

SALISBURY NHS FOUNDATION TRUST

Managing Implications of Organisational Change Policy (including Redundancy)

Version Information

Version No.	Updated by	Updated On	Description of Changes
.	Jenny Hair	14/08/2006	
2.0	Vicki Horrill	14/08/2012	Changes to format, review/amendment of wording, new Equality Analysis completed, new shadow plan appendix D
3.0	HR Advisor	09/06/2015	Addition of reference to values and behaviours in section 1, extension of review date, addition of value and behaviour paragraph under section 1.
4.0	Directorate People BP's	26/07/18	General update and wording
5.0	Head of People Operations	04/12/19	Major re-write to aid flow and general understanding of process
6.0	Head of Employee Relations and Policy	September 2022	Reviewed no changes

1. Introduction

1.1 Purpose of this Policy

Salisbury NHS Foundation Trust (The Trust) recognises and values the contribution of all staff in ensuring that operational services are optimised at all times. In order to maintain the quality of these services and to respond to local needs, it may be necessary to change organisational structures, roles and methods of service delivery from time to time.

This policy sets out the process and principles to be adopted when the Trust needs to make such changes and provides detail on consultation, the implementation of such changes and where applicable managing redundancy.

The policy seeks to balance the need for fairness and full staff involvement with the aim of ensuring that the organisation can be efficient and flexible in the way it responds to the ever-changing healthcare environment. As part of this process the Trust is committed to work in partnership with Staff Side representatives and to ensure that any consultation with staff and their representatives complies with statutory requirement.

1.2 Definitions

Definitions of the terminology used throughout this policy can be found in [Appendix A - Organisational Change Definitions](#)

2. Aim

2.1 The Trust's aim is to ensure that organisational change is managed in a fair and supportive manner, in line with good practice guidelines and statutory requirements.

3. Policy Scope

- 3.1 This policy applies to all staff employed by the Trust including those engaged in secondment arrangement with other organisations. The policy also applies to those staff with fixed term contracts where the date of the implemented change occurs prior to the agreed termination date of the fixed term contract. Individual contracts of this nature will need to be examined to establish the legal employment status for the member of staff.
- 3.2 The policy does not extend to temporary agency staff or those seconded from and employed by another organisation.
- 3.3 This policy deals with significant organisational change including the re-organisation, relocation, merger, expansion or closure of a service, competitive tendering or outsourcing, additional funding, a major change in working practice, or changes which have the effect of a reduction in the number of staff or skill level of existing staff. This is not an exclusive or exhaustive list.

Where such organisational change is externally driven the Trust will make every effort to influence proceedings at an early stage and enable Staff Side representatives to do likewise.

- 3.4 A change which puts individuals at risk of redundancy must be dealt with under this policy. There is a statutory requirement to consult individuals and staff side in such circumstances. Any change that places jobs at risk or has the potential to downgrade posts will follow a full consultation process. Any change which affects working practices such as shift patterns will follow a more informal consultation process.
- 3.5 The policy will not apply in cases where there are minimal changes to an employee's duties and responsibilities, where there is a change in line management, where additional posts are being added to an existing structure or where an office change on the same site is proposed.
- 3.6 Individual changes initiated by staff e.g. a flexible working request are covered by other relevant policies.

4. General Principles of this Policy

The Trust will endeavour to ensure that the following events occur;

- A fair, transparent, and equitable process will be adopted for consideration and implementation of all organisational change
- All processes and decision-making will be objective and meet with the Trust's Equality and Diversity principles
- All proposals for major change will be subject to consultation with both staff and staff side representatives at the earliest opportunity to ensure meaningful dialogue can take place in a reasonable timeframe.
- Management should discuss with staff side at the earliest opportunity their proposals for change and establish whether a consultation paper is required
- The Trust encourages individuals to exercise their right to representation at all stages of the formal change management process

- Every effort will be made to minimise disruption to patients, services and staff
- Compulsory redundancies will be avoided, wherever possible
- Where redundancies are necessary, the Trust will aim to handle these in the fairest, timely and sympathetic manner possible
- Where redeployment or redundancy is a possibility a decision may be needed, in liaison with the director of OD and People, to restrict or freeze recruitment for specific posts or within a specific department.
- Staff will be treated as individuals with regard to their personal and employment circumstances
- Staff will be supported to receive training and development, as appropriate, to meet new skill requirements. This would be undertaken during the 'at risk' period.
- Staff on maternity leave will be invited to participate in change management processes as normal and must have their circumstances taken into account
- Other staff on extended leave will be considered and included in the change processes

