

Cambridgeshire Primary Care Trust Reorganisation Policy

Adopted by Trust JCNP: January 2007
Adopted by Trust Board: February 2007
Revised: April 2007
Reviewed:

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1. Introduction

This policy outlines the principles the Trust will adopt when managing situations of change within the workplace. Wherever possible, the Trust wish to maintain job security and continuity of employment for all its employees. However, there may be occasions when, for a variety of reasons, some jobs are affected by change and in some cases this may result in redundancy.

The policy applies to all employees of the Cambridgeshire Primary Care Trust (hereinafter referred to as 'the Trust'). The Trust's intention is to ensure that redundancy is avoided wherever possible.

2. Definitions

For the purposes of this policy 'change' is defined as a major or significant organisational change, which may include:

- The closure, transfer or restructuring of a specific service or facility
- A decision to accept a tender for a service previously provided in-house
- A specific programme designed to achieve efficiency savings
- Response to statutory requirements

3. Objectives

- The Trust values the contribution made by its staff to the efficiency of the organisation and wishes, wherever possible, to maintain job security and continuity of employment.
- The Trust aims to provide a clear, consistent and fair policy and procedure for managing staff affected by change.
- The Trust will ensure that affected staff and appropriate staff organisations are communicated with, and about the change process and its implications at the earliest opportunity with written notification to Full Time Officers.
- The Trust's intention is to ensure that redundancy is avoided wherever possible.

4. Equal Opportunities

In line with the Equal Opportunities Policy, no member of staff will be selected for redundancy on the grounds of sex, age, marital status, race, disability, religious belief, sexual orientation, union or non-union membership or any other discriminatory factors.

5. Procedure for managing change

5.1 Consultation

The Trust will consult with the appropriate recognised Trade Union(s) and staff representatives at the earliest practical opportunity with any reorganisation/restructure. The statutory minimum consultation periods for proposed redundancies will always be observed.

- a) Where the Trust is proposing to make changes where redundancy may occur and where these changes affect 100 or more employees at one establishment within a period of 90 days or less, consultation will commence at least 90 days before the first of those dismissals take effect; or
- b) Where the Trust is proposing to make changes where redundancy may occur and where these changes affect less than 100 employees at one establishment within a period of 30 days or less, consultation will commence at least 30 days before the first of those dismissals takes effect.

The Trust will disclose in writing to the affected staff and recognised union (s) basic information relating to:

- The reason for the proposal
- The number and description of employees affected.
- The total number of employees of that description at the establishment in question.
- The proposed method of selecting the employees and carrying out the redundancies.
- The proposed method of calculating redundancy payments.

Any consultation will seek to find ways of for example:

- Avoiding the redundancy
- Reducing the numbers of employees to be made redundant.
- Mitigating the consequences of any redundancies.

5.2 Measures for avoiding or reducing Redundancy.

Where operationally feasible, the Trust will seek to avoid redundancies by such means as:

- restrictions on recruitment
- reductions in overtime
- reduction in use of agency staff

The most significant measure is likely to be restrictions on recruitment. A vacancy should not to be filled unless there are compelling reasons for filling it, eg maintenance of an essential service.

6. Redeployment and Retention

The Trust will make reasonable efforts to find alternative employment within the Trust for an employee who would otherwise be made redundant. It is the Trust's obligation, not just the particular department/section where the redundancy situation occurs.

6.1 Restructuring Process

Where a restructuring process is taking place within the Trust the following principles will be followed.

'Slotting In'

The Trust will have the right to identify within the new structure any posts deemed as 'slotting in'. These proposals will not involve substantial promotion or demotion. Slotting-in will only be considered where the magnitude, breadth and terms and conditions of the new post are substantially the same as the current post.

No other 'at risk' member of staff qualifies for consideration by virtue of holding a broadly similar post.

If a post is identified as 'slotting in' a meeting will be arranged with the individual to discuss the post and the individual's suitability.

Restricted Competition

The Trust will have the right to identify within the new structure, posts which are open to restricted competition. These posts will only be available in the first instance to those staff directly affected by the restructuring.

A post open to competition can be defined as a post that is clearly new in content (i.e. the duties of the post are substantially different from any current post). A post that carries substantially increased weight in responsibility. Where more than one employee could be regarded as a suitable candidate from those staff directly affected by the restructure.

If an individual is unsuccessful in obtaining a post within the competition process, suitable alternative employment or redeployment will be sought.

