

TRANSFORMING SERVICES MATTERS

MANAGING AND SUPPORTING PEOPLE THROUGH ORGANISATIONAL CHANGE

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Transforming Services Matter Policy

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Transforming Services Matters Policy

Version Control Sheet

Version Control Sheet	Section/Para/Appendix	Description of Amendments	Date	Amended by
1	To be archived	Approved June 2006	Dec 2006	SM
2	INTRODUCTION	Reference to amended Agenda for Change Handbook – Section 16 Redundancy pay	29.12.06	SM
	Summary of changes 1.10.2006	Section added	29.12.06	SM
	Section 9	Protection amended to remove age discriminatory aspects	29.12.06	SM
	Section 10	Removed reference to age and inserted new regulations	29.12.06	SM
3	Inserted Version Control Sheet	In line with 'Policy for Development and Management	September 2008	LC
	Inserted Policy Statement page	In line with 'Policy for Development and Management	September 2008	LC
	Inserted Equality Statement	In line with 'Policy for Development and Management	September 2008	LC
3.1	Whole Document	Policy realigned following implementation of the Transforming Community Services agenda and new legal	22 March 2011	REI
3.2	Whole Document	Policy reviewed by Employment Policy Group – review date extended as no changes	4 August 2011	REI
3.3	Front page	Policy extended to allow regional review – agreed at Policy group and new number allocated (Old HR027)	October 2013	REI
3.4	Whole Document	Chg of CE name and extension	July 2014	KJS
3.5	Whole Document	6 month extension agreed at EPG Oct 2014 to allow for ongoing restructure	October 2014	KJS
3.6		Minor amendment to Section 5 to change consultation from 90 to 45 days – as agreed at EPG 1 Dec.14	January 2015	KJS
4	Whole document	Policy reviewed by EPG members and agreed to debate further in JCNC – Ratified at JCNC April 2015	April 2015	JHS
5	Whole Document	Simplified and re-ordered	April 2018	Clare Nock
6	Whole document	Full review	November 2020	Clare Nock

6.1	Minor amendments	Updated BUPA contact information for new EAP provider Health Assured	February 2021	Vicky Cobb
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Transforming Services Matters – Policy Statement

Background	The principles and procedures within this policy are designed to minimise the impact to its people, patients' and services in circumstances where the organisation has to make changes which affect roles, responsibilities and jobs.
Statement	The Trust regards its people as its most valuable asset and aims to provide a stable and secure working environment for all staff. However, it is also recognised that the current health and social care system stimulates opportunities for growth, competition and continuous service and financial improvements where it is necessary to make organisational changes.
Responsibilities	The Board, senior leaders and managers as well as staff and trade unions all have a responsibility to ensure appropriate outcomes are realised for the patient, services, workforce and organisation.
Training	Training relating to the content of this policy will be provided to the workforce as appropriate.
Dissemination	Through staff intranet and wider staff communication
Resource implication	Potential redundancy payments and other associated financial payments including external coaching, CV/interview skills workshops and legal fees.
Equality Statement	This policy aims to meet the requirements of the Equality Act 2010 and ensure that no employee receives less favourable treatment on the grounds of gender, sexual orientation, transgender, civil partnership/marital status, appearance, race, nationality, ethnic or national origins, religion/belief or no religion/belief, disability, age, carer, pregnancy or maternity, social status or trade union membership.

1. Introduction

Whilst the Trust is committed to the principle of maintaining security of employment for its employees as far as possible, as a result of such challenges, organisational change will sometimes be necessary.

Organisational change is driven by the business/service needs of the Trust. The changing health and social care environment poses a number of challenges to the Trust, for example, the need to improve standards of care, to achieve integrated pathways, to respond to financial challenges or to respond to a change in patient service requirements.

Change can be triggered either by the external environment or by an internal review of service 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.

It recognises that its employees are the most valuable of its resources and aims, as far as is possible to achieve necessary changes in the workforce by turnover and natural wastage, redeployment, absorption, retraining, early retirement and voluntary redundancy – avoiding compulsory redundancy wherever possible.

All such changes will be conducted in accordance with this document which incorporates best practice (ACAS guidelines) and legal requirements, national terms and conditions of service (section 16 of Agenda for Change). At all times the Trust's Equality, Diversity and Human Rights Policy will apply.

2. Purpose

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 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. Scope

This document applies to all NHS staff employed by the Trust and will be applied consistently and equitably to all staff. Individuals who are employed on Medical and Dental terms and conditions of service will also need to read this document in conjunction with their national terms and conditions of service.

