



Department of Human Resources

REDUNDANCY AND REDEPLOYMENT POLICY

1 Introduction

- 1.1 In order to secure the short and long term future of the Trust, services must be provided in ways which offer the best patient care and are financially viable.
- 1.2 Circumstances may arise where there are changes in the skills required from staff, and/or changes in the way that services are organised and provided. In such circumstances the Trust will handle those changes in accordance with its Policy for Handling Organisational Change, so that compulsory redundancies are avoided wherever possible. This will include redeploying staff to suitable alternative employment wherever possible, and this will be handled in line with the principles laid down within this policy.
- 1.3 Where compulsory redundancies cannot be avoided, the provisions of this policy will be used so that the employees affected are treated in a fair and equitable manner.

2 Policy Statement

- 2.1 This policy applies to all employees of City Hospitals Sunderland NHS Trust.
- 2.2 Whilst this policy applies to all staff, the right to a redundancy payment is subject to the statutory provisions contained in Part XI of the Employment Rights Act 1996 (20).
- 2.3 The minimum qualifying period of service for entitlement to a redundancy payment is 104 weeks continuous service, whole-time or part-time.

3 Definition of Redundancy

- 3.1 An employee who is dismissed will have been dismissed for redundancy if the dismissal is attributable wholly or mainly to the fact that:
 - a) The Trust has ceased or intends to cease:
 - i) to carry on the business for the purposes of which the employee was employed by the Trust, or
 - ii) to carry on the business in the place where the employee was so employed, or
 - b) the requirement of the Trust for employees has ceased or diminished (or is expected to cease or diminish):
 - i) to carry out work of a particular kind, or
 - ii) to carry out work of a particular kind in the place where the employee was employed.
- 3.2 'Cease' and 'Diminished' mean either permanently or temporarily and from whatever cause.

4 Legal Reference

- 4.1 Redundancy consultation and notification provisions for collective redundancies in excess of 20 employees, are contained in Sections 188-198 of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended by Section 34 of the Trade Union Reform and Employment Rights Act 1996 and the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 and 1999.
- 4.2 The provisions relating to the right not to be unfairly dismissed because of unfair selection for redundancy are contained in the Employment Rights Act 1996 and Trade Union and Labour Relations (Consolidation) Act 1992. There are also provisions developed by case law, dealing with general fairness principles in relation to redundancy, the concepts of which are encompassed within this policy.
- 4.3 The statutory redundancy payments scheme is administered under Part XI of the Employment Rights Act 1996 (20).

5 Notification

- 5.1 Where redundancy is a possibility, the Trust will consult with the appropriate members of staff and their staff organisations at the earliest opportunity and if the situation involves more than 20 members of staff, no later than the statutory limits set out in the Trade Union and Labour Relations (Consolidation) Act 1992 and Trade Union Reform and Employment Rights Act 1993, which are:

Number of Proposed Redundancies	Number of Days Notice Before the First Redundancy Dismissal
Less than 20 (or single redundancies)	Consultation to start as soon as possible
20 - 99	At least 30
100 or more	At least 90

- 5.2 How and when it is anticipated the redundancy dismissal will be effected, proposed redundancies will be formally notified to staff organisations in writing. The information will include:

- The reason(s) for the redundancy proposals.
- The numbers and categories (not names) of the employees whom it is proposed to dismiss as redundant.
- The total number of employees within that category employed at the establishment where redundancies are proposed.
- The proposed method of selecting employees for redundancy.
- How and when the redundancy dismissals will be effected.
- A statement of how the payments will be calculated.

- 5.3 This information will be delivered directly to the relevant staff representatives within the organisation.

- 5.4 The Department of Trade and Industry must be notified of proposed redundancies of 20 or more employees as follows:

Number of Proposed Redundancies	Number of Days Notice in Advance of Dismissal
20 - 99	30
100 or more	90

- 5.5 If the proposals include members of a recognised trade union the notification must state which union is included and a copy of the notification must be sent to the union.

- 5.6 Failure to notify the Department of Trade and Industry is a criminal offence.

6 Selection Criteria

- 6.1 Staff organisations will be consulted regarding the identification of the employees at risk within the Trust.



6.2 In determining the pool of posts from which the required number of redundancies will be chosen, one or more of the following criteria will be considered:

- Grade of staff
- Specialism/discipline
- Geographical location
- Department
- Functional area of work

The identification of posts at risk will not be extended beyond the area of change.

6.3 One or more of the following criteria may be used in determining which staff are to be made redundant from the pool:

- The cost of redundancy payment and premature retirement benefits.
- The length of service of employees.
- The skills, experience, qualifications, knowledge and aptitudes of employees in relation to the types of service provision and job vacancies that will exist in the future.
- Each employee's suitability for re-training.
- Each employee's work history, e.g. health, discipline and attendance records, disregarding any pregnancy and disability related information.
- The standard of performance of employees where this can be objectively measured.
- The stated wishes of the employees concerned where possible.

