

LEEDS TEACHING HOSPITALS NHS TRUST

SECURITY OF EMPLOYMENT POLICY

1. EMPLOYMENT PRINCIPLES

1.1 Introduction

It is the policy of this Trust to provide security of employment for every member of its staff having due regard to the need to maintain and improve efficiency and levels of patient care. Such security of employment is best provided by careful planning in the adoption of new working practices and technology. The parties to this agreement will therefore strive to cope with fluctuations in required staffing levels by seeking to avoid redundancies, through regular consultation about staffing plans and the provision of sufficient time and effort to finding alternative employment for surplus employees.

When jobs are affected by change the Trust will treat all employees in a fair and consistent manner which ensures the maintenance of the highest possible standards of patient care. It is obviously of the utmost importance that employees continue to be fully advised of the rationale and pace of change and have genuine opportunities to influence those decisions, which affect them.

1.2 Values

Consistent and sensitive handling of employees and staffing matters is important. Purposeful, consistent and sensitive handling of employee's anxieties and concerns about their futures is key to maintaining commitment and is demonstrated by the following values:

- a) **Fairness:** Employees have a right to be treated fairly, with courtesy and respect. Local policies to deal with change will, therefore, take full account of the need for equality of employment opportunity. Support programmes for employees should be geared to addressing both personal, as well as professional, concerns.
- b) **Consistency:** Consistency in managing change is essential if employees are not to feel disadvantaged. Managers should play a key role in ensuring a consistent and measured pace to change and should be involved in the timing and criteria of key decisions on: staffing arrangements; selection procedures; and, where necessary, redundancies.

- c) **Openness:** Employees will be briefed fully and informed to help them to contribute to the management of change and enable them to make important decisions about their future.
- d) **Integrity:** Integrity, as a public service value, should be observed fully at all stages of the management of change. Decisions about employment matters should be based firmly on legislative requirements and relevant local or national agreements.

2. **DEFINITIONS**

2.1 Redundancy

There is a redundancy if the ending of an individual's employment with the Trust is wholly or mainly as a result of one of two factors. They are:

- that the Trust has ceased or intends to cease carrying on the business or providing the service in which the individual was employed; or has ceased or intends to cease carrying on that business or providing that service in the place where the individual was employed; **or**
- that the requirements of the Trust for an individual to carry out work of a particular kind, or for an individual to carry out work of a particular kind in the place where the individual was employed has ceased or diminished or are expected to cease or diminish.

Redundancies can, therefore, arise in a variety of ways:

- an entire business or service or a particular workplace is closed down
- a job disappears as there is no longer any need for the work to be performed
- there is a reduction in the Trust's requirements for employees to do their work. This may arise from there being less work (perhaps after contracting out work) or from the need to have fewer employees for the same amount of work (perhaps after the introduction of new technology).

2.2 Reorganisation

Re-organisation, or organisational change, means any structural or managerial change in the organisation of health service provision. Examples include where the Trust examines its structures with a view to:

- ensuring that they are as efficient as possible in order to deliver the service demands placed upon it.

- to take account of employee turnover with a view to minimising recruitment costs or addressing financial pressures
- restructuring its services to take account of the relocation of services from one site to another

2.3 The Difference between Redundancy and Reorganisation

Some changes introduced in a re-organisation can cause redundancies. There will be no redundancy if there is a reallocation of work between existing employees because the work and number of employees needed to do the work remains the same. However, where the re-organisation results in changes to the terms and conditions of employees, formal consultation with individuals to attempt to reach agreement about the changes is also a requirement in order to avoid unfair dismissal claims.

If the re-organisation is on a large scale then the nature of the work undertaken may alter significantly and/or much fewer employees may be required. In this situation, there is redundancy.

Where a re-organisation takes place as a direct result of a site being closed or as a result of a streamlining of services to meet the same demand with fewer employees, then there will be a redundancy.