4. Minor Change

In order to meet changing business needs more effectively, there may be occasions when managers need to implement relatively minor changes. Such minor changes and adjustments to duties, bases and working practices may be implemented without recourse to the formal procedures in this document but will require reasonable discussions with staff affected. Where there is a specific clinical risk identified which can be mitigated by temporary relocation of staff, managers will discuss with staff reasonable notice to relocate as quickly as possible. Any situation which may lead to redundancy will not be deemed to be a minor change.

5. Prior to starting consultation

Informal discussion(s) with affected staff will where possible take place prior to commencement of the formal procedure in order to help gain initial thoughts and comments.

Managers will prepare a consultation document on the proposed organisational change having gathered information to support the need for change.

Formal consultation with the trade unions will commence once the consultation document has been finalised in accordance with the principles outlined in the recognition agreement.

All consultation proposals should be discussed and approved by the Joint Consultative and Negotiation Committee (JCNC) before formal consultation commences and this will serve as written notification to Staff Side.

6. Consultation

In all cases the Trust will allow sufficient time for meaningful consultation with staff and their representatives.

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.

A principle of 30 days would in most cases be adopted for consultation. . A consultation meeting will usually be held with all staff affected to announce the proposed change and explain the consultation process which will follow. Staff will have the right to be accompanied by a trade union representative or workplace colleague.

This will mark the start of the consultation period and each member of staff affected will be given access to a copy of the consultation document outlining the proposal which will also confirm the "at risk status" of organisational change or redundancy.

Trade unions and staff may request additional information or an extension of the consultation period if this is necessary to enable them to understand and contribute to an informed discussion. Should the consultation period not be extended a reason why will be provided.

During the consultation period:

- Staff will be offered the opportunity of a 1:1 with their manager at which they have the right to be accompanied by a trade union representative or workplace colleague.
- Staff will be invited to comment and respond to the proposals, highlighting any concerns or alternative suggestions to the proposal.

1:1 meetings provide an opportunity for staff to discuss their personal circumstances, explore options available and put forward any questions/concerns associated with the proposals.

At the end of the consultation period the manager leading the consultation will give full consideration to all comments received and will make a decision on the way forward. The outcome of the consultation will be confirmed in writing to each individual, and where applicable, notice of redundancy will be served.

Where an employee is not willing to agree to the reasonable changes as a result of the consultation required, it may be necessary for the Trust to give the employee formal notice that their current contract will end, but where possible offer a reasonable alternative.

7. Consultation in the case of collective redundancy

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

- where 20-99 redundancies are proposed 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 Trust is also required to notify the Department for Business Innovation and Skills, using an HR1 Form, if they are proposing to make 20 or more employees redundant.

Where redundancies are inevitable the Trust will set the selection criteria for inclusion in the conclusions to consultation. The criteria should be objective, clearly defined, measurable and non-discriminatory and will be discussed with Trade Union Representatives.

8. Support for staff

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

- Help with the production of CVs/application forms (including assistance with NHS Jobs).
- Help with preparation for interviews.
- Careers advice.
- Support in developing coping strategies and stress management, with support from occupational health or the Trust's Employee Assistance Programme (via self-referral) Health Assured contactable on 0800 028 0199.
- Time to meet with recognised trade union representatives to discuss the change.
- Further assistance to staff, especially those who are at risk of redundancy will include reasonable time off to seek other employment or undertake training placements.
- Registration on NHS jobs of "at risk of redundancy status" to notify all organisations who have signed up to the Regional Re-deployment Scheme of the individual's current employment status.

Staff will receive training and development, as appropriate to meet new skill requirements and where appropriate to identify new career opportunities.

Staff will have access to the Trust's occupational health provider, counselling services and coaching/mentoring as well as career support as appropriate.

9. Suitable Alternative Employment

Suitable alternative employment will be sought for staff at risk of redundancy. To determine if a post is a suitable alternative, consideration will be given to;

- how similar the work is to their current job
- the terms of the job being offered
- the skills, abilities and circumstances in relation to the job
- the pay (including benefits), status, hours and location

Following identification of potentially suitable posts, individual staff placed at risk of redundancy will receive information of the position and be provided with details of where to access a copy of the job description/person specification with the expectation that they will apply.

If the individual is offered the post, this will be treated as an offer of suitable alternative employment.

Where a suitable alternative post is identified and the distance involved and the working arrangements necessitate the employee to move home, they may apply for assistance with relocation expenses in accordance with the Trust's relocation policy. An application must be made within the first three months of the new employment (or three months following the trial period) and relocation must occur within two years.

Should staff at risk of redundancy unreasonably refuse an offer of suitable alternative employment they may lose their right to a redundancy payment.

10. Slotting In

Where posts are substantially unchanged and the number of posts is the same or increased, existing staff will be slotted into a post as appropriate.

The criteria for slotting in will be agreed in partnership with Staff Side and the following would be considered:-

- Key job responsibilities, banding, the 16 job matching factors of the national job evaluation process (or equivalent national terms and conditions of medical and dental staff), base of work, hours of work, qualification and training requirements.

