GIG CYMRU NHS WALES | Iechyd Cyhoeddus Cymru Public Health Wales	**Reference Number:** AW 12 **Version Number:** 15 **Date of next review:** Extant

ALL WALES ORGANISATIONAL CHANGE POLICY

Policy Statement

This policy has been developed by the Welsh Partnership Forum and sets out the principles that apply in managing internal organisational change within NHS Wales. NHS organisations will adopt and abide by this policy as the core standards of practice, which apply to all employees affected by change.

At times of organisational change it is particularly important to ensure that support, guidance, training and development opportunities are made available to all staff employed by NHS organisations within Wales in accordance with best practice. The wider NHS in Wales will be responsible for assisting in the redeployment of employees from any NHS organisations affected by organisational change.

Equality and Health Impact Assessment	An EHIA has been completed.
Approved by	People and Organisational Development Committee
Approval Date	
Review Date	Extant
Date of Implementation/ Publication:	
Group with authority to approve supporting procedures	People and Organisational Development Committee
Accountable Executive Director/Director	Neil Lewis, Director of People and Organisation Development
Author	Welsh Partnership Forum

Disclaimer

If the review date of this document has passed please ensure that the version you are using is the most up to date by contacting Corporate Governance.

DRAFT

NHS Wales Organisational Change Policy

Fforwm Partneriaeth Cymru
Welsh Partnership Forum

GIG Cymru yn Gweithio mewn Partneriaeth
NHS Wales Working in Partnership

Approved
Welsh Partnership Forum

Contents

1. Introduction 2
2. Scope of the policy 2
3. Policy statement 2
4. Principles to be observed 2
5. Consultation with staff interests 3
6. The introduction of change 5
7. Anticipating and preparing for change 6
8. Managing employees at risk of displacement 7
9. Procedure for filling posts during organisational change 8
10. Protection of pay and conditions of service 12
11. Excess mileage and travel 17
12. Relocation / Removal expenses 17
13. Review, evaluation and monitoring arrangements 18

Appendix 1 – Procedure for filling posts during organisational change: flow chart 19

Appendix 2 – Redundancy policy 20

1. Statement of Intent 20
2. Procedures 20
3. Entitlements of employees who are redundant 23
4. Right of appeal 24

Appendix 3 – Arrangements for managing seconded, acting up and fixed term staff. 25

Appendix 4 – Transfer to a new employer 27

Appendix 5 – Organisational Change within NHS Wales – Redeployment Policy 30

1. Introduction 30
2. Scope 30
3. Purpose 31
4. Equality Statement 32
5. Roles and responsibilities 32
6. Interview and appointment process 37
7. Allocation of meaningful work 43
8. Secondments and fixed term posts 43
9. Pay Protection 43
10. Grievance and right of appeal 44
11. Monitoring and review 44

1. Introduction

This policy has been developed by the Welsh Partnership Forum and sets out the principles that apply in managing internal organisational change within NHS Wales. NHS organisations will adopt and abide by this policy as the core standards of practice, which apply to all employees affected by change.

At times of organisational change it is particularly important to ensure that support, guidance, training and development opportunities are made available to all staff employed by NHS organisations within Wales in accordance with best practice. The wider NHS in Wales will be responsible for assisting in the redeployment of employees from any NHS organisations affected by organisational change.

2. Scope of the policy

This policy replaces the Organisational Change Policy published in March 2009.

The Organisational Change Policy will apply to all NHS Wales employees. It will apply to all situations of organisational change, whether these are internally generated service reviews or externally approved mergers or de-mergers.

3. Policy statement

3.1 In the application of this policy all employees will be treated with dignity and respect and in accordance with equality and human rights legislation. No individual will be treated less favourably on the basis of age, disability, gender, race, religion and belief and non-belief, sexual orientation, pregnancy and maternity or because they are transgender, married or in a civil partnership (also known as “protected characteristics”). No employee should be treated less favourably due to their hours worked (full-time or part-time) or trade union membership.

3.2 Organisations are required to monitor the implementation of this policy and ensure that they assess its impact across the “protected characteristics” and in respect of human rights. This will require the collection, monitoring and reporting of workforce equality data for all employees identified as being at risk and subject to the provisions of the policy.

4. Principles to be observed

4.1 It is the policy of NHS Wales to prevent all avoidable compulsory redundancies, which could potentially occur as a result of organisational change. As such, it is the aim of this policy to ensure that the NHS retains the valuable knowledge, skills and experience of its workforce, by utilising a number of strategies, to assist displaced employees to find suitable alternative employment and / or retraining opportunities, which will enable them to continue to contribute positively to the service.

