

# **Change Management Policy**

**July 2022 – November 2024**

CONTROL RECORD			
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<b>Title</b>	Change Management Policy		
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<b>Purpose</b>	This policy outlines the ICB's approach to management of organisational change		
<b>Superseded Documents</b>	Change Management Policy v1.2		
<b>Audience</b>	All staff in Nottingham and Nottinghamshire Integrated Care Board		
<b>Consulted with</b>	Integrated Care Board Senior Leadership Team and Staff Engagement Group		
<b>Equality Impact Assessment</b>	See Appendix A		
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## **1. Introduction**

- 1.1 This policy applies to the NHS Nottingham and Nottinghamshire Integrated Care Board, hereafter referred to as 'the ICB'.
- 1.2 The ICB aims to provide all employees with the highest level of employment 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. In these circumstances the ICB are committed to ensuring the change is managed in a way that is sensitive, consistent, fair and in line with statutory requirements and best practice.
- 1.3 The ICB actively manage its services 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 ICB organisational requirements.
- 1.4 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. Early informal discussions with Staff Side representatives would be necessary prior to the decision not to apply formal procedures. Any situation which may lead to redundancy will not be deemed to be a minor change.
- 1.5 All changes will be conducted in accordance with this document which incorporates best practice and legal requirements and aims to provide a framework of common understanding for managers, employees and Trade Unions.

## **2. Purpose and Scope**

- 2.1 The purpose of this document is to set out the ICB approach to management of organisational change and the procedures that should be followed by managers wishing to implement major change.
- 2.2 The process outlined in this policy does not apply to individuals working on bank contracts or working through agencies or other contractors. The process is not contractual.
- 2.3 The ICB will provide reasonable information about the proposed organisational change in accordance with best practice.
- 2.4 Employees will receive notice of any organisational change which may affect their futures at the earliest opportunity.
- 2.5 The ICB is committed to minimising the impact of change on employees and reducing the necessity for redundancy, redeployment and pay protection.
- 2.6 The ICB will consider all reasonably practicable steps to avoid compulsory redundancies.

- 2.7 Employees will be treated as individuals with due regard to their personal and employment circumstances at all stages of the change management procedure.
- 2.8 Requests by the employee for additional support at any individual meetings should be considered e.g., where disability is involved and familiarity with the impairment or the individual or specialist input would be beneficial.
- 2.9 Employees will receive training and development, as appropriate to meet new skill requirements and where appropriate to identify new career opportunities, with time to attend training and development activities given.
- 2.10 Employees will have access to the ICB counselling services and career support where available.
- 2.11 Data that is held in relation to any change management process will be retained and destroyed in accordance with the provisions of the General Data Protection Regulations 2018.

### 3. Roles and Responsibilities

Roles	Responsibilities
<b>Managers</b>	<p>It is the responsibility of managers to:</p> <ul style="list-style-type: none"> <li>• Engage with their team regarding proposed change(s).</li> <li>• Ensure employees are made aware of the procedure for organisational change.</li> <li>• Ensure the consultation document is completed and provided to all affected staff.</li> <li>• Ensure any employees on long term sick or maternity leave are kept informed of the potential change(s).</li> <li>• Work in accordance with this policy treating all employees fairly and equitably seeking support from Human Resources as appropriate.</li> </ul>
<b>Employees</b>	<p>It is the responsibility of the employee to:</p> <ul style="list-style-type: none"> <li>• Be aware of the change management policy and its ramifications.</li> <li>• Participate and attend all relevant consultation meetings.</li> <li>• Participate actively in the process specifically around redeployment.</li> </ul>
<b>Human Resources</b>	<p>It is the responsibility of Human Resources to:</p> <ul style="list-style-type: none"> <li>• Maintain and update the Change Management Policy in line with any organisational or legislative change.</li> </ul>