3. **CONSULTATION**

3.1 The Requirement to Consult

The Trust has a legal obligation to inform and consult the staff organisations representing the employees who it is proposed to make redundant, and to consult the individuals affected. The duty to inform and consult appropriate representative depends on the number of employees it is proposed to make redundant. If 100 or more redundancies are proposed, consultation must begin at least 90 days before the first dismissal takes place. If more than 20 but less than 100 redundancies are proposed, consultation must begin at least 30 days before the first dismissal takes effect. If less than 20 redundancies are proposed, the Trust will inform and consult individual employees as appropriate.

Notwithstanding the Trust's legal obligations, the staff organisations will be consulted over any redundancy proposal in the interests of good industrial relations. The Staff Side Council will also be kept advised of any progress via the Joint Secretaries.

3.2 The Purpose of Consultation

Effective consultation is likely to improve the quality of management decisions, increase commitment and co-operation from employees and contribute to good employee relations. Joint management/employee working groups are usually the most appropriate mechanism for meaningful consultation. However, employees who are potentially at risk will be notified of this, together with details of the steps that will be taken to seek to avoid redundancy, at the earliest opportunity.

The purpose of consulting with appropriate representatives is to try to:

- reach agreement on ways to avoid the redundancies
- reduce the numbers to be made redundant
- minimise the consequences of the redundancies
- agree selection criteria for redundancy

3.3 The Consultation Process

Consultation must begin at the earliest possible opportunity. When it is clear that any organisational change or other development may result in some employees being declared redundant (even though the identity of the individuals affected may not be known at the time the decision was taken) there is a proposal from the moment that the decision is reached even though the proposal may not be finalised.

Consultation will normally be conducted through the Staff Side Council and the relevant staff organisations. Consultation with staff organisations can take place locally within the relevant operational area but will be over the timescales dictated by the total number of redundancies that take place across the Trust.

To assist effective consultation the Trust will, as a minimum, provide representatives with the following information:

- the reasons for the proposals
- the numbers and descriptions of the employees whom it is proposed to make redundant
- the total number of employees employed by the Trust at the site or in the service in question
- the proposed method of selecting the employees who may be made redundant

- the proposed method of notifying employees of the redundancies including the period over which the redundancies will take effect
- the proposed method of calculating any redundancy payments to be made to those who may be made redundant
- details of staffing levels in the area(s) affected by the proposals. This should include information on the number of employees in the area, broken down by grade, department, location, age, sex and ethnic origin.
- Any other relevant information such as details of turnover, absenteeism, overtime and investment plans etc.

Guidance on the collation and presentation of this information must be sought from the Personnel and Development Division. As the Trust is a single employer, the number of proposed redundancies has to be centrally collated. The central collation of the number of proposed redundancies will also enable the Trust to comply with statutory obligations relating to notification to the Secretary of State of Employment.

If, during the course of consultation, proposals about how to avoid or minimise the consequences of redundancies are acceptable to the Trust, the Trust will consult individual employees whom the proposals may affect before agreeing to them as the proposals might involve changes to an individual's contract of employment, and perhaps redeployment.

In addition to consultation with appropriate representative, the affected individuals must also be consulted. Failure to do so could render the Trust liable to unfair dismissal claims.

4. IDENTIFYING POTENTIAL REDUNDANCIES

4.1 Any proposal for organisational change or other development should be carefully considered so that potential surpluses of employees are identified at the earliest possible opportunity. Any report concerning the proposal should incorporate details of the staffing implications.

4.2 Identification of Employees at Risk of Redundancy

- a) The first step in identifying posts for potential redundancy will be to question whether the proposals fulfil the definition of redundancy as stated in paragraph 2.1 and in the relevant legislation.
- b) The second step is to determine, in consultation with the staff organisations, the pool of employees who are considered to be

at risk, and from which the selection for redundancy will be made.

5. METHODS OF AVOIDING REDUNDANCY

The following measures will be utilised in an effort to avoid or minimise redundancies. While it is recognised that not every measure will be appropriate to every situation, it is expected that all of the options set out will be actively explored before any employee is dismissed on the grounds of redundancy.