4.2 Subject to the processes outlined below, when the need arises to redeploy employees, NHS organisations will;

a) consider the use of short-term temporary staff in any period of change, to maintain service requirements until the change is completed and to maximise potential redeployment opportunities;

b) use early retirement and / or voluntary severance schemes where circumstances and / or resources allow;

c) after consultation, identify (in pay and conditions) suitable alternative work in the employing organisation for employees affected by change;

d) transfer employees affected to suitable alternative work with other organisations, by agreement with the employees concerned and the organisations concerned;

e) support employees who wish to retrain and are qualified to undergo training for posts in other disciplines / areas, where reasonable; and

f) by means of the development review / personal development plan process, assist and support employees to overcome constraints which may prevent them undertaking a new role.

All employees are entitled to be represented by a recognised trade union official, local trade union representative or accompanied by a workplace colleague, when subject to any of the arrangements arising from this policy.

5. Consultation with staff interests

5.1 Each employing organisation's senior managers will continue to work in effective partnership with representatives of trade union on the implications for employees in respect of strategic and other major plans concerning the organisation and provision of services. Such discussions will take place through local partnership arrangements.

5.2 In conducting such consultations, management will follow the principles set out in the following section **6 The Introduction of Change**. They will also be required to provide in advance, written details of any proposed organisational change and / or the workforce implications, to facilitate discussion with the employees affected. Such consultations should be conducted over a specified period of time, which should be of no less than four weeks duration unless agreed otherwise as noted in paragraph 5.3.2c.

5.3 Collective Consultation of Proposed Redundancy

5.3.1 NHS Wales and the trade unions recognise that, where organisational change includes or leads to a proposal to dismiss 20 or more employees as redundant (within the meaning of the definition within the trade union and Labour Relations (Consolidation) Act 1992 (TULRCA)) at one establishment within 90 days or less, then the statutory consultation framework under s188 TULRCA will be engaged. NHS Wales and the trade unions also recognise the desirability of exploring alternatives to redundancy before such proposals are formulated.

5.3.2 To ensure that these requirements are addressed within the context of this policy, NHS Wales and the trade unions have agreed the following:

a) as far as possible, the procedures set out in the OCP will be followed in order to avoid a situation in which an employing organisation is proposing to dismiss 20 or more employees as redundant at one establishment within 90 days or less;

b) where proposals to dismiss employees as redundant are in prospect but have not been formulated, the relevant NHS Wales employer will notify the local and regional representatives of the relevant trade unions in writing that this is the position and will invite them to participate in a formal “OCP Consultation Period”. The notification will specify the start date for the OCP Consultation Period which will be not less than 7 days from the date of the notification;

c) the OCP Consultation Period will normally last for a period of at least four weeks from the start date specified in the written notification. The OCP Consultation Period may be extended or shortened by such further period as may be agreed in writing by the NHS Wales organisation and each of the relevant trade unions, but the unanimous agreement of all parties will be required to such a duration;

d) the OCP Consultation Period may involve representatives of the relevant trade unions at local, regional and/or national level although the trade unions’ choice of representation will not unreasonably delay the progress of substantive consultation during the OCP Consultation Period;

e) that in agreeing to participate in the OCP Consultation Period on any given occasion, the respective trade unions accept that:

(i) there is not a “proposal” such as to trigger an obligation on the relevant NHS Wales employer to consult under s.188 TULRCA; and/or;

(ii) if there is such a proposal (or one is subsequently formulated after the OCP Consultation Period), none of the relevant trade unions will seek to argue that consultation on that proposal under s188 TULRCA has not begun “in good time” (or that the NHS Wales

employer is otherwise in breach of s188) by reason of the NHS Wales employer having first participated in the OCP Consultation Period; and

(iii) if there is a proposal to which s188 applies (or one is subsequently formulated after the OCP Consultation Period), the consultation undertaken during the OCP Consultation Period will be taken into account when assessing the nature, duration and content of the further consultation to be carried out in accordance with s188 TULRCA, bearing in mind that the shared aim of s.188 and OCP consultation is to find ways to avoid redundancies if possible. Further consultation under s188 will, as a general rule, take place after the OCP Consultation Period.

6. The introduction of change

6.1 The Organisation

a) Recognises that employees and their representatives have an expectation that management will discuss with them the reasons for and the implications of any proposals or options, which appear likely to have a significant impact on the nature of the work they perform or the arrangements or conditions under which the work is carried out; and

b) Undertake that its managers will, in a timely manner, discuss with employees and their representatives, at departmental and other appropriate levels, the workforce implications of particular proposals or developments, which appear likely to, or have the potential to have a significant impact on the work of individuals, the departments or staff group concerned, before any final decisions are taken.

6.2 The Trade Unions

a) Recognise that in the interests of patient care and the efficient use of resources, the organisation's managers have a responsibility to review from time to time the activities of individuals and groups of employees and the arrangements and conditions under which such activities are performed; and

b) Undertake to advise their members to participate in the introduction of changes arising from such reviews, where the principles set out in this policy are followed.