Roles	Responsibilities
	<ul style="list-style-type: none"> <li>• Provide training and ongoing support for all managers in dealing with the change management process.</li> <li>• Provide advice and support to ensure that the policy is applied fairly and equitably to all employees.</li> <li>• Provide advice and support in the preparation of consultation documents and the consultation period.</li> <li>• Inform the Trade Unions of the proposal to make employees redundant.</li> <li>• Inform the relevant department (currently NHS England) in writing of the proposal to make staff redundant.</li> </ul>

#### 4. Definitions

Term	Definition
<b>Major organisational changes</b>	This refers to any reorganisation, relocation, merger, significant expansion or reduction of a function, competitive tendering or outsourcing.
<b>Affected by change</b>	This refers to staff that experience changes via this process may e.g., change of Line Manager, changes to responsibilities but are not at risk of redundancy.
<b>At risk</b>	An employee will be regarded as 'at risk' in circumstances where it has been decided that their post is to be removed from the establishment or there is to be a reduction in the number of posts in the grade/category at the appropriate location and that reduction cannot be achieved by natural wastage.
<b>Slotting-in</b>	Refers to the process by which staff are confirmed into a post in a new staffing or management structure which is similar to their current substantive post and where that individual is the only contender for that post. Slotting-in also occurs where a post has not been significantly reorganised or where it remains substantially the same (usually defined as 66% the same) with regard to job content, responsibility, grade, status and requirements for skills, knowledge, experience and location.
<b>Ring-fencing</b>	Refers to the process by which staff 'at risk' will be considered for a post in a new staffing or management structure where there is more than one contender for that post, and which is similar to their current post. This assessment is made on an individual's substantive contract.

Term	Definition
	A competitive assessment should be made as to which individual has the necessary skills to best undertake the role.
<b>Redundancy</b>	<p>In accordance with the Employment Rights Act 1996, redundancy arises when employees are dismissed because:</p> <ul style="list-style-type: none"> <li>• The employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed, or where the employer has ceased, or intends to cease, to carry on the business in the place where the employee was so employed; or</li> <li>• Where the requirements of the business for employees to carry out work of a particular kind, in the place where they are so employed have ceased or diminished or are expected to cease or diminish.</li> </ul>
<b>Redeployment</b>	Means the transferring or recruitment of staff 'at risk' into a suitable alternative post.
<b>Suitable Alternative Employment (SAE)</b>	Will be determined with reference to sections 138 and 141 of the Employment Rights Act 1996 and Section 16 of the Agenda for Change Terms and Conditions paragraphs 16.17 to 16.19, from an employer perspective, this is through the employee satisfying the selection criteria for the post, as identified in the person specification. The personal circumstances of the employee shall be taken into account (refer to section 8 for further details).
<b>Continuous Service Date (CSD)</b>	Means full or part time employment with the ICB or any previous NHS employer where 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 section 16 of the Agenda for Change Terms and Conditions on continuous employment.
<b>Reckonable service</b>	Means continuous service plus any service with a previous NHS employer where there has been a break of 12 months or less. At the ICB discretion any period of employment outside the NHS which is relevant to NHS employment may be counted as reckonable service.
<b>Basic salary</b>	This is the monthly sum due in respect of basic hours worked by the member of staff concerned within the standard working week. It excludes any payments made in respect of acting up (or additional responsibilities), overtime, working

Term	Definition
	outside normal hours payments, Agenda for Change recruitment and retention premia, standby or on-call duty.
<b>Downgrading</b>	Where a new post, irrespective of its banding, carries an hourly rate lower than that for the previous post, or where a salary scale with a maximum point lower than the maximum point for the previous post, or lower than that of the grade held in the previous post.
<b>Pay protection</b>	This refers to protection of basic salary. The basic salary of the higher substantive role is retained and protected for a fixed term period. This applies where a member of staff is downgraded as a result of organisational change and will be implemented from the effective date of the change.
<b>TUPE</b>	Means the Transfer of Undertaking (Protection of Employment) Regulations 2006. It preserves employees' Terms and Conditions when a business or undertaking, or part of one, is transferred to a new employer.
<b>COSOP</b>	Means Cabinet Office Statement of Practice. It provides transferring employees with TUPE-like protection when the TUPE legislation cannot apply as there will not be a change of employer. This is the case when a transferring employee will continue to work within the civil or public sector and/or be employed by the Crown.