5.1 Workforce Planning and Planning the New Organisation

It is a management responsibility to determine the size and composition of the workforce needed to deliver cost-effective healthcare. By carefully developing a strategy for managing human resources, disruption to service provision can be minimised, job losses avoided or reduced and change implemented successfully. Consultation will take place between the Trust and the staff organisations on the implications for employees which may arise from restructures, the adoption or development of new or revised business practices, the introduction of new technology, or changed funding or other economic circumstances, with a view to identifying any employees surpluses far enough in advance to provide sufficient time for the planning of alternative employment.

The Trust agrees to provide the trade unions with detailed information as soon as is reasonably practicable, on planned reorganisations, including structural reorganisations, the proposed introduction of revised working practices and/or new technology and the staffing implications of these. Consultation will take place in good time to enable trade unions to inform any ultimate decision.

Detailed interviews with every member of employees affected by change should take place to identify preferences for future employment. This should include the opportunity to express an interest in early retirement/redundancy. Expressions of interest, however, do not mean that the Trust will not attempt to redeploy the individual.

5.2 Slotting in

Where there is no requirement to reduce staffing numbers, and/or where the substantive duties of the postholder are wholly or mainly the same, members of staff will be automatically slotted into the new organisation.

5.3 Matching People to Posts

Where an employee surplus has been identified, consultation will take place to consider what steps can be taken to avoid redundancies. These will include a review of turnover rates, overtime being worked, the possible introduction of restrictions on recruitment, a review of the use being made of contract staff, the consideration of retirements and early retirements and the possibility of redeploying and/or retraining employees likely to be affected.

Where a surplus remains after taking the above steps, there will be a process of competitive slotting in against predetermined and agreed criteria, which will be documented on a person specification.

The responsibility of determining a fair selection criteria for redundancy rests with management. Every reasonable effort will be made, however, to agree selection criteria in advance of any decision to declare redundancies. The criteria should be fair and objective, and should include length of service, experience and qualifications. The needs of the service must be balanced with the wishes of the employees concerned. In particular, the aim should be to ensure that the essential and desirable expertise that exists within the Trust is retained.

The pool of employees will be restricted to employees at the substantive or equivalent grade of the post concerned and are substantially based within the service to be organised. Every effort should be made to ensure that the essential and desired expertise, which already exists within the organisation, is retained. Unplaced individuals will be helped as far as reasonably practicable to find alternative employment in this trust, in accordance with the trust's redeployment policy, or failing that with other trusts.

5.4 Redeployment

a) General Considerations

Where there is an excess of employees in the new structure every effort will be made to offer alternative employment at the same or equivalent grade/salary scale. Where this is not possible, and employees opt for a post carrying a lower grade/salary scale, the current pay and conditions of the member of staff concerned will be protected in accordance with the Trust's protection of pay and terms of conditions agreement.

Excess travel expenses in accordance with Trust Policy will be payable to employees who change their work location as a result of redeployment.

To assist the redeployment process, the normal vacancy advertising processes may be suspended. No vacancy or new post will be open to competition internally or externally until employees at risk of redundancy and available for redeployment have been considered for such posts. In exceptional circumstances, dispensation to advertise internally or externally should be sought from the Director of Personnel and Development.

Employees at risk of redundancy and seeking redeployment will be offered appropriate career counselling and support, including assistance with preparing curriculum vitae, completing application forms and interview skills training.

b) Identifying Preferences for Redeployment

In considering redeployment, the following points should be observed:

- i) Employees at risk of redundancy and available for redeployment, with the support of a Trade Union representative or friend if required, should be interviewed by the Manager/Personnel representative to establish:
- ii) Ability to work any other hours or at other locations.
- iii) Options for alternative employment.
- iv) Personal constraints.

c) At Risk Register

A register of employees at risk will be maintained by the Director of Personnel & Development and employees will be notified when they are entered on to the register. The register will contain information on the individuals preferences for redeployment in addition to basic personal information. Employees on the register will be advised of suitable posts elsewhere in the Trust. Where appropriate, posts will be advertised on a restricted basis to those employees on the register only.

d) Interview for Alternative Posts

A selection interview is guaranteed whenever the individual meets the essential requirements of the person specification, or could do so within a three month period. This interview will take place in advance of any open competition for the post.