If posts remain unfilled following this process the normal recruitment procedure will then follow. However it is important that during periods where Clearing House arrangements are in operation these are followed and therefore if you are unsure of the process please contact a member of the Human Resources team.

6.2 Prior Consideration

Any employee under notice of redundancy is entitled to 'prior consideration', i.e. to: apply for any PCT vacancy, which is not a promotional vacancy and if s/he meets the essential criteria of the post;

- Be considered before any other employees or outside applicants (except other employees under notice of redundancy); and
- be considered unsuccessful for the post only if demonstrably unsuitable, ie. Not fully suitable, or there is a more suitable candidate under notice of redundancy.

Employees applying for a job, which is not a promotion, should be advised to make clear in their application that they are redundant in their current post and are therefore entitled to 'prior consideration'.

6.3 Suitable Alternative Employment

Suitable alternative employment should be determined by reference to sections 138 & 141 of the Employment Rights Act 1996. In considering whether a post is suitable alternative employment, regard should be given to the personal circumstances of the employee. Employees will, however, be expected to show some flexibility.

Any form of suitable alternative employment should be brought to the employees notice (eg giving staff members at risk of redundancy access to the list of current vacancies within the Trust) before the date of termination of the contract and with reasonable time for the employee to consider it. The employment should be available not later than four weeks from that date. Where this is done, but the employee fails to make any application, the employee shall be deemed to have refused suitable alternative employment. Where an employee accepts suitable alternative employment the 4 week trial period (as detailed below) will apply.

Employees may not be entitled to redundancy pay if they unreasonably refuse to accept, or do not apply for suitable alternative employment within the Trust or another NHS employer.

6.4 Offers of Alternative Employment

Terms of offer

Once a decision to offer alternative employment has been reached by the appropriate parties, the offer should be confirmed in writing to the successful candidate as soon as practicable, specifying the nature of the job, its location, its pay and conditions (including the 4-week trial period as detailed below), in sufficient details such that they can be

compared with the details of the current job and the differences, if any, made clear. The date on which the new job is to begin should be made clear, and it must not be more than four weeks after the end of the current contract of employment. Employment Services will send out an appropriate offer letter.

Acceptance of Offer

If a redundant employee is offered suitable alternative work and accepts it, this automatically means the employee accepts it as suitable alternative employment and he/she is not entitled to a redundancy payment as his/her employment is regarded as continuous. However this would not apply if the employee satisfied the criteria outlined in 4-week trial period (below).

Rejection of Offer

If a redundant employee is offered alternative work and refuses it or turns down a job after a trial period, advice should be sought from the HR Department, as the employer may regard the refusal as unreasonable and withhold redundancy payment.

4-Week Trial Period

Where the terms differ an employees who accepts an offer of alternative work is entitled, by statute, to a trial period of four calendar weeks in the new job. This must be specified in writing prior to the employee commencing the new job.

6.5 Alternative Employment Outside the PCT

Time Off

Where an employee with 2 years continuous service or more has been given notice of dismissal by reason of redundancy, he/she is entitled by law to "reasonable" time off with pay during his/her working hours to look for new employment or make arrangements for training (not to undergo training) for future employment.

A generous interpretation should be put on "reasonable" and time off to undergo training might be allowed in certain circumstances.

6.6 Counselling

There is provision for all members of staff to access the confidential counselling service provided by Oakdale 0800 027 7844.

6.7 Alternative Employment affecting Redundancy Payments

An employee who takes up employment with certain other bodies, as defined in the NHS Employers (appendix A) is not entitled to a redundancy payment and he/she will have his/her continuity of employment preserved.

7. Pay Protection

Pay protection will only apply in cases where an employee is transferred to alternative work, as a result of organisational change and to avoid a situation of potential redundancy. The alternative work must have reasonably comparable duties to the former role, but is at a lower grade and has less favourable conditions.

Pay protection in accordance with the Agenda for Change assimilation process is dealt with separately. This is detailed in the Agenda for Change: NHS Terms and Conditions of Service Handbook, part 7 – Transitional Arrangements, section 46 – Assimilation and Protection.

For those employees who have transferred into Cambridgeshire PCT from another organisation under the Transfer of Undertakings (Protections of Employment) Regulations (TUPE), their continuous service with their predecessor organisation will also count towards calculations in respect of NHS service.

7.1 Basic Wage or Salary

Basic wage or salary is the weekly or monthly sum due in respect of basic hours worked by the individual concerned within the standard working week but excludes any payments made in respect of acting-up or additional earnings.