## 5. Consultation

- 5.1 When as part of the consultation on organisational change, the organisation identifies the possibility that employees may be made redundant, management will consult at the earliest opportunity with Trade Union/staff organisations representing the employees concerned, and the employees themselves.
- 5.2 The Trade Union/staff organisations concerned will be told the reasons for the redundancy proposals, the numbers and categories of employees being considered for redundancy and the period of time over which it is proposed that the redundancies should take place.
- 5.3 The Methods of avoiding redundancies will be considered as part of the proposals and consultation process including but not limited to the following:
- Enabling natural waste by not filling vacancies.
  - Elimination of overtime working.
  - Management of secondments and acting up arrangements.



- Opportunities for retraining.
  - Review of current and future functions to establish skill mix and staff level requirements.
  - Cessation of external recruitment.
  - Redeployment of staff within the ICB (and within the system where appropriate).
  - Review of temporary and fixed term contracts.
- 5.4 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.
- 5.5 The legal minimum requirements for consultation on redundancy, as advised in the Employment Rights Act 1996 - Collective Redundancies and Transfer of Undertakings (Protection of Employment) Regulations 2014 will be adhered to. Longer periods of consultation will be given when practicable.
- 5.6 In addition to consultation with recognised Trade Unions/staff organisations, affected employees will be seen on a one-to one basis, at the appropriate stage, to ensure that proper consideration can be given to their needs and to enable the most satisfactory course of action under the circumstances to be taken.
- 5.7 Advice and support will be provided by a representative from Human Resources and employees should be advised of their right to be accompanied by a Trade Union/staff representative or work colleague.
- 5.8 Additional support arrangements will be provided at varying intervals to assist those employees most affected by the changes. These may include:
- Staff Counselling.
  - Coaching.
  - Stress Management and Resilience training.
  - Interview Skills training.
  - Increased communication from Senior Managers.

### **Consultation Document**

- 5.9 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.
- 5.10 The consultation document may include details of the following, as appropriate:
- Current situation analysis including staffing structure.
  - The need for change and the rationale behind the change.
  - Impact on service/business.

- Impact on other areas / services.
- Consideration of any relevant health and safety assessment.
- 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 that may be at risk of redundancy as a result of the proposal.
- The way in which staff will be selected for posts within the new structure or transferred.
- If necessary, the selection criteria for redundancy.
- The measures taken to avoid compulsory redundancies which may include natural wastage, redeployment with retraining or voluntary early retirement or voluntary redundancy.
- Proposed timescale for consultation and implementation of the proposed change.
- Description of the consultation process, including planned meetings, timetable, how staff and representatives can respond and the deadline.
- Details of how this information will be disseminated to staff.
- The consultation document will include an equality impact assessment.

### **Consultation with the Trade Unions**

- 5.11 Early informal consultation with the Trade Unions is encouraged and should occur first where possible. This is also known as pre-consultation. Meaningful pre-consultation may lead to an agreed shorter formal consultation time and greater staff satisfaction with the process.
- 5.12 Formal consultation with the Trade Unions will commence within the minimum timescales 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.
- 5.13 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 ICB 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 with reference to section 16 of the NHS Terms and Conditions Handbook.
- 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 in line with Agenda for Change Terms and Conditions.

5.14 During a period of change, management will ensure that Trade Unions are kept informed of developments and will meet with them as appropriate.

5.15 The purpose of the consultation meetings with Trade Unions 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 ICB 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.

### **Consultation with Staff**

5.16 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.

5.17 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 so that they can participate in the consultation process.

5.18 Each member of staff 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 work colleague. HR advisory support will also be offered to support the process.

5.19 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.