A skills audit of individuals will be completed to assist this.

11. Competitive Process

Where the number of posts required in the new structure is less than the number of existing employees, selection will be made from those currently in post on a 'ring-fenced' basis, by competitive assessment or interview.

Competitive interviews will include appropriate and job specific tests for all roles and PPA profiling for all new posts of B7 and above.

Any posts that are ring fenced will be made available to those going through consultation or at risk prior to any open competition.

Any posts not filled through this process, will then be advertised further as appropriate.

Individuals who are unsuccessful during the shortlisting stage or interview stage will not be permitted to re-apply for the same positions again.

Where new posts are created and/or where posts are substantially different, employees will be able to apply for these new and/or different roles within the re-structure.

12. Pay Protection Arrangements

Where a change of base is required and where this change would give rise to additional travel costs, the Expenses Policy will be applied in relation to excess travel.

Protection of pay and conditions is 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.

During the period of protection the employee will give an undertaking to apply for any post which may arise within the Trust which is more suitable for their capabilities and qualifications. If an employee fails to give such an undertaking or subsequently refuses to apply for or accept such a post protection may cease.

When an employee is subject to a further non-voluntary transfer to a lower grade post (at a subsequent re-organisation or re-structuring) the pay protection period will run from the new date of the subsequent compulsory change.

Employees are not eligible for pay protection where the change of job role is of their choice, or where they are downgraded for other reasons (e.g. as a result of disciplinary action or redeployment due to ill health).

If the cost of protection over the relevant period exceeds the cost of redundancy, redundancy only may be offered. In these circumstances if the employee does not wish to accept this they may be redeployed to a lower graded post at the rate of pay of that post.

Long Term Pay Protection

This applies to staff who have taken a post at a lower pay band and will be paid as follows:

- Less than 1 years' continuous NHS service – Nil
- 1 years' to 2 years' continuous NHS service – 9 months
- 2 years' to 3 years' continuous NHS service – 12 months
- 3 years' to 5 years' continuous NHS service – 18 months
- 5 years' and above continuous NHS service – 24 months

This protection shall be on a 'mark-time' basis i.e. without the benefit of any pay step progression or improvements to the rates of pay or conditions of service until or unless the substantive pay band maximum exceeds the protected salary.

Short Term Pay Protection

Short term protection will apply to all staff who suffer a loss in remuneration as a result of shift changes, hours reduction, etc. but whose pay band remains the same. However, short-term protection will not be paid where it is the expectation of the employee's contract that they work differing shifts and a request has been made by the manager to move to a different shift pattern, e.g. nights to days.

All earnings will be calculated over the previous 12 weeks from the date of change. It will be paid as follows:

- Less than 1 years' continuous NHS service – Nil
- 1 year to 2 years' continuous NHS service – 2 months
- 2 years' to 3 years' continuous NHS service – 3 months
- 3 years' to 4 years' continuous NHS service – 4 months
- 4 years' to 5 years' continuous NHS service – 5 months
- 5 years' and above continuous NHS service – 6 months

13. 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 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.

The place of work referred to above should not be confused with the specific site or unit in which an individual works.

The Trust will consider all reasonably practicable steps to avoid compulsory redundancies for example:

- Achieving the necessary reductions in posts by natural wastage.
- Restricting external recruitment of permanent roles as soon as possible including recruitment freezes and/or filling vacancies by means of temporary appointments up to the time that the reductions take effect.
- Reducing overtime and/or the use of agency and bank in affected areas.
- Redeploying and re-training staff internally or as part of any re-deployment scheme with other NHS organisations.
- Consider short time working or lay-off.
- Consideration of voluntary redundancy and/or early retirement and/or early retirement in the interest of service need.

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.

14. Trial Period

A trial period will apply to staff at risk of redundancy and where a formal offer of suitable alternative employment has been made.

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

The trial period will normally last for 4 weeks but may be extended by mutual agreement to a maximum 8 weeks (2 months), 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 of redundancy will be considered for other suitable alternative employment if available which will be subject to the same arrangements including a trial period.

15 Redundancy Payment / Early Retirement Benefit

The terms under which a redundancy payment and/or early retirement benefit are payable are summarised below:

To qualify for a redundancy payment/early retirement benefit the individual must have:

- a contract of employment with the Trust; and
- at least 2 years' (104 weeks) Continuous Service within the NHS.

A redundancy payment takes the form of a lump sum, dependent on the employee's reckonable service at the date of termination of employment.

For the purpose of redundancy entitlements, reckonable service will not be counted when:-

- It has previously been counted in respect of a redundancy by an NHS employer.
- Any previous employment for which an employee has received NHS pension benefits.
- Loss of office payment.
- Mutually Agreed Resignation Scheme (MARS) severance payment (which is offset against any subsequent redundancy payment).