6.4 The criteria used and the weighting attached to them will vary according to the particular circumstance, and staff organisations will be consulted in advance as to the particular factors to be considered in each specific case.

6.5 Selection for redundancy on the grounds of marital status, race, sex, pregnancy, part-time work and disability constitute direct discrimination and will, therefore, not be used.

7 Redeployment

7.1 The Trust will make every effort to redeploy staff who are at risk of being made redundant.

7.2 All reasonable steps will be taken by the employee and the Trust's managers to ensure that he/she is placed in suitable alternative work arising from a vacancy within the Trust's staffing structure.

7.3 There is a requirement for managers to accept a corporate responsibility for the Trust's staff, and the success of the procedure relies on this and on staff members flexibility in considering alternative work.

7.4 Consultation with employee(s) and the appropriate staff organisation will take place at the earliest possible opportunity regarding the reason for the 'at risk' situation, the selection criteria proposed, options for redeployment and consideration of any other appropriate measures which may mitigate the need for compulsory redundancies.

7.5 Employee(s) who have been identified as being 'at risk' will be given preferential consideration for any suitable vacancies, which arise. Other candidates for such posts will only be considered if an 'at risk' employee cannot be redeployed into the post.

7.6 Where there are several employees 'at risk' to be considered for a vacancy, those already at the same grade as the vacancy will be given priority and the best person for the job selected. If there is no-one at the same grade, the post will be open to competition. This may be restricted to people within the speciality or in like specialities, dependent on the circumstances.

- 7.7 'At risk' staff will not have to compete for suitable posts other than as described in 7.6 above. Managers will be expected to accept displaced persons with relevant experience and skills and offer appropriate re-training.
- 7.8 Promotional posts will not be earmarked for 'at risk' staff, but staff at risk will be given the same opportunity to apply for promotion as other staff on the same grade.
- 7.9 Where practicable staff may be redeployed in advance of formal notification of redundancies being given.
- 7.10 Where a vacancy must be filled immediately and it is difficult for an 'at risk' employee to be released then, the following will be considered:
- a) Whether another candidate can fill the vacancy on a temporary/fixed term basis until the 'at risk' employee can be released.
 - b) Whether existing staff can cover the vacancy on a temporary basis.
 - c) Whether the manager of the 'at risk' employee can make arrangements to release the person earlier to commence work in the vacant post.
- 7.11 If the above options are unsuitable, the vacancy should be advertised internally in the hope that it will create another vacancy for consideration. Only where it is clear that there is no-one within the Trust who fits the person specification, will posts be advertised externally and this must be agreed with the Human Resources Department.
- 7.12 Where it is known that a suitable alternative post will definitely become available within a reasonable timescale, the employee will be advised of the capacity in which they will be retained until that time.
- 7.13 New posts that arise, as a consequence of agreed developments will, wherever possible, be scheduled to coincide with the changes to support redeployment.

8 Suitable Alternative Employment

- 8.1 'Suitable alternative employment' will be determined in relation to the definitions within the Employment Rights Act 1996.
- 8.2 In considering whether a post is 'suitable alternative employment' the personal circumstances of the employee will be taken into account. However, employees will be expected to show some flexibility in considering and deciding whether to accept an offer of alternative employment. Unreasonable refusal may lose any subsequent entitlement to redundancy pay.
- 8.3 The following are factors which will be considered in determining whether a job is suitable alternative employment for an employee. This does not form an exhaustive list:
- The training, qualifications and skills of the employee.
 - The employee's previous job, including the status of the post.
 - Whether the new job would represent a drop in earnings.
 - The location of the post.
 - Whether similar offers of employment had previously been regarded as suitable for the class of employee to which the individual belongs.

9 Trial Periods

- 9.1 Where suitable alternative employment is offered to an employee who would have been made redundant, the employee is entitled to a trial period of four weeks in the new post under the Employment Rights Act 1996. This period will start from the date of commencement in the new post.