- 5.20 Regular updates and frequently asked questions will be circulated to staff throughout the formal consultation period. Throughout this period, employees will be encouraged to discuss their concerns and queries with their Line Manager and Trade Union (if a member).
- 5.21 In all cases the ICB will allow sufficient time for meaningful consultation with staff and their representatives.
- 5.22 In a collective redundancy scenario, consultation will commence for a period of no less than the statutory timescales:
- 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.
- 5.23 In exceptional circumstances where changes need to be made very quickly, the Trade Unions and employees will be briefed immediately verbally, and this will be followed by a written brief.
- 5.24 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.
- 5.25 The employer and the Trade Union/staff representatives can decide that they have informed and consulted on the issues and do not need 45 days. If that is the case, then dismissal notices can be sent out earlier. Note that this can only happen if the staff representatives agree that they have been fully informed and consulted within the 45-day period and do not need the full 45 days.

### **End of Consultation**

- 5.26 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.
- 5.27 Staff will be selected based on their relevant skills, experience, and qualifications to undertake the remaining jobs, as assessed through formal interviews held in accordance with ICB recruitment and selection procedures.
- 5.28 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.
- 5.29 In the event the ICB considers voluntary redundancy applicable, the ICB will set out the terms of this arrangement in full alongside any application process.

## **6. Filling Posts**

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

- Stage One - takes place amongst the staff that are affected by the change. Posts in the new structure are filled either by 'slotting-in' or by 'ring-fencing' (refer to definitions for details of those processes).
- Stage Two - is where any posts that remain vacant in the new structure following Stage One will be opened to access by any staff on the ICB 'at risk' register. This may include posts of a lower pay band, in which case pay protection may apply. Priority will be given to employees who are in a redundancy notice period over employees who are on the register for other reasons.
- Stage Three - is where vacancies are advertised internally and/or externally, in line with the normal recruitment process.

6.2 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.

6.3 Staff who are offered posts during Stage One will be deemed to have been offered Suitable Alternative Employment by the ICB. This will be confirmed in writing by the manager. The consequences of refusing to accept these posts will be as per refusing Suitable Alternative Employment (see Section 8).

6.4 Employees shall have the right to appeal (see Section 178).

6.5 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. Any member of staff who is not appointed to a post in the new structure will be offered post-interview feedback, coaching or training where appropriate and have the right to appeal in line with the ICB Grievance Policy.

## **7. Staff at Risk**

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

7.2 Employees '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.

- 7.3 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; however, they will not be verbatim.
- 7.4 Staff 'at risk' will be required to make every effort to apply for suitable posts as they are advertised. Staff 'at risk' should consider all opportunities to seek alternative employment as failure to do so may challenge their right to redundancy. The HR Team will use the full functionality of trac e.g., the talent pool where it notifies applicants of roles similar that have been published.
- 7.5 Staff 'at risk' will be given prior consideration for other posts that are or become vacant in the ICB during a specific organisational change and, subject to any agreed arrangements regarding suitable alternative employment and trial periods, will remain on the register until their last day of service.
- 7.6 Special provision is made in law where an employee's job becomes redundant whilst he or she is absent on maternity or adoption leave. The employee is entitled to be offered any suitable alternative employment before the existing contract ends, in preference to employees who are not absent on such leave.

## **8. Suitable Alternative Employment**

- 8.1 Suitable alternative employment must be suitable to the individual's personal circumstances, skills, and experience. It may be on any site operated by the ICB subject to individual travel considerations as per the paragraph 17.17 and 17.25 of the Agenda for Change Terms and Conditions.
- 8.2 Where there are insufficient numbers of vacant posts within the ICB, the HR Team will endeavour to identify suitable redeployment opportunities and draw these to the attention of the staff. These may be within the wider NHS.
- 8.3 Under Agenda for Change Terms and Conditions an unreasonable refusal to accept suitable alternative employment offered by the ICB, or another NHS employer, will mean that they are not entitled to a redundancy payment (see Agenda for Change, Section 16).
- 8.4 Where individuals are selected for a new post, they will normally be given the offer in writing within five working days of the interview. Any training required will be discussed with the member of staff as part of the offer process. The appointment will be subject to a trial period.