6.3 Both management and trade unions also recognise that there is no single universal prescription, which can be meaningfully followed in every case where changes are proposed.

Where, however, the changes proposed are of a significant nature, some prior discussion regarding the reasons for them, any available options and their implications will be necessary. As a general rule, such discussions are best conducted between the responsible manager, the employees affected and their representatives.

Where the changes envisaged appear likely to affect the location, hours of work, grades / bands or earnings of the employees concerned, the responsible manager should consult the accredited representative(s) of the employee(s) concerned, at the earliest possible stage.

6.4 Particular consideration should be given to the following points during the discussion of any proposed changes, as applicable;

a) health and safety implications;

b) training or re-training needs;

c) staffing requirements;

d) arrangements for redeploying or transferring any displaced employees;

e) arrangements for recruiting any additional employees;

f) any required changes to shift patterns, location and / or hours of work;

g) any grade / band implications; and

h) applicability of any relevant protection arrangements.

7. Anticipating and preparing for change

7.1 Restrictions on vacancy filling

Restrictions on the filling of vacancies in certain categories of posts (other than on a short-term temporary basis) will be introduced to assist in creating suitable alternative positions for employees affected by the change.

Employers will consult with trade unions in a timely manner, in respect of the categories of posts which need to be brought within this restriction, as required.

7.2 Temporary appointments to maintain services

A number of fixed term appointments or secondments may be required to maintain services whilst rationalisation or reorganisation of services or organisations takes place. These temporary arrangements will be required either to fill gaps in the service or organisation that is undergoing change, or to fill gaps elsewhere, to ‘reserve’ places for employees who will become displaced but who are required to remain in their current post for the time being, to maintain adequate services.

The reasons for the temporary nature of the appointment must be given clearly in writing to any employees appointed in this capacity and an estimate should be given as to how long the appointment will last. In these circumstances fixed term appointments or secondments will not normally be made where the position concerned is likely to continue for a period of more than one year.

7.3 Creating Flexibility

To reduce the potential for compulsory redundancies, there may be a need to consider the merits of inviting employees to volunteer for a voluntary severance payment or redundancy at an early stage and prior to the implementation of the selection process.

7.4 Employees affected by the change and notice provisions

A list of employees at risk of being displaced from their substantive post as a result of each approved reorganisation, rationalisation or reduction of services should be compiled at the earliest practicable date. Managers will be responsible for the compilation of such lists, in conjunction with Workforce and OD departments and for informing relevant representatives.

Whilst every effort must be made to find a suitable alternative employment and arrange redeployment in line with the change timetable, employees affected must be advised by their line manager as to their position in writing, throughout the change process.

Careful consideration must be given, in the light of the circumstances of the change programme, as to the timing of the issue of any notices of redundancy.

8. Managing employees at risk of displacement

8.1 Placing employees at risk of displacement

The timing of when employees will be declared at risk is important and this will be agreed in partnership with the trade unions, at the start of any period of organisational change.

8.2 Consideration for posts in a new structure

Employees that will be affected by any change process and who are at risk of being displaced from their substantive post will receive priority consideration for appointment to suitable alternative roles in the new structure.

8.3 Seconded and acted up employees

Specific arrangements govern seconded, acting up and fixed term employees and these are covered in Appendix 3.

8.4 Support arrangements

Managers must ensure that local arrangements are established to assist employees who are at risk of being displaced or whose posts are potentially at risk. The following points can be regarded as a checklist of support facilities, which could be offered:

- access to career advice;
- access to counselling;
- access to suitable senior staff to act as mentors and provide external advice and guidance as appropriate;
- arrangements for accessing and/or restricting vacancies as appropriate, using NHS jobs;
- assistance and advice on CV writing, application form filling, interviewing skills, etc.;
- assistance with access to NHS jobs, job centres, recruitment consultants, etc.;
- facilities and assistance for sending CVs to all-Wales NHS bodies, organisations and employers;
- contact with and access to retraining opportunities and allowances, further education establishments, etc.; and
- access to independent financial and pension advice in the event of redundancy or early retirement.

The above list is not exhaustive. It is intended to be a general guide on areas for consideration.

9. Procedure for filling posts during organisational change

9.1 Scope

This procedure will apply to all employees affected by organisational change.

Employers should make appropriate arrangements to ensure that all employees affected by change, including those on any form of authorised absence, which may include maternity leave, parental leave, carers leave, term-time working, long term sick leave or secondment, are considered at each stage of this procedure and are not disadvantaged in any way.