- 9.2 The offer of the new post and the length of the trial period in it must:
- Be in writing, clearly specifying the new position which is being offered.
 - Be received by the employee before he/she begins work in the new post.
 - Specify the date the trial period ends.
 - Specify the employee's terms and conditions in the new post.
- 9.3 Divisional Personnel Managers will liaise with line managers to ensure retraining of any staff redeployed. If this requires an extension of the trial period this will be agreed between the employee and the line and personnel managers.
- 9.4 If an employee resigns during a trial period he/she will normally be treated as if the initial redundancy occurred and not that he/she resigned from the job. However, if it is considered that an employee unreasonably refused the offer of suitable alternative employment, the employee will lose entitlement to a redundancy payment.
- 9.5 If an employee works beyond the end of the four-week trial period or jointly agreed extended period any entitlement to a redundancy payment will be forfeited because he/she will be deemed to have accepted the suitable alternative employment.
- 9.6 During the trial period, if the manager considers that an employee is not suitable for the post and providing that no other suitable employment is available, the original redundancy will take effect and the employee will be entitled to a redundancy payment calculated on the basis of the original employment.
- 9.7 If a manager dismisses an employee for any other reason during the trial period, the reason for dismissal will not be redundancy and other considerations relating to fair and unfair dismissal will apply. In these circumstances, there will not be an entitlement to a redundancy payment.

10 Voluntary Redundancy/Premature Retirement

- 10.1 If suitable alternative employment cannot be identified, the possibility of offering voluntary redundancy and/or premature retirement will be considered. Whilst efforts will be made to offer such arrangements as an alternative to compulsory redundancies, this will be subject to funding being available without detriment to the viability of the organisation.
- 10.2 The voluntary early retirement provisions of the Pension Scheme arrangements, which allow any pension scheme member to choose to retire from the age of 50 with reduced pension benefits, do not replace existing arrangements for early retirement on the grounds of redundancy or in the interests of the efficiency of the service. In exceptional circumstances, the Trust may in its absolute discretion, 'top up' the benefits received by an employee retiring voluntarily so that future organisational changes are assisted.
- 10.3 Where voluntary redundancy/premature retirement is a possibility it will be discussed with the employee(s) concerned and the relevant staff representative(s), prior to the dismissal taking effect. There is no contractual entitlement to voluntary redundancy/premature retirement and the granting of the same will be purely dependent upon the merits of the particular case.
- 10.4 The pool from which volunteers for redundancy/retirement are requested will normally be limited to staff within the affected department/directorate on a particular site.
- 10.5 The decision whether to agree any application for voluntary redundancy shall be a matter for the absolute discretion of the Chief Executive as advised by the Head of Human Resources and will depend on the cost of the proposal and the need to ensure sufficient skills and resources within the organisation.
- 10.6 In some instances it may be possible to phase voluntary redundancies over a period of time.

11 Compulsory Redundancies

- 11.1 Only where voluntary redundancy/premature retirement is not feasible will compulsory redundancies be made.
- 11.2 The selection criteria used will be as provided in Section 6 of this policy.
- 11.3 Employees under formal notice of redundancy are entitled as far as is practicable to at least the normal periods of notice under their contracts of employment.

12 Staff Support

- 12.1 Reasonable time off with pay will be granted to employees who are under notice of redundancy so that they can look for employment or training opportunities outside the Trust.
- 12.2 The Trust will ensure that all employees facing redundancy or premature retirement will have access to counselling.
- 12.3 Every assistance will be given to 'at risk' staff to find alternative employment and training sessions on writing CVs and interview skills will be provided.
- 12.4 Where staff are redeployed their training needs will be identified and relevant training provided. A mentor will support them during the first few weeks/months in the post, particularly where staff change department or directorate.

13 Date Last Reviewed

October 2002

14 Date to be Reviewed

This policy may be reviewed through the Trust's Joint Consultative Group on an annual basis.

15 Other Related Policies/Documents

Organisational Change Policy

Grievance Procedure

16 Appendices

Appendix 1 - Eligibility for Redundancy Payments

- Exclusion from Eligibility for Redundancy Payments



Appendix 1

Eligibility for Redundancy Payments

- The first criterion for eligibility for a contractual or statutory redundancy payment is that there must have been a dismissal.
- Employees are not entitled to a redundancy payment unless there is no suitable alternative work for them.
- An employee must have 104 weeks continuous service, at the date of the final day of employment.
- Continuous service is defined as service within the NHS.
- In each case, service with this or any previous Health Service employer and after attaining age 18 is reckonable.
- Previous periods of NHS employment with a break of less than 12 months are also reckonable.

Exclusion from Eligibility for Redundancy Payments

- Those with less than two years continuous NHS service.
- Those aged under 20 - only continuous NHS service from the age of 18 is counted so no one under 20 can meet the two years criterion.
- Those at or above the normal retiring age or aged 65 or over if there is no retiring age.
- Those not working under genuine contracts of employment (e.g. self-employed persons).
- Those who ordinarily work outside Great Britain, though if they are made redundant while working temporarily in Great Britain they acquire compensation rights.
- Employees on fixed term contracts with at least two years' service.
- Those dismissed for reasons other than redundancy, for example misconduct (with or without notice).
- Those who 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 within the NHS
- Periods of employment, within the Trust, prior to a break of more than 12 months at any one time in employment shall not count as reckonable service.