- 8.5 Following identification of potentially suitable posts at either Stage One or Stage Two, individual staff 'at risk' will be offered to apply for the position in writing, 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.
- 8.6 If the individual is offered the post, this will be treated as an offer of suitable alternative employment and a trial period will apply.

### **Trial Periods and Training**

- 8.7 A trial period will only apply to staff 'at risk' where a formal offer of suitable alternative employment has been made.
- 8.8 The purpose of a trial period is for both the manager and the individual to assess the suitability of the post as alternative employment.
- 8.9 Where staff have the potential ability but not the immediate experience to undertake the full duties of the role, they will be provided with appropriate skills development/training. This will be provided when 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.
- 8.10 The trial period will normally last for four weeks but may be extended by mutual agreement where a member of staff requires additional training and development.
- 8.11 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 will remain 'at risk' and will be considered for other suitable alternative employment if available. Any opportunity identified will be subject to the same arrangements including a trial period as before.

### **Change of Location**

- 8.12 If, because of organisational change, there is a requirement to move staff from their normal place of work to another location within the ICB 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 for a period of four years from the date of transfer in accordance with paragraph 17.17 and 17.25 of the Agenda for Change Terms and Conditions.

## **9. Redundancy Arrangements**

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

- 9.2 To qualify for a redundancy payment, the individual must have:
- A contract of employment with the ICB; and
  - At least two years' (104 weeks) continuous service within the NHS.
- 9.3 A redundancy payment takes the form of a lump sum, dependent on the employee's Reckonable Service at the date of termination of employment.
- 9.4 The lump sum is calculated based on one month's pay for each complete year of Reckonable Service, subject to a minimum of two years' continuous service and a maximum of 24 years reckonable service (i.e., the maximum payable is 24 months).
- 9.5 Early retirement on the grounds of redundancy is available, subject to the employee:
- Being a member of the NHS Pension Scheme.
  - Having at least two years' continuous service and two years' pensionable membership; and
  - Having reached the minimum pension age in accordance with the relevant NHS Pension Scheme arrangements.
- 9.6 Some staff may be subject to locally agreed contractual arrangements in respect of redundancy which will need to be honoured.
- 9.7 In some circumstances tax benefit may be applied to the payments. Individuals should source independent financial advice.
- 9.8 Employees 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 ICB or another NHS employer.
  - Unreasonably refuse to accept suitable alternative employment with the ICB 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 ICB.
- 9.9 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.
- 9.10 For further information please refer to Part 3, Section 16 of the Agenda for Change NHS Terms and Conditions of Service Handbook and the NHS Pension Scheme



Early Retirement Booklet or seek further advice from the ICB HR team or your Trade Union.

- 9.11 The Line Manager will liaise with HR to obtain details of redundancy entitlements and other aspects of the redundancy process. The HR Team and manager will work together to provide, in writing, to the individual and their Trade Union representative the following details:
- The number of weeks' notice, as stipulated in the contract of employment.
  - The effective date of the redundancy, which will also be the last day of service.
  - 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.

## **10. Fixed Term Contracts**

- 10.1 Fixed term contracts of employment by their nature should be for a specific period and are normally used to cover a specific, time limited remit/project work or to provide cover arrangements during periods of absence.
- 10.2 If an employee has previous continuous NHS service prior to starting a fixed term contract, that service will count if the fixed term contract is for more than two years as reckonable service for redundancy purposes.
- 10.3 The exception to the excerpt above is for employees employed on a fixed term basis to cover a permanent member of staff, for example, to cover maternity leave. In these circumstances dismissal would be on the grounds of some other substantial reason and not redundancy.

10.4 Further advice should be sought from the HR team prior to ending a fixed term contract, at least 3 months prior to the end date of the contract.

