

## Change Management Procedure

**CONTROLLED DOCUMENT**

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## Version Control

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1.0	Transitional Organisational and Workforce Change Procedure	04/04/2018
2.0	Change Management Procedure	22/06/2022

## 1. Introduction

- 1.1. This document provides line managers, staff and staff side representatives with the procedure that should be followed by managers wishing to implement organisational and workforce change at University Hospitals Birmingham NHS Foundation Trust (“the Trust”). The procedure will need to be followed where it has been identified that changes may impact on staff substantively employed by the Trust.
- 1.2. The procedure does not apply to workers such as bank or agency workers, locums, volunteers or contractors, although it is expected that workers affected by these changes should as a matter of good practice be made aware of the proposals.
- 1.3. When considering any workforce changes in scope of this procedure, Managers must notify and involve the Workforce Transformation Team, so that any proposals can be discussed, and that the procedure can be appropriately applied and correctly followed.
- 1.4. Definitions:

Consultation	Consultation is the process of formally consulting or discussing a proposal with staff. It is the opportunity for a two-way conversation between management and staff regarding changes to an employee’s terms and conditions.
Redundancy	Redundancy is a form of dismissal which occurs when an employer needs to reduce the size of their workforce.
Statutory	Statutory means relating to rules or laws which have been formally written down.
Protected Characteristics	In the Equality Act 2010, it states that there are nine ‘protected characteristics’, it is against the law to discriminate against anyone because of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
Ring-fencing	Ring-fencing is a term used to describe a process whereby staff ‘at risk’ of redundancy are allowed to apply for the appropriate unallocated posts prior to the posts being opened for internal or external competitive recruitment

## **2. Proposal for Change**

- 2.1. Once a proposal for change has been made, a consultation paper is to be drafted including principles guiding the change and current and proposed structures, including, job descriptions and person specifications where applicable. The final consultation paper will be circulated to staff side representatives and affected staff in advance of the consultation launch.
- 2.2. An Equality Impact Assessment must also be completed by the Management Lead and shared with the HR Representative supporting the proposed change.
- 2.3. Where the organisational change is a more minor change, e.g. a change to shift patterns/adjustments to duties, and there are no proposed changes of band, redeployment and/or redundancies, it may be possible for managers to reach an agreement with staff to implement the change by mutual agreement and without recourse to the full formal process and/or a shorter period of consultation may be identified.
- 2.4. In this instance, there is no set consultation format; management must still clearly outline the rationale to staff for the reason for change and give an opportunity for discussion. Where all parties are in agreement, this should be confirmed in writing.
- 2.5. For the purpose of a change in reporting line, no consultation is required as this will not result in any impact to the employee's terms and conditions.

## **3. Consultation**

- 3.1. Where mutual agreement cannot be achieved, a formal consultation must take place. Consultation must be meaningful (e.g. all affected staff must have all the relevant information regarding the change and the opportunity to comment on the proposal and to raise any individual concerns). If selection for roles is required, a fair process will be determined at the outset and may include interview, preference forms, skills and qualifications, experience, or when other options have been exhausted, random selection. Dependant on the selection process applied, support e.g. interview coaching may be offered.
- 3.2. At the beginning of the consultation period, a minimum of one group consultation launch meeting will be held at which all staff potentially affected by the proposed changes will be offered the opportunity to meet with managers and a HR Representative, and a recognised Trade Union Representative will also be invited to attend. The purpose of this meeting will be to provide an opportunity to discuss the proposals, ask questions and/or seek clarity or support on any aspect of the changes identified. In addition to any group meeting(s), members of staff will be offered the opportunity to meet on an individual basis with a manager and, if requested, a recognised Trade Union representative or current workplace colleague.

