

## CHANGE POLICY

		POLICY	
Reference	HR/0041		
Approving Body	Joint Staff Partnership Forum		
Date Approved	29 November 2022		
For publication to external SFH website	Positive confirmation received from the approving body that the content does not risk the safety of patients or the public:		
	YES	NO	N/A
	X		
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Date of Environmental Impact Assessment (if applicable)	N/A		
Legal and/or Accreditation Implications	<ul style="list-style-type: none"><li>• The Trade Union and Labour Relations (Consolidation) Act 1992</li><li>• The Transfer of Undertakings (Protection of Employment) Regulations 2006</li><li>• The Employment Rights Act 1996</li><li>• Employment Relations Act 2004</li><li>• The Equality Act 2010</li></ul>		
Target Audience	All Employed Staff, excluding those employed on Medical & Dental Terms & Conditions and those engaged on a Bank Agreement)		
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Sponsor (Position)	Director of People		
Author (Position & Name)	Divisional People Partner		
Lead Division/ Directorate	Corporate		
Lead Specialty/ Service/ Department	People Directorate		
Position of Person able to provide Further Guidance/Information	Divisional People Partner		

Associated Documents/ Information	Date Associated Documents/ Information was reviewed
Change Procedure	July 2021

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## **1.0 INTRODUCTION**

Sherwood Forest Hospitals NHS Foundation Trust actively manages its services so as to ensure the provision of the most effective health care for patients and customers within its resources. It recognises that as a result, changes may need to be made to the Trust's organisational requirements which may affect staffing needs.

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 best practice and legal requirements and aims to provide a framework for common understanding for managers, staff and trade unions.

The policy applies to all Trust employees except those employed on Medical & Dental Terms and Conditions, bank and agency workers.

It is the Trust's intention to provide a stable work environment and sustain security of employment for its employees. However the Trust must retain sufficient flexibility to ensure its economic viability and sustainability in a competitive environment.

## **2.0 POLICY STATEMENT**

The purpose of this document is to set out the Trust's approach to the management of organisational change and the procedures that should be followed by managers wishing to implement major change.

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 provision of the highest quality provision of patient care.

## **3.0 DEFINITIONS/ ABBREVIATIONS**

### **Organisational Change**

Organisational Change is defined as a structural or organisational change in the way services within Sherwood Forest Hospitals NHS Foundation Trust are organised and delivered and which have a significant impact on employee's employment, terms and conditions of service or roles and responsibilities within Sherwood Forest Hospitals NHS Foundation Trust.

### **Workforce Transformation Group**

A consultation group which operates in partnership with staff side leads to note proposals and monitor their impact.

## **Displaced Employee**

A displaced employee is a person whose position/job no longer exists due to an organisational change. Any employee who is displaced will be declared 'at risk' and enter the 'at risk' process.

## **At Risk**

Employees who have been informed that their current post may no longer exist within the proposed new structure. Any individual with 'at risk' status will be afforded preferential rights regarding suitable alternative employment at Sherwood Forest Hospitals NHS Foundation Trust.

## **Continuous Service**

Full or part time employment with the Trust 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 Agenda for Change (AfC) handbook (where applicable) on continuous employment.

## **Reckonable Service**

Continuous Service plus any service with a previous NHS employer where there has been a break of 12 months or less. At the Trust'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.

## **Slot in**

Where the substantive duties of the postholder are wholly or mainly the same in the new structure as they were in the old, and where there is no change in grade to the post or no other staff in the same role is displaced, the member of staff should slot in automatically without competition and without detriment to their terms and conditions.

## **Ring Fencing and Restricted Competition**

Where the posts in the revised structure or new service are similar to existing posts and/or where there are fewer available posts than the number of staff potentially 'at risk', this pooled grouping will be 'ring-fenced' so that they can compete under a restricted competition selection process for posts available in the new structure which are deemed suitable alternative employment.

## **Redundancy**

The Employment Rights Act 1996 states that a dismissal by reason of redundancy occurs if the dismissal is wholly or mainly attributed by the following:

The trust 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 Trust 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.