## 11. Secondments

11.1 If organisational change occurs whilst an employee is out of the organisation on a secondment, they will be included in all of the processes outlined in this policy. Eligibility for slotting in, ring-fenced recruitment or redundancy payments will be based on their substantive post.

## 12. Protection of Pay Arrangements

12.1 Protection of pay provisions will be put in place to support staff that, because 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.

12.2 Pay protection will apply for the agreed periods as set out below:

<b>Reckonable Service</b>	<b>Protection Period (months)</b>
Less than 6 months	Nil
6 -12 months	2
1 - 2 years	4
2 - 3 years	8
3 - 4 years	12
4 - 5 years	18
5 years and over	24

12.3 When calculating earnings in the new post, the rates used for calculating payments in respect of overtime, work outside normal hours and other additional duties shall be aligned to that of the new post.

12.4 The affected member of staff is entitled to protection for a maximum period as outlined above, or until the first of one of the following occurs:

- The employee accepts a suitable post in which the normal basic wage or salary is equal to or exceeds the protected wage or salary; or
- The employee moves of his/her own accord to a position with a basic wage or salary which is equal to or lower than that of the existing post; or
- The employee retires or otherwise leaves the organisation; or
- They unreasonably refuse the offer of a suitable alternative post; or
- The basic salary for the job is above the protected pay.

- 12.5 Payment of protection is conditional on an employee being committed to training and development identified to maximise opportunities for redeployment.
- 12.6 Employees will move onto a new band on the nearest point to their current salary. Where pay scales overlap individuals will not receive a promotional increase because of redeployment. They will however progress up the pay scales as normal in future, subject to assessment of required competence levels, and will retain their pay step date.
- 12.7 Employees required to move to a new post at a lower grade will acquire all the conditions (except those relating to annual leave and notice of termination of employment) appropriate to the new post, with effect from the date of the change.
- 12.8 Employees returning from agreed employment breaks within the year applicable under the employment break policy, who cannot be slotted back into their own post or a post at the equivalent grade to that which they took the break from, will be eligible for long term protection from the date of their return.
- 12.9 Employees absent during a period of organisational change i.e., on sick leave, secondment or maternity have the same right to be consulted with as other staff. Any protection arrangement necessitated by organisational change will come into effect from the date of the change, not the date of their return to the organisation.
- 12.10 Changes to terms and conditions that are not substantive i.e., are agreed for a temporary/fixed-term period i.e., acting up, additional hours will not be subject to protection.
- 12.11 If a staff member reduces their hours of work or level of unsocial hours working, the protected level of pay will be recalculated.
- 12.12 At the end of the protection period the employee on protection will receive the pay band and conditions of service of the substantive post.
- 12.13 Terms and Conditions in respect of annual leave and notice will be protected until the end of the pay protection.

### **13. TUPE - Transfer of Undertaking (Protection of Employment) Regulations**

- 13.1 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.
- 13.2 When services are transferred from one ICB 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, re-tendering and where the services are brought back into the NHS.

- 13.3 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.
- 13.4 Where staff have responsibilities spanning 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.
- 13.5 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, the implications of the transfer and any measures which will be taken in connection with the transfer.
- 13.6 The manager will then hold one-to-one meetings with individual staff and their Trade Union representative to discuss the implications of the transfer, the measures to be taken in connection with the transfer, answer any concerns or queries, discuss possible options if appropriate and consider personal circumstances.
- 13.7 These discussions will be documented and confirmed in writing.
- 13.8 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.
- 13.9 Formal notice of a transfer will be issued as long before the date of the transfer as possible to comply with the obligations of TUPE and this policy. The ICB will make every effort to give up to three months' notice of a transfer, where possible. In some circumstances, for example, due to the timing of external announcements or decisions of approval, three months' notice may not be possible, a shorter notice period will be provided.