- 3.3. Staff who are on long-term leave, e.g. maternity leave, long-term sickness absence, career break, must be notified of the date of the consultation launch meeting. A copy of the consultation paper, along with any additional information as set out in 2.1, must be provided to them in a format that can be accessed and received from home to enable them to participate in the process.
- 3.4. The Trust will allow reasonable timescales for meaningful consultation. Reasonable timescales for the consultation will be identified at the start of the process and will be dependent on the proposed change. Where fundamental changes to job roles are proposed the Trust will ensure a minimum consultation period of 30 calendar days. Where appropriate those involved in the consultation may identify that consultation has concluded prior to the expiry of the 30 day period.
- 3.5. Where redundancies are proposed, the following information will also be provided to affected staff:
- the reasons for proposed redundancies, and the numbers and descriptions of the staff that the Trust proposes to dismiss if appropriate;
  - proposed new structures for the areas affected and job descriptions and person specifications for new posts;
  - proposed selection method(s) and timing(s) of dismissals, if appropriate;
  - how redundancy payments, other than the statutory minimum, will be calculated.

#### **4. Representation**

- 4.1. A member of staff may be accompanied to an individual consultation meeting by a Trade Union representative or a workplace colleague.
- 4.2. Trade Union representatives/work colleagues will not be allowed if there is a conflict of interest which may prejudice the meeting which will be determined by the HR representative, following discussion with the relevant parties.

#### **5. Collective Consultation**

- 5.1. Collective consultation will be required if the Trust is proposing to dismiss as redundant 20 or more members of staff within one establishment within a period of 90 days or less. In addition to consulting collectively the Trust also has an obligation to consult individually with each of the potentially redundant members of staff.
- 5.2. Collective consultation will be for a period of no less than the statutory timescales below:

- 30 days before the first dismissal takes effect, if 20 to 99 employees are to be made redundant at one establishment over a period of 90 days or less; or
- 45 days before the first dismissal takes effect, if 100 or more employees are to be made redundant at one establishment over a period of 90 days or less.

## **6. Individual Meetings with Staff at risk of Redundancy**

- 6.1. Staff will be at risk of redundancy if their post is no longer required in the Trust or there is a reduction in the number of posts in the proposed new structure and they therefore may not be successful in securing a post during the subsequent selection process.
- 6.2. Staff at risk of redundancy will meet with the appropriate manager and HR representative, along with a staff side representative or work colleague, to discuss the next steps in seeking to identify a suitable alternative role. This may include:
- Current skills, training and experience;
  - Willingness/ability to increase/decrease hours and/or change shift pattern;
  - Willingness/ability to retrain;
  - Other areas they may like to work;
  - Career prospects; and
  - Other relevant personal circumstances.
- 6.3. This information will be captured and retained so that staff affected by change may be notified of relevant vacancies by their manager or the designated HR representative supporting the change. Staff should actively participate in this process, exploring potential suitable vacancies themselves. If they identify a potential suitable role, they should share these with their manager and HR representative.
- 6.4. At this meeting, staff will be issued with a formal notice of redundancy and the search for suitable alternative employment will be undertaken for a period of 8 weeks in parallel with the individual's notice period or longer should the individual's contractual notice exceed 8 weeks.
- 6.5. Human Resources will hold a register of staff who are 'at risk' and will arrange for these staff to be given prior consideration for vacancies that arise for the 8 week period, or longer should the individual's contractual notice exceed 8 weeks. The only exception to this is where there are

staff returning from maternity leave or who have a disability as legally these staff may have priority in consideration of redeployment opportunities. External recruitment will be paused for any vacancy that is 'live' and is identified for a staff member on the 'at risk' register to explore its suitability. Throughout this period staff will be supported by their manager and the designated HR representative.

- 6.6. Being placed 'at risk' and under notice of dismissal by reason of redundancy does not mean that a member of staff will automatically be redundant. However, if a suitable alternative role is not identified during the redeployment/notice period then the member of staff will be dismissed by reason of redundancy at the end of their notice period.