9.2 Principles for filling posts

The arrangements for filling posts should be based on the following broad principles, applied to all employees with a permanent contract of employment, but may exclude those employees employed on fixed term contracts (please refer to Appendix 3);

- all those eligible for consideration for a post should be treated on the basis of equality;

- all employees should have a legitimate expectation that they will be supported to secure a post with similar pay and conditions of service (suitable alternative employment);
- where an employee accepts a suitable alternative post, which attracts a lower salary, their pay will be protected in accordance with the 'Arrangements for Salary Protection', set out in section 10 of this policy ;
- in making decisions consideration should be given to making adjustments to accommodate the different circumstances of employees with caring responsibilities outside of work and give flexibility around part time employees;
- employees who have a protected characteristic within the definitions of the Equality Act 2010 will be afforded adjustments to the process to ensure that they are not disadvantaged;
- reasonable consideration/adjustments should be made to accommodating employees with flexible working arrangements e.g. term-time working, job-share, part-time, to avoid, wherever possible, these employees being disadvantaged by the process. All requests to work flexibly must be given full and fair consideration and handled consistently;
- reasonable adjustments should be made to a role and/or working environment to support disabled employees to gain an alternative post or suitable alternative employment;
- opportunities for career development and maximising an employee's employment potential should be encouraged wherever possible;
- where the implementation of change covers more than one organisation there should be consistency in approach between all organisations involved in terms of time-scales and processes to ensure equality;
- all job applicants should be treated fairly and with dignity and respect: Principles of equality will apply and the process will be transparent;
- the organisation must commit to supporting employees in their efforts to secure employment for all employees affected by the change, including the use of redeployment schemes, trial periods and retraining;
- all appointment decisions should be based on merit and on the suitability of each candidate for the post, based on an assessment of their knowledge, skills, experience etc., against the new post's person specification and job description;
- details of available posts in a new structure must be available to all employees (including indicative pay band, title, job description and person specification) and provided in a timely manner, including to those on an authorised absence;
- where posts or groups of posts are judged not to have altered substantially, the principles of 'slotting in' and 'prior consideration' should be applied;
- a post may be considered as substantially unchanged if the scope of the role remains unaltered and it matches 'two thirds' or more of an existing job description and person specification; and
- all employees must be considered against the roles in the new structure and slotting in and prior consideration must be applied at the outset to determine the potential appointment status to the structure of the existing employees (subject to sections 9.3 to 9.10 below).

9.3 Appointment/Selection process

Organisations should seek to progress appointing to new structures in a timely manner and with the minimum of delay.

To progress this, managers should undertake a “mapping exercise” where employees within the existing structure are considered against the posts in the new structure, to understand the scope of slotting in, prior consideration and restricted competition. The mapping outcome should be published and drawn to the individual employee’s attention.

Employees who are eligible for slotting in should be identified and their new/revised roles confirmed in writing at the outset of the process.

Where appointments to posts are subject to prior consideration or restricted competition, an interview will be the minimum selection process requirement. The process of selection will be carried out by reference to the relevant job description and a person specification and KSF outline (for employees on AfC terms and conditions), including the following objective criteria, against which the requirements of the post will be measured:

- qualifications;
- relevant experience;
- skills and knowledge and any other particular aptitudes/attributes identified for the post;
- suitability for trial period/retraining to meet the criteria; and
- the need for reasonable adjustments to posts in accordance with the Equality Act 2010.

Every employee involved in the process will be able to receive feedback on their performance during the selection process, from a nominated member of the interview selection panel.

9.4 Slotting in

Slotting in will apply where a post is substantially unchanged and there is only one candidate or equal numbers of posts and candidates, who currently undertake this role. In this circumstance the post would not be advertised and the individual(s) whose post(s) meets the criteria would be slotted into the post(s).

Consistency in the approach to and the application of the slotting in principles are essential. A flowchart is attached at **Appendix 1**, which describes the steps to be followed.

In cases of disagreement about whether the job is substantially unchanged, the current and new job descriptions and person specifications will be considered by an independent review undertaken by a panel including a member of the Workforce and OD team, a management and a trade union representative. Anyone involved in the review will have no working relationship or have had any involvement in previous discussions relating to the review, with the aggrieved employee(s). It will be the role

of this independent panel to review the original outcome and to reach an objective decision. Should the employee(s) continue to disagree with the independent review decision, they may lodge an appeal, in accordance with the All-Wales Respect and Resolution Policy.

9.5 Prior consideration

Prior consideration will apply where a post is substantially unchanged (e.g. the scope of the role remains unaltered and it matches 'two thirds' or more of an existing job description and person specification) and there is more than one potential candidate. Selection will be undertaken by interview.

Where an employee is eligible to express an interest in more than one post they will be required to indicate their preferences in rank order.

Consistency in the approach to and the application of the prior consideration principles are essential. A flowchart is attached at **Appendix 1**, which describes the steps to be followed.