Employees will be interviewed against the person specification and the most suitable candidate will be offered the post. Unsuccessful candidates will have a right to request the reasons for non-selection. If the Manager is unable to make an appointment they must be able to justify this decision before the recruitment process can continue.

e) Suitable Alternative Employment

Suitable alternative employment will be defined in terms of pay, working hours, status, grade, the way the work is carried out and location. It must also be suitable to the individual's circumstances.

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

Any individual employee aggrieved by a decision as to the suitability of alternative employment may appeal in accordance with the Trust's Disputes Procedure.

f) Trial Periods

A trial period is required if an offer of suitable alternative employment is made to an employee who would otherwise be made redundant. The trial period is a minimum of four weeks and up to three months. If, during the trial period, the employee reasonably decides to reject the post or Management feel that they are unsuitable for the post, he/she will not forfeit his/her right to redundancy.

If an employee who would otherwise be declared redundant wishes a trial period in a post that would not be regarded as suitable alternative employment, the employee would not forfeit his/her redundancy payment if he/she terminated the contract during the trial period for whatever reason.

5.5 Voluntary Redundancy and Early Retirement

Before compulsory redundancies are considered, the Trust will invite applications from employees for voluntary redundancy and/or early retirement. Employees will be given a period of 4 weeks within which to consider applying and will be provided with all the necessary information including information about compensation and/or pension benefits, to enable them to make a judgement.

Whilst it is understood that management reserves the right to decline to accept a volunteer for redundancy, each individual who is refused is entitled to a detailed written explanation as to why their application has been declined. no consideration will be given to the possibility of compulsory redundancies whilst there are outstanding applications for voluntary redundancy.

Where there are more applications for voluntary redundancy than are needed to cope with the problem, volunteers will be selected in accordance with predetermined and agreed criteria.

6. COMPULSORY REDUNDANCY

6.1 Notice Periods

Where compulsory redundancies remain unavoidable, having exhausted all of the measures set out above, the employees affected will be interviewed by their line manager and will be given the maximum possible notice of dismissal. as a minimum, the notice period will be:

either

- the contractual notice as detailed in their statement of main particulars of employment

or

- one week's notice for each year of reckonable continuous service up to a maximum of 12 weeks

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

6.2 Facilities for Employees under Notice of Termination

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

- given reasonable paid time off work to look for new employment and/or make arrangements for training to assist them to find new employment.
- given advice and guidance on job searching and applying for jobs.
- offered counselling and support where necessary.
- released from the Trust's employment early if they are successful in finding a new job with another employer.

6.3 Staff Support

Many employees may require help to make the change. Local programmes of support should be developed and resourced to meet, as appropriate, the personal and professional needs of employees.

- a) Individual counselling should be made available on a confidential basis to help employees to cope with the implications of change.
- b) Secondment opportunities for unplaced employees should be identified, considered and discussed with the individual where this is in the best interest of both the organisation and that individual.
- c) Appropriate career counselling and support, including CV training, interview and self-marketing skills, should be available, if necessary, to all affected employees during the period of change.

6.4 Re-training

Where appropriate employees should be offered the opportunity to undertake new roles and responsibilities and will be given the opportunity of appropriate training. Priority will be given to re-train or re-deploy “unplaced” employees to other posts within the Trust.

6.5 Redundancy Payment

Employees made redundant, whether by volunteering or being compulsorily declared redundant, will receive a severance payment calculated in accordance with the relevant Whitley Council regulations.

7. APPEALS

Any individual grievances arising through the application of this policy will be dealt with in accordance with the Trust’s Disputes Procedure.

8. THE RESOLUTION OF DISPUTES

In the event of a dispute arising between the parties as to any aspect of this agreement, the issue will be referred to the TCNC.