## **14. Change in Hours**

- 14.1 In situations of organisational change where long-term protection applies to an individual the organisation will attempt to ensure that there is a match between posts in terms of hours and pattern of work, but this may not be possible. In such cases the following will apply.
- 14.2 Where the hours of work are greater in the new post, the protected employee will normally continue to work their former hours for the period of protection. If this is not possible any payment for additional hours will be paid at the protected hourly rate of pay for the period of protection.

- 14.3 Where the hours of work are less in the new post, the protected employee will have the option to continue to work their former hours for the period of protection. If they opt to reduce their hours the protected payment will be reduced proportionally, based on the protected hourly rate. Any payments for additional hours and overtime will be remunerated at the protected hourly rate of pay for the period of protection.
- 14.4 Where working patterns are different in the new post or where there was an arrangement to work flexibly in the former post, the organisation will make all reasonable efforts to support the protected employee to maintain their working pattern, provided this does not impact adversely on the delivery of the service. Where this is not possible the individual will be given reasonable notice (a minimum of 12 weeks, unless otherwise agreed) to make any changes necessary.

## **15. Lease Cars**

- 15.1 If the employee has contracted for a lease car through the organisation's lease car scheme the employee will not suffer a financial detriment from organisational change.
- 15.2 If a lease car is not required for the new post the employee will not suffer any financial penalty from the early surrender of the car. However, if it is still possible for the employee to retain the car and they choose to do so, the employee will be responsible for all costs arising from the lease arrangement.
- 15.3 Where the new post still meets the lease car scheme criteria the employee will not be responsible for any additional costs arising from the existing lease arrangement until the expiry of the existing lease. Any subsequent lease will be calculated based on the requirements of the new post and will not be subject to any protection.
- 15.4 Any employee on a salary sacrifice lease car scheme would continue with these arrangements under the terms of the scheme. Should an employee be made redundant during the salary sacrifice lease car contract period any costs associated with early termination will be met by the organisation.

## **16. Pensions**

- 16.1 Employees can discuss their pension with the pension's adviser in the SBS Pensions team where they suffer a reduction in earnings.

## **17. Appeals**

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

- 17.2 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 ICB Disciplinary Policy. The decision of the Appeal Panel will be final and there will be no further opportunity for further appeal.
- 17.3 In the event of a complaint about misapplication of the Change Management Policy in the way that the consultation or redeployment processes have been handled, will be dealt with in accordance with the ICB Grievance Policy.

## **18. Equality and Diversity Statement**

- 18.1 Nottingham and Nottinghamshire ICB pays due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation as a commissioner and provider of services as well as an employer.
- 18.2 The ICB is committed to ensuring that the way we provide services to the public and the experiences of our staff does not discriminate against any individuals or groups on the basis of their age, disability, gender identity (trans, non-binary), marriage or civil partnership status, pregnancy or maternity, race, religion or belief, gender or sexual orientation.
- 18.3 We are committed to ensuring that our activities also consider the disadvantages that some people in our diverse population experience when accessing health services. Such disadvantaged groups include people experiencing economic and social deprivation, carers, refugees and asylum seekers, people who are homeless, workers in stigmatised occupations, people who are geographically isolated, gypsies, roma and travellers.
- 18.4 As an employer, we are committed to promoting equality of opportunity in recruitment, training and career progression and to valuing and increasing diversity within our workforce.
- 18.5 To help ensure that these commitments are embedded in our day-to-day working practices, an Equality Impact Assessment has been completed for, and is attached to, this policy.

## **19. Communication, Monitoring and Review**

- 19.1 This policy is intended to be non-discriminatory, promote fairness and equity in the treatment of individuals and good employee relations. Use and compliance of this policy will therefore be monitored by the HR Team and reported to the Executive Team. Quarterly workforce monitoring reports to the Executive Team will include reporting on all incidences of use of this policy and procedure, any redundancies and the selection criteria used. Reporting of redundancies and down-grading will be against all equality strands.