If following the prior consideration process employees have been unsuccessful in being allocated to a post, they may be eligible for consideration in respect of a restricted competition post at the same or a lower level, if there are no other employees at that level with slotting in or prior consideration rights.

9.6 Restricted competition

Where a post is considered to be new or substantially changed it should be filled in the first instance by restricting competition to employees directly affected by the changes.

9.7 Collection of information

Employees who are identified as being "at risk" of being displaced and who are not eligible for "slotting in" or "prior consideration" should be informed of their position and interviewed by their manager, with appropriate support and advice from their Workforce and OD department, as soon as possible and, if they so wish, in conjunction with their staff representative. This should be confirmed in writing. This provision will also apply to employees who are not appointed following the conclusion of a "prior consideration" process.

A formal record should be created for each employee considered to be at risk of being displaced, to record relevant personal details, circumstances, preferences (post the change), knowledge, skills, qualifications and experience.

To co-ordinate the number of employees at risk of displacement in any large-scale reorganisation, it may be necessary for affected employees to have their range of knowledge and skills assessed using a consistent format. This will ensure that appropriate vacancies and opportunities can be identified speedily and without the need for these employees to be interviewed on more than one occasion. This process

will be undertaken in partnership, by appropriately skilled managers and staff representatives.

9.8 Priority for redeployment

Priority will be afforded to those employees, that are displaced from their substantive posts, in consideration for appointment to roles in the new structure and who are not appointed to a role under “slotting in” or “prior consideration”. If employees are unsuccessful in securing a post, they will become a redeployment candidate and will be able to be considered for posts in the Health Board/Trust through “restricted competition”.

9.9 Appealing against a decision

In the case of a dispute in respect of the selection process associated with organisational change, an employee may lodge a grievance, in accordance with the All-Wales Respect and Resolution Policy.

9.10 Actions to be considered following the appointment process

Following the appointment process, the organisation will need to consider the position of any employees not appointed to posts in the new structure. Every practicable effort will be made to avoid compulsory redundancies. Organisations and affected employees are required to further explore the following options:

- redeployment elsewhere within the organisation;
- redeployment within other NHS bodies within Wales;
- secondment arrangements with other NHS bodies and public sector organisations in Wales where practical and feasible; and
- re-training to undertake a new role.

10. Protection of pay and conditions of service

10.1 Scope

Protection will apply to any employee, who, as a consequence of organisational change, is required to move to a new post, their shift pattern/rota changes or they suffer a reduction in basic hours worked within the standard working week.

This provision does not apply to individuals who voluntarily move to a post carrying a lower salary.

It provides:

a) Short-term protection of earnings, whether or not downgrading is involved.

b) Long-term protection of basic salary where downgrading is involved.

The short term and long-term protection arrangements set out below replace any local/legacy arrangements previously in place.

10.2 Definitions

New post
For the purposes of defining entitlement to protection, this section refers to employees undertaking a new post. This specifically refers to the post the employee undertakes immediately following an organisational change; this may be a new role considered as suitable alternative employment or the same role but with revised contractual arrangements e.g. a different shift pattern or hours of work.

Basic salary
Basic salary is the weekly or monthly sum due in respect of basic hours worked in the substantive post by the employee within the standard working week on the day immediately preceding the first day of employment in the new post (i.e. the last day in the old post). This excludes any payments made in respect of temporary movement to a higher band or seconded positions. This will normally be the incremental point within a band/grade and will form the basis of the sum used to calculate protection for the duration of long-term protection.

Earnings in the new post
The sum of the basic salary in the new post and any remuneration in respect of overtime, shift work, on call and emergency work and other additional duties where appropriate. Earnings in the new post will be subject to national pay awards and increments (where applicable).

Protectable earnings
The weekly or monthly average earnings over the 17 weeks/four months or appropriate rota where applicable, immediately preceding the first day of employment in the new post.

Downgrading
This occurs when the new post, irrespective of its title, has:

- a salary scale with a maximum incremental point, lower than that applying to the post held previously or;
- a salary lower than that held in the previous post.

10.3 Short Term Protection of Earnings

Short-Term Pay Protection applies when, through organisational change, an employee is required to undertake a change which may affect their earnings but does not require a change in pay band/grade. An example would be change to work/shift pattern. Organisations should ensure that any situation where an employee may be subject to short term protection is continuously managed with the impact on the employee being minimised so far as is possible.

Employees are entitled to have certain earnings (“protectable earnings”), following the change, protected in accordance with the following table –

Reckonable Service	Protection Period (Months)
Up to 2 years	2
After 2 Years' Service	4
After 3 Years' Service	6
After 4 Years' Service	8
After 5 Years' Service	12

The employee's earnings are protected at the average weekly/monthly pay level received in the 17 weeks/four months immediately preceding the first day of employment in the new post, or in line with their previous rota if applicable. For employees who have been on Maternity Leave a representative reference period will be identified to ensure an appropriate level of short-term protection is applied.