7.2 Short-Term Protection of Additional Earnings

Where an employee will receive a reduced level of enhanced or additional earnings as a result of organisational change, short-term protection will be protected in accordance with the following:

Continuous NHS Service	Period of Protection
4 - 12 months	2 months
1 - 2 years	4 months
2 - 3 years	6 months
3 - 4 years	8 months
4 - 5 years	10 months
5+ years	12 months

The additional earnings payable will be calculated by looking over the weekly or monthly average from the 4 months immediately preceding the first day of employment in the new post.

This protection will also apply where an employee retains the same grade, but suffers a reduction of additional earnings as a consequence of change.

Payments taken into account in calculating short-term protection will be as follows:

Overtime, Shift Allowances, Incentive Payments, Night Duty Payments, Special Duty Payments, Excess Hours Payments, Unsocial Hours Payments, Lead Payments for Geriatric or Psychiatric Nursing, Stand-By and On-Call Payments, VDU Operator Allowances, Performance Related Payments, Bonus Scheme Payments

7.3 Long-Term Protection of Basic Wage or Salary where Downgrading is Involved

An employee who is moved from one post to another due to organisational change and is downgraded as a result of the move, will be given protection of basic wage or salary with benefit of any subsequent improvements or increments applying to the scale in accordance with the following table:

Continuous NHS Service	Period of Protection
0 – 1 years	6 months
1 - 2 years	12 months
2 - 5 years	24 months
5 + years	36 months

Upon immediate expiry of the period of protection, the employee will be paid on the scale applicable to the new post.

7.4 Conditions

Short-term protection of earnings is conditional on the employee undertaking any overtime, shift work or other additional duties which may be required up to the level at which earnings in the new post equal the protected earnings. Long and short-term protection of earnings is conditional on the employee accepting any subsequent offer of another suitable post within the Trust which attracts additional earnings at the same level or in excess of those protected.

The conditions set within this policy support the 'Age Discrimination' legislation, October 2006.

Long-term protection of basic wage or salary where downgrading is involved is conditional on the employee accepting a suitable post within the Trust which is more senior when one becomes available.

Earnings in the new post will be offset against protectable earnings. If for any particular pay period the earnings in the new post exceed the protectable earnings, protection of earnings is extinguished and earnings in the new post are paid in full for the particular pay period.

When calculating earnings in the new post, the rates used for calculating payments in respect of overtime, shift work and other additional duties shall be those applicable to the new post.

Long-term and short-term protection ceases if the individual voluntarily moves to another post or they retire.

7.5 Preservation of Pension Scheme

Members of the NHS Pension Scheme can choose to preserve their benefits earned on the higher pay if they suffer reduction in pay through no fault of their own. The NHS Pension Scheme requires at least two years in the Scheme to qualify. Members of the Scheme who wish to preserve benefits at the higher rate should write to the Payroll Manager of the Trust within one-month of the reduction asking for benefits to be preserved.

Members of the Local Government Pension Scheme can elect to receive a 'certificate of protection of pension benefits' which will provide some protection of pension benefits for the future. The Local Government Pension Section will be able to provide details and options to employees when the protection is agreed and commences.

8. Excess Travel Payments

An employee whose place of work, but not his/her home, is changed as a result of relocation to avoid redundancy is entitled to excess travelling allowances for a period of 4 years from the date of transfer. The rate paid for excess travel will be calculated on the basis of the bus fares or standard rail travel, or of the employee travels by private motor vehicle on the basis of the public mileage rate. Please note these payments may be subject to tax deduction. Please contact Employment Services for further information.

9. Redundancy

9.1 Definition

The Employment Rights Act 1996 section 139 states that redundancy arises when employees are dismissed in the following circumstances:

- “where 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
- where the requirements of the business for employees to carry out work of a particular kind, in the place where they were so employed, have ceased or diminished or are expected to cease or diminish”.

9.2 Eligibility

To be eligible for a redundancy payment, an employee must have been continuously employed in a full time or part time capacity for 2 years or more at the effective date of termination (not counting any week(s) before the employee's 18th birthday). The reason for the dismissal must be reason of redundancy.

In the event of redundancy, whether voluntary or compulsory, it is necessary to determine the length of an individual's reckonable service in order to establish whether they are entitled to redundancy pay and the amount of redundancy pay.