- 19.2 The Policy will be reviewed periodically every three years (or earlier if changes in the law or any other circumstances require it) by the HR Team in conjunction with operational managers and Trade Union representative.
- 19.3 The Policy will be approved by the Remuneration Committee.
- 19.4 Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role, should contact the HR Lead.

## **20. Staff Training**

- 20.1 All staff will be offered relevant training commensurate with their duties and responsibilities. Staff requiring support should speak to their line manager in the first instance. Support may also be obtained through their HR Department.
- 20.2 Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role, should contact the HR Team via email at [nnicb-nn.hr@nhs.net](mailto:nnicb-nn.hr@nhs.net)

## **21. Interaction with other ICB Policies**

- 21.1 This policy should be read in conjunction with the following ICB policies:
- Grievance Policy.
  - Disciplinary Policy.

## **22. References**

- 22.1 The following legislation and guidance has been taken into consideration in the development of this procedural document:
- Agenda for Change Terms and Conditions.
  - Employment Rights Act 1996.
  - Collective Redundancies and Transfer of Undertakings (Protection of Employment) Regulations 1999.
  - NHS Pensions Website.

## Appendix A: Equality Impact Assessment

<b>Date of assessment:</b>	June 2022			
<b>For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:</b>	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
<b>Age<sup>1</sup></b>	Potential for younger employees to be impacted if pay protection needs to be applied due to likely shorter service periods.	None available at this time as pay protection directly linked to service duration.	No	No
<b>Disability<sup>2</sup></b>	Potential for disabled and staff with underlying health conditions to be impacted if redeployment need to be considered, as suitable alternative employment might not be	Management training. Individual support during SAE process. Support in identifying reasonable adjustment requirements.	No	No

<sup>1</sup> A person belonging to a particular age (for example 32 year olds) or range of ages (for example 18 to 30 year olds).

<sup>2</sup> A person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.



<b>Date of assessment:</b>	June 2022			
<b>For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:</b>	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
	identified where appropriate adjustments can be made to the role/environment.	OH support.		
<b>Gender identity (trans, non-binary)<sup>3</sup></b>	None identified.	N/A	No	No
<b>Marriage or civil partnership status<sup>4</sup></b>	None identified.	N/A	No	No
<b>Pregnancy or maternity<sup>5</sup></b>	Staff on maternity leave maybe impacted during change processes as not physically in the workplace.	Women on maternity leave are protected by the Equality Act, specifically relating to change management,	No	No

<sup>3</sup> The process of transitioning from one gender to another.

<sup>4</sup> Marriage is a union between a man and a woman or between a same-sex couple.

Same-sex couples can also have their relationships legally recognised as 'civil partnerships'.

<sup>5</sup> Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

<b>Date of assessment:</b>	June 2022			
<b>For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:</b>	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
		redeployment and redundancy processes.		
<b>Race<sup>6</sup></b>	Potential for black and minority ethnic staff to be impacted as part of the suitable alternative employment/redeployment process – specifically relating to objectivity of application assessment, make up of interview panels.	Management training. 1:1 support during redeployment process. Reiteration of recruitment expectations.	No	No
<b>Religion or belief<sup>7</sup></b>	None identified.	N/A	No	No
<b>Gender<sup>8</sup></b>	None identified.	N/A	No	No

<sup>6</sup> Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

<sup>7</sup> Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

<sup>8</sup> A man or a woman.

<b>Date of assessment:</b>	June 2022			
<b>For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:</b>	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
<b>Sexual orientation<sup>9</sup></b>	None identified	N/A	No	No
<b>Carers<sup>10</sup></b>	Potential for staff with caring responsibilities to be impacted if redeployment needs to be considered -might not be identified where appropriate flexibility can be granted	Management training Individual support during SAE process Support in identifying suitable flexible arrangements OH support	No	No

<sup>9</sup> Whether a person's sexual attraction is towards their own sex, the opposite sex, to both sexes or none. <https://www.equalityhumanrights.com/en/equality-act/protected-characteristics>

<sup>10</sup> Individuals within the ICB which may have carer responsibilities.