5. Roles and Responsibilities

5.1 Roles & Responsibilities of the Chief Executive and Trust Board

- The Chief Executive has the overall responsibility for the implementation, monitoring and revision of this Policy. This responsibility has been delegated to the Director of OD and People.
- The Trust Board has a responsibility to ensure that alternative methods for achieving staff reductions are considered, so that redundancy is avoided wherever possible.
- It is the role of the Chief Executive and Director of OD and People to continually keep Trade Union colleagues informed of high-level Trust wide organisational developments which have the potential to impact on future staffing needs.

5.2 Roles & Responsibilities of the OD and People Team

It is the role of the OD and People Team to:

- Oversee the introduction, operation and monitoring of this policy.
- To liaise with Staff Side representatives in relation to local organisational change proposals
- Ensure that employees and line managers receive appropriate advice and guidance in relation to organisational change.
- Ensure that all workforce needs and legal requirements are met.
- To ensure alignment with the Trust's workforce plans.

5.3 **Roles & Responsibilities of Line Managers**

- Line Managers are responsible for ensuring that this policy is adhered to within their areas of responsibility
- Line Managers should contact their Directorate People Business Partner as soon as they become aware of any departmental changes which could:
 - Impact on the terms and conditions of their staff
 - Affect working patterns or result in a change in structure within the Department/Service
 - Result in a potential redundancy situation
 - Line Managers must provide support to all staff during organisational change and redundancy situations.
- To liaise with Staff Side representatives in relation to local organisational change proposals

5.4 **Roles & Responsibilities of Employees**

- To seek advice from their Trade Union representative if they require clarification on any part of this Policy or any potential changes that might impact on their own situation.
- To participate in the consultation process in a constructive and timely manner, attending planned meetings as required.
- Where necessary to give full consideration to all offers of suitable alternative employment and to undertake training as necessary in order to be able to perform any new role effectively.

5.5 **Roles & Responsibilities of Staff Side / Trade Union Representative**

- To work in partnership with the Trust to assist in the design and delivery of organisational change programmes.
- To engage in consultation with Line Managers regarding proposed organisational change.
- To accompany staff at formal consultation meetings as required.

6. Managing Organisational Change

- 6.1 Communication is key to all change processes and affected staff should be involved in discussions at the earliest opportunity.
- 6.2 All proposed or potential changes should be discussed informally with affected staff prior to any formal consultation. All meetings relating to change management must be documented with records being retained by the Management Teams.
- 6.3 Specific TUPE arrangements are covered in section 8
- 6.4 Pay protection arrangements, in cases of downgrading or loss of earnings are covered by the Trust's Protection of Pay and Conditions of Service Policy.

7. Organisational Change Procedure

- 7.1 Importantly for all change processes Managers should engage with their staff at the earliest possible opportunity to gather thoughts, ideas and suggestions linked to the proposed change/s.
- 7.2 Early engagement with OD and People and Staff Side representatives must occur for proposed contractual or large scale changes.

7.3 Consultation

7.31 Consultation with staff affected by proposed organisational change must be appropriate and meaningful. However, it should be noted that at times organisational change may need to proceed without a consensus being reached on all issues.

7.32 The purpose of the consultation meetings with staff is:

- To receive and, where possible, address any questions on the consultation document
- To consider any comments or views on the consultation document including all alternative proposals
- To clarify all change processes and timeframes specific to the proposed change

7.33 The timing and extent of consultation will be proportionate to the degree and urgency of the proposed change, the number of staff affected and the potential impact on those staff.

Certain minimum time periods are, however, laid down by statute and in these cases formal consultation will take place with staff and staff side Representatives as per the below

- 45 days before the issue of redundancy notices, where the employer is proposing to dismiss as redundant 100 or more employees at one establishment* within a period of 90 days or less
- 30 days before the issue of redundancy notices, where the employer is proposing to dismiss as redundant 20 or more employees at one establishment* within a period of 90 days or less.