## **Suitable Alternative Employment**

Suitable alternative employment can be posts identified for the eligible grouping within the restricted competition process, or within the Trust. The following will apply to displaced and formally 'at risk' staff. Suitable alternative employment is work that is on broadly similar terms and within the same range of skills required as the current employment where the individual meets the essential criteria of the person specification. Staff 'at risk' will be given prior consideration for suitable posts in line with their skills, experience and capabilities.

When considering if a role is considered suitable alternative employment for an affected/'at risk' employee, the following factors will be taken into account;

- Geographical location
- Grade/banding
- Pay and protection of earnings
- Personal circumstances
- Status of role
- Skills and qualifications
- Hours of role

An employee may lose their right to occupational and statutory redundancy pay if suitable alternative employment is unreasonably refused.

## **Preferential Consideration for Suitable Alternative Employment**

Preferential interviews will be afforded to employees who are identified as 'at risk' and apply for another post in the Trust. To qualify for a preferential interview they must be able to demonstrate that they can meet, or be suitably trained and/or developed in, the essential elements of the person specification. If they can demonstrate suitability they will then be guaranteed an interview.

## **Redeployment**

This refers to an offer of alternative employment gained either through the ring-fenced restricted competition process or a post being offered under the preferential consideration process.

## **Revision of Banding**

This occurs when the new post, irrespective of the title, is at a different Band than the current post, if the post is at a lower band, the Trust's Pay Protection Policy will apply.

## **TUPE (Transfer of Undertaking Protection of Employment Regulation 2006, as amended)**

These regulations apply when jobs or services are transferred in and out of the Trust.

## **COSOP**

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

### **Contractual Notice**

An employee receiving notice from the Trust is entitled to either the statutory minimum notice or an amount equivalent to that which they would be obliged to give the Trust as outlined in the contract of employment, whichever is the greater up to a maximum of 12 weeks.

## **4.0 ROLES AND RESPONSIBILITIES**

### **Line Managers**

The key responsibilities for Line Managers include:

- Informing, engaging and consulting their team regarding proposed changes, including employees who are absent (i.e. on maternity, long term sick leave, secondments).
- Working in line with the policy and procedure treating all employees fairly and equitably.
- Providing support to employees and maintaining confidentiality at all times recognising the sensitive nature of change for individuals.

### **Employees**

It is the responsibility of the employee to ensure that they:

- Actively participate in all forms of communication to ensure they are fully engaged and informed of proposed changes.
- Attend related meetings.
- Speak to their line manager or HR representative regarding any personal concerns.
- Ensure business as usual before, during and after changes

### **People Directorate**

The Divisional People Partners will provide advice and support on all aspects of this policy to ensure consistent, fair and reasonable application.

### **Trade Unions**

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. This will also include informal engagement processes, where Trade Union colleagues can attend meetings with staff to ensure process is followed, but not acting in a formal representation capacity.

## **5.0 APPROVAL**

Joint Staff Partnership Forum

## **6.0 DOCUMENT REQUIREMENTS**

### **Consultation**

In accordance with legislation and the partnership working principles of the NHS, the Trust commits itself to meaningful and appropriate consultation with Trade Unions, Staff Side representatives and employees affected by organisational change.

In the instance of redundancy there is a legal obligation to inform and consult the Trade Union and Staff Side representatives of the employees whom it is proposing to make redundant, and to consult the individuals affected. The duty to inform and consult appropriate representatives depends on the number of employees it is proposing to make redundant.

### **Filling Posts**

It is recognised each organisational change process may differ slightly depending on the circumstances. The Change Procedure outlines the stages which should be used as a guideline to manage employees affected by change fairly and consistently. A selection process will be determined in partnership with staff side where appropriate and reasonable adjustments will be made as necessary for staff with disabilities.

Employees who are absent from work, such as those on maternity leave and long term sick leave will be included in the process. Employees currently on a secondment or in an 'acting up' role will be considered for posts relevant to their substantive role for the purposes of filling posts.

### **Redeployment**

Employees displaced as part of a change who have not been appointed into a post will then be informed they are 'at risk' of redundancy and the People Directorate representative will place the employee on the Suitable Alternative Employment register, maintained by the People Directorate.