The earnings eligible for protection are:

- Contracted Hours
- Unsocial hours payments
- Regular or contracted overtime/extra hours
- Allowances for:
    - Stand-by/on-call duty/work done
    - Any other appropriate allowances / earnings described in the relevant Terms and Conditions Handbook.

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

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

The continued receipt of short-term protection of earnings is conditional on the employee undertaking any overtime, shift work on call, emergency work and additional duties where applicable which may be needed in the new post up to the level at which earnings in the new post equal the protected earnings. Beyond this point, normal arrangements will apply and payments will be made at the rates applicable to the new post.

Short-term protection of earnings is also conditional on the employee accepting any subsequent offer (during the period of protection) of another suitable post with the same Health Board/NHS Trust which attracts a higher level of average earnings than that applying to the new post.

10.4 Long-term protection of basic wage or salary where downgrading is involved

Long Term Pay Protection applies when, through organisational change, an employee is moved from one post to another and who is downgraded as a result to suitable alternative employment or where an employee's duties change which result in a down-grade to a post carrying a lower band/grade. In such circumstances employees will be entitled to full protection of basic salary until;

a) the period specified in the table below expires, or;
b) the employee is appointed to a post in which the normal salary is equal to or exceeds the protected salary, or;
c) the employee moves on his or her own application to a post with a salary which is lower than that of the new post, or;
d) the employee refuses to apply for three posts deemed to be suitable alternative employment, or;
e) the employee refuses an offer of suitable alternative employment, or;
f) the employee retires, or;
g) the basic salary of the new post is equal to or exceeds the protected salary.

Reckonable Service	Length of Protection Period
After 2 Years' Service	6 Months Protection
After 3 Years' Service	1 Year Protection
After 4 Years' Service	2 Years Protection
After 5 Years' Service	3 Years Protection
After 6+ Years' Service	6 Years Protection

When an employee commences in their new post they will be placed on the appropriate incremental pay point commensurate with their service history. This may provide for incremental progression within the new band/grade. The basic salary during the period of protection will be assessed against the salary in the old post to maintain the level of protection for the full eligible Length of Protection Period. As noted in g) above, the basic salary of the new post may at some point be equal to or exceed the protected salary, in which case protection will end.

Long-term protection entitlement is assessed on the basis of actual hours worked in the new post, paid at the hourly rate applicable to the previous post. If the hours in the new post exceed hours worked previously, long-term protection entitlement is based on (hours worked previously) x (rate applicable previously) with any additional hours in the new post being paid at the rate applicable to the new post.

Any additional earnings derived from work in the new post will be remunerated at the rate appropriate to the new post.

Long-term protection of basic wage or salary is also conditional on the employee giving an undertaking to move to a post on their previous i.e. protected band/grade with the Health Board/NHS Trust and actively seeking/applying for such opportunities as they arise. Health Boards and NHS Trusts have a duty through this policy to actively support individuals with securing such appointments and will ensure that suitable opportunities and vacancies are brought to individuals' attention.

Accordingly there is an explicit requirement that staff, whilst in the receipt of long-term protection, will be proactive in managing their careers as a condition of the continued receipt of protection. The refusal to apply for suitable alternative employment on three occasions; or to accept an offer of a suitable alternative post will result in the immediate cessation of protection.

To support staff on long-term protection Health Boards/NHS Trusts will use the provisions of the Redeployment Policy to enable staff to be afforded “restricted competition” status at any appropriate interview(s) for posts at their previous band/grade provided there are no employees at risk of redundancy who are eligible for priority interview.

Moving to an alternative post during protection may be instrumental in employees re-establishing their careers, but such moves may not necessarily result in individuals securing a post at their previous band/grade. In such circumstances, there will be no loss of eligibility for protection, where an employee moves within their Health Board/NHS Trust to a post not at the previous band/grade but where such a move is considered supportive in their career development/a step to returning to the previous band/grade. In such circumstance the level of protection may need to be recalculated based on the new post.

Exceptionally, protection may be transferred when an employee moves on his or her own application to a post with another Health Board or NHS Trust in NHS Wales with a basic wage or salary which is equal to that of the existing post, but only at the discretion of the organisation which would have to meet the cost of protection after such a move and only where that organisation can justify the continuation of protection as being in the interest of the service.

10.5 Possible Protection of Pension Following Down-Grading / Reduction in Hours

Employees who are members of the NHS Pension Scheme (with more than 2 years' pensionable service) who are eligible for long term pay protection following organisational change may apply to have their pension protected at the higher rate, subject to the approval of the NHS Pensions Agency. Individuals are advised to contact the Pensions Department on this matter, within 3 months of the reduction in salary to discuss how this option is accessed.