9.3 Reckonable Service

Reckonable service is calculated on the basis of service up to the date of termination of the contract and must also be continuous full time or part time employment with the present or any previous NHS employer since age 18. This would include employee's who have transferred to Cambridgeshire PCT from another organisation under the TUPE regulations. There are a number of qualifications to this:

- where there has been a break in service of 12 months or less, the period of service prior to the break will count as reckonable service.
- periods of employment as a trainee with a General Medical Practitioner in accordance with the provisions of the Trainee Practitioner Scheme will count as reckonable service.

9.4 Non-reckonable Service

Service will not be counted as reckonable if it is employment which has already been taken into account for the purposes of a previous redundancy or loss of office payment by an NHS employer.

Where the employee has previously been given pension benefits and any employment that has been taken into account for the purposes of those benefits will not be counted as reckonable service.

9.5 NHS Employer

Are any of the organisations listed in Appendix A and any predecessor or successor body.

9.6 Calculating Redundancy Pay

The calculation of redundancy pay depends upon an individual's pay, length of reckonable service, and pension scheme. The redundancy pay will take the form of a lump sum payment. A review of Redundancy pay has just taken place to bring the arrangements in line with the Employment Equality (Age) Regulations and is set out in the amendment to Section 16 of the Agenda for Change Terms and Conditions handbook.

- One month's pay for each completed year of NHS continuous employment (part years do not count) to be paid as a lump sum.

- A maximum payment of 24 months pay
- For staff who meet the criteria under the transitional arrangements they can choose between a redundancy payment under the new arrangements or under transitional protection. For those taking advantage of the transitional arrangements, and subject to a maximum of 20 years reckonable service being counted, the lump sum redundancy payment will be calculated based on the arrangements in place before 1 October 2006.
- Staff over 50 (who have at least two years continuous service and two years qualifying scheme membership) have the choice to take the redundancy lump sum or to retire early with no reduction to their pension. If the value of their lump sum is greater than the actuarial reduction they would otherwise incur for early retirement they will be paid the balance as a lump sum
- Staff over 50 who are made redundant between 1st October 2006 and 30th September 2011 will be covered by transitional arrangements. In essence, the 'added years' in the old agreement will be phased out over this period (reducing by $\frac{1}{60}$ th for each month after 1st October 2006). Staff over 50 who are made redundant between 1st October 2006 and 30th June 2007 will have their entitlement protected as at 30th September 2006.
- Due to the delay at national level in ratifying the agreement, it has been agreed that the transitional period will now commence on 1st December 2006. Staff made redundant prior to this date will be entitled to receive their previous entitlement to added years.
- Employers will still be able to retire staff over 50 'in the interests of the service', without a reduction for their early retirement
- Staff who continue to work over the age of 65 and who are made redundant will be entitled to a redundancy payment as above

If clarity is required, due to the above changes and transitional arrangements please contact a member of the HR team.

9.7 A Month's Pay

This will be based on one of the following calculations, whichever is the more beneficial.

- 4.35 times a week's pay calculated in accordance with the provisions of section 221 to 229 of the Employment Rights Act 1996.

- an amount equal to 1/12th of the annual salary in payment at the date of termination of employment.

9.8 Notice Period

Staff under notice of redundancy will be entitled to notice based on at least their statutory notice. In some circumstances, individuals may not wish to work out their notice period and depending on the needs of the service, this may be acceptable. The individual in this case will be encouraged to come to a mutually convenient agreement in respect of their last day of service with their manager

9.9 Redundancy Acceptance Certificate

Any individual being voluntarily or compulsorily made redundant is required to fill in the Redundancy Acceptance Certificate. The Manager's Guide to Payroll Procedures Section 10.14.4 states that this should be attached to the P4 by the line manager.

10. Further advice

It is important to note that whilst this guide can be used to determine a Redundancy Payment, it is wise not to communicate the cash sum without first obtaining an estimate from the Pensions Section.

Please note: The payroll section can only provide redundancy estimates on receipt of a request from the employee's HR department.

11. Appeals

If any employee is aggrieved in relation to the application of these arrangements, the employee should raise their grievance in accordance with the PCT's Grievance Procedure.

12. Review of Policy

This procedure will be reviewed by the Trust Joint Consultative and Negotiating Partnership at 2 yearly intervals, unless and earlier review is required e.g. due to changes in legislation, NHS directions or in the Trust.

**Human Resources
February 2007**

Appendix A

NHS EMPLOYERS

England

NHS Trust

Primary Care Trust

Strategic Health Authorities

Special Health Authorities

Northern Ireland

HSS Health Boards

HSS Trust

HSS Special Agencies

Scotland

Health Boards

Special Health Boards

Wales

NHS Trust

Local Health Boards