### **Suitable Alternative Employment**

Suitable Alternative Employment will be defined in terms of pay, working hours, status, grade, the type of work, the way work is carried out and location, usually suitable alternative employment will be considered to be no more than one pay band lower than the employee's substantive band.

If an employee unreasonably rejects an offer of suitable alternative employment and there is no other alternative employment, or any reasonable prospect of alternative employment in the near future, the employee will jeopardise their entitlement to redundancy compensation.

### **Trial Periods**

A trial period is required if an offer of suitable alternative employment is made to an employee. The purpose of the trial period is for both Line Managers and the employee to assess the suitability of the post as alternative employment. Where employees have the potential ability but not the immediate experience to undertake full duties of the role, they will be provided with the appropriate and relevant training and/or development to enable them to apply their new knowledge and skills within the required trial period timeframe.

The trial period is usually for a period of 4 weeks.

## **Pay Protection**

The Pay Protection Policy is in place to support employees who, as a result of organisational change, are required to move to a new post which would entail a reduction of earnings.

## **Redundancy**

Whilst the Trust is committed to avoiding compulsory redundancies as far as possible, this may become necessary in certain circumstances. Every effort will be made to help the employee secure suitable alternative employment, with additional support provided where appropriate.

Any person who faces the possibility of redundancy will be made aware of payments to which they would be entitled in this event subject to current legislation. Redundancy payments will be made in accordance with contractual entitlements described in Agenda for Change. Employees shall not be entitled to redundancy payments or early retirement on grounds of redundancy if:

- They are dismissed for reasons of misconduct, performance or absence;
- Suitable alternative NHS employment has been secured at the date of the termination, and without a break exceeding 4 weeks;
- Suitable alternative NHS employment has been secured and the employee unreasonably refuses to accept it;
- The employee leaves before the expiry of their notice, except if they are being released early and this has been agreed by the Trust;
- Their contract is renewed.

## **Notice Periods**

Where compulsory redundancies remain unavoidable, having exhausted all measures in this policy and associated procedure, as a minimum, the notice period will be:

- The contractual notice as detailed in their contract of employment; or
- One week's notice for each year of reckonable continuous service up to a maximum of 12 weeks.

Individuals will receive the most beneficial notice period under the above options.

Employees who are under notice of termination due to redundancy will be:

- Given reasonable paid time off work to look for new employment and/or make arrangements for training to assist them to find new employment.
- Given advice and guidance on job searching and applying for jobs
- Offered counselling and support where necessary

## **TUPE**

The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) protects employee's terms and conditions of employment when work; is transferred from one employer to another. Advice should be taken from a People Directorate representative in line with current legislation and the TUPE Procedure if a potential transfer is identified.

## 7.0 MONITORING COMPLIANCE AND EFFECTIVENESS

Minimum Requirement to be Monitored  (WHAT – element of or compliance effectiveness within the document will be monitored)	Responsible Individual  (WHO – is going to monitor this element)	Process for Monitoring e.g. Audit  (HOW – will this element be monitored (method used))	Frequency of Monitoring  (WHEN – will this element be monitored (frequency/ often))	Responsible Individual or Committee/ Group for Review of Results  (WHERE – Which individual/ committee or group will this be reported to, in what format (eg verbal, formal report etc) and by who)
Policy Implementation	Workforce Transformation Group	Agenda items and audit	Monthly	Workforce Transformation Group
Policy Implementation	People and Inclusion Cabinet	Agenda items and audit	Every 2 months	Workforce Transformation Group
Policy Implementation	JSPF	Agenda items and audit	Bi Monthly	Workforce Transformation Group

## **8.0 TRAINING AND IMPLEMENTATION**

The Trust will issue communications to staff to confirm the policy has been approved and will receive confirmation of where the policy is located.