10.6 Interaction between Long and Short-Term Pay Protection

An employee to whom both short-term and long-term protection is applicable shall be paid both entitlements at the same time for the duration of the short-term protection. At the end of the short-term protection period payment will be made on the basis of the remaining entitlement to long-term protection.

10.7 Appeals

Appeals arising out of the application of this section of the policy shall be dealt with in accordance with the All-Wales Respect and Resolution Policy.

11. Excess mileage and travel

Where an employee's base is changed as a result of organisational change and this results in additional mileage from home to base then the excess miles incurred can be claimed.

Excess mileage will be reimbursed in accordance with the Reserve Mileage Rate for a period of up to 4 years. Alternatively, staff may claim a lump sum equivalent to 2 years excess travel payments.

If the employee moves their residence/home closer to their new work base during the period of entitlement, the excess mileage/travel will be reduced accordingly. If the individual moves their residence/home further from their new base no additional mileage/travel will be paid.

For those employees who have lease cars, any reimbursement will be subject to national insurance and tax deductions.

Staff are able to retain their entitlement to excess travel should they apply and obtain promotion or transfer to a new role on the same band at their new base.

If the employee voluntarily takes up another post at a different location, then payment of excess mileage will cease from date of appointment.

Non driving employees will be reimbursed for additional incurred public transport costs for a period of four years, or are entitled to receive two years' excess mileage paid as a lump sum.

Car parking charges will be reimbursed where an employee is redeployed under this policy, to a site where such charges are mandatory and the charges will therefore be necessarily incurred. Reimbursement of car parking charges in these circumstances will be made for a period of four years (arrangements for parking including location and rate should be agreed by the organisation and the employee in advance). As an alternative to the above, the NHS organisation may offer two years car parking fees paid as a lump sum. Lump sum payments will be subject to a pro rata 'claw back' clause, should the employee leave their employment before the end of the two-year period.

12. Relocation / Removal expenses

Organisations should have a relocation/removal expenses policy, which makes provisions for the payment of removal expenses, in circumstances where employees are required to move their home base and the organisation is satisfied that the arrangements proposed are reasonable in the circumstances.

Employees, who may be contemplating relocating their home as a result of, or in anticipation of an organisational change process, should obtain confirmation of the entitlement to relocation/removal expenses, prior to entering into any binding arrangements