In the event of any redundancy, estimates will be provided to the individual at the appropriate point in the process.

Early retirement on the grounds of redundancy is available, subject to the employee:

- Being a member of the NHS Pension Scheme;
- Having at least 2 years' continuous service and 2 years' pensionable membership; and
- Having reached the minimum pension age in accordance with the relevant NHS Pension Scheme arrangements.

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 Trust or other NHS employer
- unreasonably refuse to accept suitable alternative employment with the Trust 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 Trust.

Before any redundancy payments can be received individuals will be expected to complete a "Declaration Form" – Relating to Redundancy Pay.

16. TUPE

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (**TUPE**) protects employees' terms and conditions when a business or undertaking, or part of one, is transferred to a new employer (the transferee). All the terms and conditions within the transferring employee's contract of employment (including contractual policies and procedures) will transfer with them and should not be changed as a consequence of the transfer.

TUPE applies in contracting out scenarios, retendering and where the services are brought back into the NHS.

Where there is a proposal to transfer services and staff from the Trust to a different employer, the consultation process will mirror that as detailed above.

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 services, posts and individual staff that will transfer or be affected in accordance with the obligations of TUPE.

Staff in scope of the TUPE will be written to, informing them of the intention that they will transfer, the implications of the transfer and any measures which will be taken in connection with the transfer.

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.

17. Complaints and Appeals

If an employee has concerns regarding the application of this policy they should be referred to the Grievance and Resolution procedure to raise a complaint and put it in writing. However, it should be noted that any grievance received will not permit the organisational changes to be stopped in order to minimise and/or avoid directly or indirectly impact on the delivery of services and business continuity.

Please be aware an individual can only appeal an outcome of organisational change when notice of redundancy is served. This should be submitted in writing no later than five days from the date the outcome of consultation is received. The decision of the appeal panel will be final and there will be no further opportunity for recourse.

18. Associated Local Documentation

The below documents should also be read in conjunction with the policy:

- National terms and conditions (agenda for change or medical and dental)
- NHSE/I associated policies and procedures

Monitoring Template

Minimum requirement to be monitored	Process for monitoring e.g. audit	Responsible individuals/ group/ committee	Frequency of monitoring/audit	Responsible individuals/ group/ committee (multidisciplinary) for review of results	Responsible individuals/ group/ committee for development of action plan	Responsible individuals/ group/ committee for monitoring of action plan
Redundancy payments	Audit Grievance	Audit Committee CNC	Monthly	JCNC	HR and Staffside Chair	JCNC

Equality Analysis

Name of Policy/Procedure/Function* Transforming Services Matters – Managing and Supporting People through Change

Equality Analysis Carried out by: Clare Nock, HR Business

Partner

Date: 06.11.20

Equality & Human rights Lead: Rachel Higgins

Date: November 20

Director\General Manager: Ceri Lennon

Date: November 20

***In this template the term policy\service is used as shorthand for what needs to be analysed. Policy\Service needs to be understood broadly to embrace the full range of policies, practices, activities and decisions: essentially everything we do, whether it is formally written down or whether it is informal custom and practice. This includes existing policies and any new policies under development.**

Section 1 – to be completed for all policies

A.	Briefly give an outline of the key objectives of the policy; what it's intended outcome is and who the intended beneficiaries are expected to be	To manage and support staff through organisational change in a fair and equitable process in order to minimise impact to delivering high patient quality care		
B.	Does the policy have an impact on patients, carers or staff, or the wider community that we have links with? Please give details	Transformational change will impact on patients, carers and/or staff and should be with a view to always improving the quality of patient care. The policy provides processes and guidance to follow in order to complete change processes as quickly as possible in accordance with employment legislation and best practice so to minimise the possible impacts on patients, staff and carers.		
C.	Is there is any evidence that the policy\service relates to an area with known inequalities? Please give details	No – it covers the entire organisation		
D.	Will/Does the implementation of the policy\service result in different impacts for protected characteristics?	No – all legislation and hr best practice has been taken into consideration		
		Yes	No	
	Disability		x	
	Sexual Orientation		x	
	Sex		x	
	Gender Reassignment		x	

	Race		x	
	Marriage/Civil Partnership		x	
	Maternity/Pregnancy		x	
	Age		x	
	Religion or Belief		x	
	Carers		x	
	If you have answered 'Yes' to any of the questions then you are required to carry out a full Equality Analysis which should be approved by the Equality and Human Rights Lead – please go to section 2			
The above named policy has been considered and does not require a full equality analysis				
Equality Analysis Carried out by:		Clare Nock		
Date:		6 th November 2020		