## **9.0 IMPACT ASSESSMENTS**

- This document has been subject to an Equality Impact Assessment, see completed form at Appendix 1

## **10.0 EVIDENCE BASE (Relevant Legislation/ National Guidance) AND RELATED SFHFT DOCUMENTS**

### **Evidence Base:**

- The Trade Union and Labour Relations (Consolidation) Act 1992
- The Transfer of Undertakings (Protection of Employment) Regulations 2006
- The Employment Rights Act 1996
- Employment Relations Act 2004
- The Equality Act 2010
- Agenda for Change Terms and Conditions
- ACAS Code

### **Related SFHFT Documents:**

- Grievance Policy
- Pay Protection Policy
- Equality and Diversity Policy
- Appeal Policy

## **11.0 KEYWORDS**

- Organisational change
- Workforce change
- Consultation
- Redundancy
- At risk

## **12.0 APPENDICES**

- Equality Impact Assessment – Appendix 1

## APPENDIX 1 - EQUALITY IMPACT ASSESSMENT FORM (EQIA)

<b>Name of service/policy/procedure being reviewed: Change Policy</b>			
<b>New or existing service/policy/procedure: existing</b>			
<b>Date of Assessment: 08/11/22</b>			
<b>For the service/policy/procedure and its implementation answer the questions a – c below against each characteristic (if relevant consider breaking the policy or implementation down into areas)</b>			
<b>Protected Characteristic</b>	<b>a) Using data and supporting information, what issues, needs or barriers could the protected characteristic groups' experience? For example, are there any known health inequality or access issues to consider?</b>	<b>b) What is already in place in the policy or its implementation to address any inequalities or barriers to access including under representation at clinics, screening?</b>	<b>c) Please state any barriers that still need to be addressed and any proposed actions to eliminate inequality</b>
<b>The area of policy or its implementation being assessed:</b>			
<b>Race and Ethnicity</b>	Communication could be affected if staff are required to undergo an interview selection process	Additional support is available via the HR Department to assist all staff with interview techniques if required	None
<b>Gender</b>	A large proportion of the workforce are female and may have difficulties if working patterns are changed if they have either childcare or carer responsibilities	Flexible working arrangements as detailed in the Trust's Work Life Balance Procedure will be taken into account and staff supported wherever possible	None
<b>Age</b>	Younger employees could be Disadvantaged because they have not had an opportunity to gain experience. Older employees may be more adversely affected if they are nearing retirement.	Equal opportunity for all staff undergoing any form of selection process will be applied.	None
<b>Religion</b>	None	None	None
<b>Disability</b>	Consistency in making reasonable adjustments or putting a disabled person at a particular disadvantage	Equal opportunity for all staff regardless of any disability and the	None

		requirement to make reasonable adjustments.	
<b>Sexuality</b>	There is a small risk of discrimination by an interview panel	Robust recruitment and selection process should mean all staff are treated equally	None
<b>Pregnancy and Maternity</b>	Special provisions in law exist for women on maternity leave	Special provisions are detailed within the Trust's Change Procedure	None
<b>Gender Reassignment</b>	There is a small risk of discrimination by an interview panel	Robust recruitment and selection process should mean all staff are treated equally	
<b>Marriage and Civil Partnership</b>	None	None	None
<b>Socio-Economic Factors</b> (i.e. living in a poorer neighbourhood / social deprivation)	None	None	None
<b>What consultation with protected characteristic groups including patient groups have you carried out?</b> JSPF			
<b>What data or information did you use in support of this EqIA?</b> Previous knowledge of workforce change proposals and implementation plan.			
<b>As far as you are aware are there any Human Rights issues be taken into account such as arising from surveys, questionnaires, comments, concerns, complaints or compliments?</b> No			

<p><b>Level of impact</b></p> <p>From the information provided above and following EQIA guidance document Guidance on how to complete an EIA (<a href="#">click here</a>), please indicate the perceived level of impact:</p> <p>Low Level of Impact</p> <p>For high or medium levels of impact, please forward a copy of this form to the HR Secretaries for inclusion at the next Diversity and Inclusivity meeting.</p>
<p><b>Name of Responsible Person undertaking this assessment:</b> DA Kearsley</p>
<p><b>Signature:</b> DA Kearsley</p>
<p><b>Date:</b> 08/11/22</p>