*For the purposes of this policy, an “establishment” will be defined in the consultation document.

7.34 If 20 or more employees are proposed to be made redundant, the Manager must inform the Redundancy Payments Service (RPS) acting on behalf of the department of Business, Innovation and Skills (BIS) prior to the start of the relevant minimum consultation periods outlined above.

When the changes proposed are not likely to result in the redundancies outlined above there is no statutory timescale for consultation but it must be sufficient to enable meaningful consultation. Consultation periods are usually between two weeks and three months depending on the proposed change.

7.4 Formal Consultation Document

- 7.41 As part of the formal consultation process Managers will need to produce a consultation document which outlines the proposed change. An example template and supporting guide are included in [Appendix B - Organisational Change Management Template](#)
- 7.42 A draft of this consultation document should be shared, in confidence, with OD and People and the appropriate staff side representatives prior to the start of formal consultation. This will allow for any errors of fact and other issues to be discussed before the document is finalised.
- 7.43 A copy of this finalised document should then be made available to the staff side representatives at or immediately prior to the start of the formal consultation period to order for them to ask any outstanding questions, request further information and provide an initial response to the proposals
- 7.44 Any new roles described in the proposal must have gone through a job matching process and be presented with associated job descriptions/person specifics.
- 7.45 For all proposals, an Equality Impact Assessment ([Appendix C - Equality Impact Assessment](#)), should be completed and shared for comment with staff side.

7.5 Communication and Group Meetings

- 7.51 Appropriate and regular communication with staff throughout the consultation process is key to successful change management.
- 7.52 Staff must be advised of their right to be accompanied by their Staff Side representative or workplace colleague at all meetings and to seek their advice throughout the process.
- 7.53 During the consultation period, staff will be encouraged to contribute their own ideas/suggestions and to voice any concerns that they might have. This could either be at a meeting or through other available forums/platforms. These concerns should be considered/addressed by the Line Manager as soon as is reasonably practical.
- 7.54 In addition to the regular consultation meetings with their Line Manager, staff will also be kept informed of developments through various other platforms including monthly team brief meeting, supplementary open meetings, email communication and information supplied by their unions.
- 7.55 Managers should be aware that staff who are temporarily absent from the department (e.g. on maternity or sick leave, or seconded.) also have the right to consultation, and special arrangements may be needed for these staff (See Section 9).

7.6 Individual Meetings

- 7.61 Where changes appear likely to affect an individual's employment position, separate individual meetings should be arranged. These should be attended by the staff member, their staff side representative (if they choose to bring one), the Directorate People Business Partner and the Line Manager.

7.62 The purpose of the individual interview will be to provide information about the proposals, including detailed explanation as to the employment implications for that individual. The employee should be given adequate time to respond to this information and follow-up meetings are often recommended.

7.63 The detail and outcome of the individual interview/s should be documented and confirmed in writing to the employee.

7.7 **Staff with 'At Risk' Status**

7.71 Where the consultation paper identifies that staff are at risk of being made redundant should the proposals be implemented, the individuals affected should be presented with an 'at risk' letter and provided with the opportunity to discuss this at their individual meeting.

The timing of these formal notifications will be dependent on the particular set of circumstances associated with the proposed organisational change.

7.72 The 'at risk' status means that an individual will have prior consideration for vacant posts during either a slotting in or a redeployment process at the end of the consultation period. This status is not a guarantee that the staff member will be offered a vacant post, but does mean they will be considered for such a post in advance of other staff who are not 'at risk'.

7.73 Staff will usually be added to the redeployment register at the point they are classified as 'at risk'.

7.74 It should be made clear to staff that being placed 'at risk' is not a notice of redundancy. Following the outcome of the consultation process those individuals placed 'at risk' will have their status clarified.

7.8 **Conclusion of the Consultation**

7.81 At the end of the consultation period the Manager leading the change will consider all responses, including those expressed in individual meetings, before reaching a final decision as to the changes to be implemented.

7.82 Staff affected by the changes should be informed of the outcome decision in person wherever possible. This can be done either in group meetings or individual meetings as appropriate depending on the changes and likely impact on the staff members. Staff side representatives should be invited to such meetings.