## **7. Process for selection for redundancy**

- 7.1. Staff in affected areas will be ring fenced for posts in the new structure subject to evaluation of relevant skills and experience. Ring-fencing is a term used to describe a process whereby staff 'at risk' of redundancy are allowed to apply for the appropriate unallocated posts prior to the posts being opened for internal or external competitive recruitment. The ring-fencing of a post does not extinguish the Trust's statutory obligations as to staff with a protected characteristic.
- 7.2. Where there are fewer roles or where the roles are different, proposed redundancy selection criteria will be identified and communicated to those affected and staff side during any individual and collective consultation. A fair process will be determined at the outset. This may include skills and qualifications, experience and/or performance/ disciplinary/attendance record.
- 7.3. Where the new role differs to the existing role of the member of staff for example higher band, an assessment which could include an interview, must take place to assess a member of staff's suitability for the role.

## **8. Suitable Alternative Employment**

- 8.1. If there is no post available following the redundancy selection process, the Trust will make reasonable effort to seek alternative employment for that member of staff.
- 8.2. Suitable alternative employment is determined by reference to Section 16 of the Agenda for Change Terms and Conditions Handbook. In the case of medical staff, the appropriate documents are Temporary Appendix VI (iii) of the Terms & Conditions of Service for Hospital, Medical & Dental Staff or Temporary Schedule 26 of the Terms & Conditions - Consultants (England) 2003.
- 8.3. In considering whether a post is suitable alternative employment, regard will be had to the personal circumstances of the individual. Staff will, however, be expected to show some flexibility.

- 8.4. Suitable alternative employment may not always be at the same band, working pattern or place of work.
- 8.5. Where there is a bridgeable gap between the essential criteria for the role and the skills/experience of the individual, the role may still be considered suitable where relevant training can reasonably be provided.
- 8.6. Retraining to seek new professional or occupational qualifications will be considered individually and the current skills, experience and wishes of the individual member of staff will be taken into account.
- 8.7. Suitable alternative employment will be brought to the member of staff's attention, in writing or by electronic means agreed with the member of staff, before the date of termination of contract and with reasonable time for the member of staff to consider it. Staff are also expected to actively seek alternative employment during this period. The employment should be available no later than four weeks from that date. Where the member of staff then fails to make the necessary application, the member of staff shall be deemed to have refused suitable alternative employment.
- 8.8. Where a member of staff accepts suitable alternative employment the 'trial period' provisions in Section 138 (3) of the Employment Rights Act 1996 detailed below will apply.

## **9. Trial Period**

- 9.1. Where potentially suitable alternative employment is offered and accepted, an individual under a notice of redundancy has a statutory right to a trial period of 4 weeks in the new job. This can only be extended for specific training purposes and the extension agreement must be set out in writing.
- 9.2. The trial period allows both the member of staff to confirm that the staff member wishes to accept the post, and the new manager to ensure that the member of staff can meet the required standard. If, for good reason, either party finds the situation unacceptable during the trial period redundancy pay will not be affected.
- 9.3. Trial periods will be reviewed at weekly intervals by the manager leading the change in conjunction with the member of staff.
- 9.4. If the new post is deemed to be suitable during or following the trial period the member of staff will be sent a letter confirming the new post, location, pay, changes to terms and conditions and protection arrangements if applicable. The individual will not be entitled to receive redundancy payments in respect of their previous post.
- 9.5. Where either the manager or the member of staff does not consider the



post to be suitable, then they must provide specific written detail to the HR manager as to:

9.5.1 The reasons why the post is unsuitable; and

9.5.2 The reasons why any skills gaps cannot be bridged.

9.6. The above is also applicable where a trial period is not undertaken, with written details from the manager or member of staff as to why a trial period was not required to determine suitability.

9.7. Where it is determined that the new role is not suitable the Trust will continue to seek suitable alternative employment for the individual for the remainder of the redeployment timeframe. If no suitable alternative employment is found, the member of staff will be confirmed as redundant.

