action/s required, reasons and details of who is to carry them out with timescales:**



**Signed:** \_\_\_\_\_

**Date: 29.10.19**