7.83 A final decision document summarising correspondence to the proposed change should be circulated to all affected staff members. This document may include:

- The reasons and rationale for the decision
- An explanation of consultation changes in response to comments received
- key questions raised during the consultation with associated responses
- Arrangements for filling posts in new proposal i.e. 'Slotting In' or 'Ring Fencing'
- Selection arrangements for posts within any new structure
- Measures taken to avoid compulsory redundancies
- Arrangements to support staff to seek suitable alternative employment
- Reference to the Trust's protection arrangements and how these will apply
- Support for staff who are affected by the change

- Detailed proposal for implementation

7.84 Should an individual or group of individuals have a concern, problem or complaint regarding the organisational change process then they should raise this in writing as per the Trust's Grievance and Disputes Policy.

8. TUPE - Transfer of Undertakings (Protection of Employment) Regulations 2006.

8.1 **Complete Transfers of Service and Staff**

When services are transferred from one organisation to another in line with TUPE or similar regulations, staff engaged wholly or almost wholly within the transferring service will transfer to the new organisation.

The "New Fair Deal" guidance will also apply to transfers. Further information can be found at <http://www.nhsemployers.org/your-workforce/pay-and-reward/pensions/nhs-pension-scheme/new-fair-deal-and-access>

8.2 Staff transferring from one NHS organisation to another may do so by virtue of a Transfer Order. This means that every aspect of terms and conditions, as detailed within the transferring employee's contract of employment, will transfer with them to the new organisation and cannot be changed as a consequence of the transfer.

8.3 **Split functions and Posts**

Where particular staff have responsibilities spanning more than one NHS organisation, local discussions will take place involving the organisations, the current employer, the staff member and their Staff Side representative. The purpose of such discussions will be to determine whether the employee is "assigned to" the undertaking i.e. An employee who is deemed to spend the majority (i.e. above 50%) of their working hours in the transferred undertaking are classed as being assigned to it.

8.4 All TUPE discussions must be undertaken in conjunction with the relevant Directorate People Business Partner.

9. Appointing Staff to a New Structure

9.1 Where restructuring takes place, a logical, fair and transparent process will be put in place to fill posts in the new structure. This will take place as follows:

9.2 **Ring Fencing and Pooling Arrangements**

The ring fencing of jobs for certain 'pools' of staff will vary depending on the particular organisational change. Decisions linked to such ring fencing and pooling arrangements will be made following consultation with the Directorate People Business Partner and Staff Side representatives.

Broadly, staff will be placed in pools for automatic slotting in and competitive slotting in where responsibilities associated with the current and new roles are substantially similar i.e. at least 75%

Where internal competition applies, eligible staff will generally be placed into a pool with others of the same band for consideration against posts deemed equivalent in the new structure.

Staff acting up or in interim roles will not automatically be included in the first round of slotting in but will be eligible when and if posts are advertised internally across the organisation i.e. if no appointment is made from the initial slotting in. If an employee believes they have a case for being included in the initial slotting in stages they should be put their case in writing to the Directorate People Business Partner and appropriate Senior Manager

- 9.3 In order to maximise opportunities for all existing staff, new structures will normally be filled from 'the top down'.
- 9.4 Where there is a vacant promotional opportunity all staff will be notified and invited to apply for the higher-level post(s). This may be in competition with external candidates, as long as any external appointment/s would not result in an existing team member being displaced. If there is a risk of existing staff being displaced as part of this process, the posts in the new structure will be '**ring-fenced**' and existing staff given prior consideration over other potential candidates.
- 9.5 Members of staff, following discussion, will be automatically '**slotted-in**' to a post in the new structure where:
- Their substantive post remains largely unchanged (75% of their current responsibilities can be identified in a post in the new structure)
 - The number of available posts in the new structure and existing post-holders are equal

Subject to the above criteria being met, staff could also be offered the opportunity to 'slot-in' to a post where there is a reduction in band, and/or contract hours, as long as:

- This is no more than one band below their current pay scale
- The reduction in hours does not exceed 20% of their existing contracted hours.

In such situations pay protection may apply.