## **10. Assistance for Staff at Risk of Redundancy**

10.1. The Trust will, so far as is reasonably practicable, assist staff who will be made redundant by liaising with other local NHS employers, in order that information about other employment and/or training opportunities is made available to them.

10.2. Reasonable time off work with pay will be given to assist the affected member of staff to secure alternative employment. Staff must request this time off at the earliest opportunity through the normal leave procedures and they must not have these requests unreasonably refused.

10.3. Staff who are considered to be at risk due to organisational change will be offered the opportunity of tasters/ visits/ secondments to another department in order to try the work on a temporary basis.

## **11. The Right to Appeal a Redundancy Notice**

11.1. The member of staff must be offered the right to appeal their selection for redundancy. The grievance policy and procedure is not applicable to a redundancy situation.

11.2. If the staff member wishes to appeal they must inform the confirmed Senior Manager at the outset of the process, within 14 calendar days of receiving the decision, clearly stating their grounds for appeal.

11.3. The relevant Senior Manager must invite the staff member to an appeal meeting at which they can be accompanied by a staff side representative or workplace colleague.

11.4. The staff member must take reasonable steps to attend the meeting.

- 11.5. After the meeting the relevant Senior Manager must inform the staff member in writing of the final decision. This will be within 7 calendar days of the meeting.
- 11.6. The decision given from the appeal will be final; it is a one stage process.

## **12. Eligibility for Redundancy**

- 12.1. The eligibility for redundancy payment is defined in section 16 of the NHS Terms and Conditions of Service Handbook.
- 12.2. Staff will not be entitled to redundancy payments or early retirement on grounds of redundancy if:
  - 12.1.1 They are dismissed for reasons of misconduct, with or without notice; or
  - 12.1.2 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 same or another NHS employer; or
  - 12.1.3 They unreasonably refuse to accept or apply for suitable alternative employment with the same or another NHS employer; or
  - 12.1.4 They leave their employment before the expiry of the formal notice of redundancy, except if they are being released early (paragraphs 13 below); or
  - 12.1.5 They are offered a renewal of contract (with the substitution of the new employer for the previous NHS one); or
  - 12.1.6 Their employment is transferred to another public service employer who is not an NHS employer.

## **13. Early Release of Redundant Staff**

- 13.1. Staff who have been notified of the termination of their employment on grounds of redundancy, and for whom no suitable alternative employment in the NHS is available, may during the period of notice obtain other employment outside the NHS.
- 13.2. If they wish to take this up before the period of notice of redundancy expires, the Trust will, unless there are compelling reasons to the contrary, release such staff at their request on a mutually agreeable date. The date will become the revised date of redundancy for the purpose of calculating any entitlement to a redundancy payment under this agreement.

## **14. Retrospective Pay Awards**

- 14.1 If a retrospective pay award is notified after the date of termination of employment, then the redundancy payment and/or pension will be recalculated, and any arrears due paid.

## **15. Pay Protection**

- 15.1. Pay protection will apply to any member of staff who, following an organisational change process, is required to move to a post on a lower basic salary or where a change necessitates a reduction in compulsory unsociable hours payments or compulsory on-call payments
- 15.2. Please refer to the Trust's Pay Protection Procedure (Version 2.0) for further information relating to pay protection and the entitlements available for affected staff.

## **16. Excess Travel**

- 16.1. Where a member of staff is required to move location on a permanent basis as part of any organisational change process, they will receive excess travel pay protection for a period of 2 years.
- 16.2. There is no protection for any other expenses in relation to the change of base e.g. car parking charges or for extra travel time.

## **17. Implementation and Review**

- 17.1. On conclusion of any consultation period with staff affected by organisational change, staff will be written to and advised of the outcome and the next steps of the process that will be followed.
- 17.2. Where change is implemented, managers with support from a HR representative within the Workforce Transformation Team should review the changes at an agreed time post implementation, to measure the impact of the changes and any further action that may need to be taken.