- 9.6 Once a member of staff has been slotted-in, they will no longer be deemed at risk and will be precluded from applying for other posts in the new structure until all existing staff have been accommodated.
- 9.7 All individuals who are slotted-in will meet with the relevant line manager to explore perceptions about the new role and to discuss, review and agree any training or development needs.
- 9.8 Where 'slotting-in' cannot take place (due to an imbalance between the number of posts in the new structure and the number of existing post-holders) all unfilled posts in the new structure will be internally ring-fenced
- 9.9 In such cases (where there is a reduction in the number of like or similar posts) management and staff side representatives should agree the means of appointing individuals to the vacant positions. This may include the application of selection criteria, or an interview-type selection process.

- 9.10 Where new jobs are significantly different from jobs in the previous structure, staff will be expected to show they meet the requirements of the new job description and person specification. A ring fenced, competitive process will be followed.
- 9.11 If the organisational change process results in the *removal* of a structure (rather than a restructuring), or where individuals are unable to be accommodated in a revised structure via the above processes, they will become eligible for redeployment to suitable alternative posts across the Trust.
- 9.12 Once all the above processes are exhausted, then any unfilled posts will be advertised through normal recruitment processes.

10. Redeployment Process for At Risk Staff

- 10.1 Staff working in the area affected by the change where there is no opportunity for slotting in, or who have been unsuccessful in competition, will be eligible for redeployment.
- 10.2 Such staff will be given the opportunity to be placed on the Trust's redeployment register, and thereby have the potential to have prior consideration to vacancies including those currently advertised to other candidates. They will include the interview process. The staff member will stay on the redeployment register until their at risk status changes, they are redeployed or they leave the Trust
- 10.3 The Line Manager, supported by a Directorate People Business Partner, will manage the redeployment process in conjunction with the employee. All parties will be actively encouraged to search for suitable jobs across all of the Trust's recruitment platforms i.e. NHS jobs, Trust Website/Intranet, Social Media channels. Staff should notify the line manager/Directorate People Business Partner should they identify a potentially suitable role.
- 10.4 Staff will not be able to request redeployment into a higher Agenda for Change band, although they can apply for roles at a higher band through the usual recruitment processes. However, staff members may request to be considered for roles of a lower band. In such situation pay protection may be applicable
- 10.5 If the staff member meets the essential criteria for a role, or could do with reasonable training, they should be considered eligible/suitable for that position. If there is more than one suitable person on the redeployment register, a competitive process may be required.
- 10.6 Following application and selection process, if applicable, the successful staff member will be provided with an offer letter detailing the terms and conditions of both the role and associated trial period.
- 10.7 Where the offer of alternative employment is made the staff member should be provided with the opportunity of undertaking a four-week trial. During this period all reasonable training and support to assist the employee to undertake the new role should be identified.

- 10.8 During this period should there be any concern about the suitability of the role, raised by the member of staff subject to redeployment or a member of the directorate management team, this should be discussed with the Directorate People Business Partner
- 10.9 If the new role is deemed suitable alternative employment, the individual will be redeployed permanently into that role.
- 10.10 If a staff member unreasonably refuses suitable alternative employment, then they may forfeit the right to redundancy payments. Whether a role counts as 'suitable alternative employment' will be decided on a case-by-case basis in partnership with the Directorate People Business Partner.
- 10.11 The Trust will use the following guidance to make a decision linked to suitable alternative employment:
- The new role should be broadly similar in terms of status, hours, location and roles/responsibilities

However, the role could be:

- In a different department
- Could have a different focus (e.g. movement from an operational role into a project role)
- Similar in nature but one band lower, with pay protection where appropriate

11. Redundancy Process

- 11.1 The Trust will ensure that redundancies are handled in a fair and consistent manner and that if suitable alternative employment is not available, redundancy packages will be fair, equitable and in accordance with Agenda for Change Terms and Conditions.

11.2 Redundancy Procedure

Consultation will take place with staff and union representatives as described in Section 7. Management will, so far as it is possible, ensure that all affected staff are provided with details of any proposed change at the earliest opportunity. This information should include a proposed timescale for the change process.

- 11.3 The Directorate People Business Partner must notify the Redundancy Payment Service within the Department for Business, Innovation and Skills (BIS) in writing of the proposed changes and possibility for redundancies in accordance with approved legislation i.e. where there is the potential for 20 plus redundancies. A copy of this information will be provided to relevant Staff Side Representatives.
- 11.4 Written redundancy notices will be issued in accordance with the employee's contractual notice period or if greater, the amount of notice specified by the Employment Rights Act (1996). The Line Manager and People Business Partner should meet with individual staff members and their representatives to:-
- issue the formal notice
 - explain the reasoning behind the redundancy
 - explore further support and assistance which might be provided to the employee

- reassure the individual that every effort to find suitable alternative employment will continue throughout the notice period.

11.5 The Trust is committed to provide staff members with as much notice as possible linked to the possibility of redundancy. It is however recognised that the length of advance notice may be determined by the circumstances of each case.

11.6 Every effort to redeploy staff will continue throughout the redundancy process.

11.7 Where, in the opinion of management, an offer of suitable alternative employment has been made and unreasonably rejected or where there is an unreasonable refusal to apply for suitable alternative employment with the same or another NHS Trust, the individual may forfeit his/her entitlement to redundancy payments.

11.8 **Redundancy Entitlements**

Staff who are made redundant as a result of organisational change will be paid in accordance with Section 16 of the Agenda for Change Terms and Conditions of Service Handbook and the regulations of the NHS Pension Scheme.

11.9 **Early Retirement**

Early retirement on the grounds of organisational change will be administered in accordance with the Agenda for Change Terms and Condition of Service Handbook. Applications may be considered from any staff member who is eligible under the Terms and Conditions of the NHS Pension Scheme.

11.10 **Time off Work for Employees under Formal Notice of Redundancy**

Any employee under formal notice of redundancy will be given reasonable time off work to seek other employment or to undertake training linked to future employment.

Sympathetic consideration will also be given to requests for time off work for the above purposes, made by employees who may be served with formal notice of redundancy in the near future i.e. in cases where the securing of alternative employment would remove the possibility of compulsory redundancy.

11.11 **Early Release of Employees under Formal Notice of Redundancy.**

The Trust will, wherever possible, release employees under the formal notice of Redundancy early should a mutually agreeable date be decided.

This mutually agreeable date would then become the revised date of redundancy for the purpose of calculating redundancy payment/entitlement.

11.12 **Redundancy Selection Criteria**

Where it is necessary to apply redundancy selection processes to an identified pool of staff, full discussion must take place with the relevant Staff Side representatives to ensure that appropriate selection criteria are agreed.

In relation to such processes the Trust may take into account any of the following;

- Skills and experience including qualifications
- Capability
- Ability to learn new skills
- Length of service
- Standard of work performance
- Attendance record
- Disciplinary record
- Performance record
- Relationships with colleagues, managers and clients




12. Appeals Process

- 12.1 Change management is sometimes contentious, and staff members may feel unhappy with the outcome. In most cases, proper consultation and a fair and transparent process will avoid the need for a formal appeal.
- 12.2 Any member of staff will have the right of appeal against redundancy, if they feel the process described in this policy has been unfairly applied.
- 12.3 If an employee wishes to appeal against the outcome of redundancy they should do so in writing to the Director of OD and People within 14 calendar days of receiving notice of the Trust's intention to make them redundant. This correspondence should clearly outline the reasons why they do not consider their role to be redundant or where they feel a clear and transparent process has not been followed.
- 12.4 An appeals panel consisting of a manager of appropriate seniority and a member of the OD and People team will decide whether the processes of this policy have been followed and that any redundancy selection has been fair and transparent.
- 12.5 In considering the appeal against redundancy dismissal the Trust will satisfy itself on the following points:
- whether there was a genuine redundancy situation
 - whether a proper and meaningful consultation had taken place;
 - whether the procedures as detailed in this Policy were correctly and fairly implemented

Equality Impact Assessment

An Equality Impact Assessment was presented to the ratifying committee at the time of approval

Appendices

Appendix	Description	File
A	Organisational Change Definitions	 Appendix A - Consultation Paper.dc Appendix A - Organisational Change Definitions
B	Organisational change management template	 Appendix B - Consultation Paper.dc Appendix B - Organisational Change Management Template
C	Equality Impact Assessment	 2020_Appendix C Organisational Chang Appendix C - Organisational Change Equality Impact Assessment

Post Holder /Author Responsible for Policy:	Senior Business Partner Employee Relations
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