13. Review, evaluation and monitoring arrangements

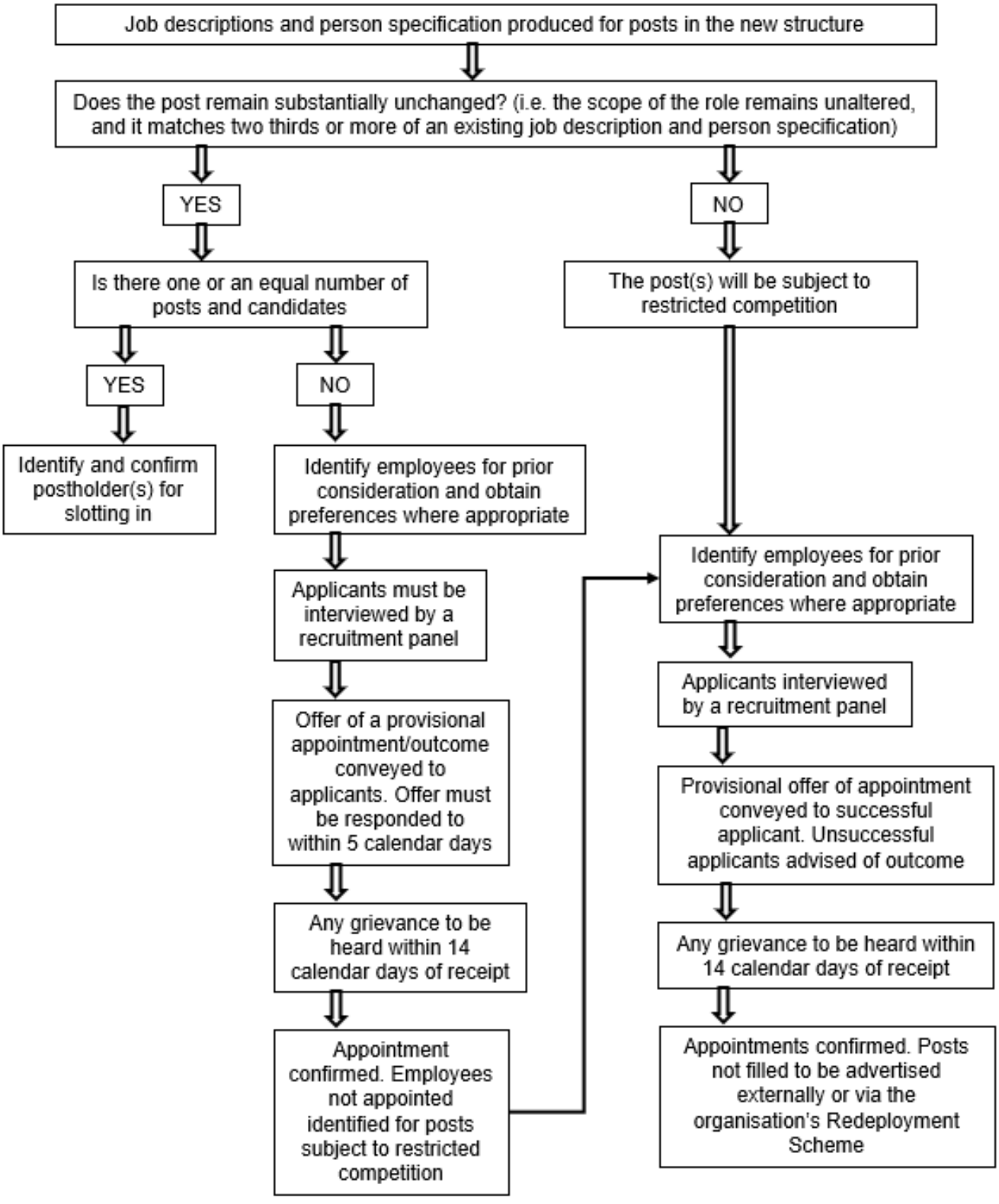
13.1 Evaluation

There will be ongoing evaluation of this policy with the trade unions, employees and NHS organisations, particularly in the context of equality impact assessments.

13.2 Monitoring

A monitoring proforma will be developed and the policy will be monitored, in partnership, after each organisational change, to ensure that the principles have been adhered to.

Appendix 1 – Procedure for filling posts during organisational change: flow chart



Appendix 2 – Redundancy policy

1. Statement of Intent

Definition of Redundancy

Redundancy can be defined as a dismissal, which is wholly or mainly attributable to:

- The fact that the employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by them, or has ceased or intends to cease to carry on that business in the place where the employee was so employed; or
- The fact that the requirements of that business for employees to carry out work of a particular kind or 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. (Section 139 (1), Employment Rights Act 1996).

NHS Wales organisations are committed, as far as is possible, to providing continued employment for existing permanent employees. These organisations are therefore required to take all reasonable, practical and affordable steps to retain valuable skills, knowledge and experience and avoid making employees compulsorily redundant.

This policy sets out all the measures which organisations must explore to avoid compulsory redundancy and the procedure to be followed, in the event of compulsory redundancy having to be affected.

The organisations will:

- encourage full and open consultation with employees and their representative(s) during a period of change, which may result in redundancy;
- facilitate the redeployment of employees;
- ensure appropriate and fair processes are followed; and
- endeavour to ensure that wherever possible, or affordable, reductions in employee numbers are achieved through natural wastage, or by means of voluntary early retirement or voluntary early release.

2. Procedures

2.1 Consultation

Where it is evident or strongly considered that changes planned will have a significant impact on employee contracts or will result in redeployments or redundancies then the statutory requirements concerning the provision of information to, and consultation with, recognised trade unions/staff representatives will be followed in accordance with section 5.3 of the OCP - Collective Consultation of Proposed Redundancy.

Employees at risk of redundancy will have the right to representation throughout the process.

Management must do their utmost in all circumstances to ensure that the consultation process commences at the earliest possible stage.

2.2 Measures to be taken to minimise or avoid redundancies

Wherever practicable all possible steps will be taken to minimise or avoid redundancy in accordance with the provisions set out in the Organisational Change Policy.

Any offer of alternative employment, which is considered to be suitable should be made in writing, providing sufficient details of the post and allowing reasonable time for the employee to consider it, prior to expiry of the notice period. The offered alternative post should be available no later than four weeks, from the date the old contract is ended. The offer should, where appropriate attempt to indicate the principal ways in which the new job differs from the old. Where this procedure is followed but the employee fails to respond to any such offer, the employee shall be deemed to have refused suitable alternative employment.

The acceptance of any alternative employment, which is considered suitable, may by agreement be subject to a four-week trial period. Trial period arrangements, including mechanisms for assessment and review should be agreed between the manager and the employee before the trial period beings.

If during the trial period it becomes clear that the redeployment is not in fact suitable, this will not affect the employee's entitlement to any redundancy payments that might be due under their old substantive contract. Redundancy payments will be put at risk if an employee withdraws without reason from an agreed trial arrangement.

2.3 Selection Methods

Selection methods will be agreed locally according to the circumstances of the reduction in posts, the staff groups involved and the requirements of the service and the organisation following the change. Any or all of the following may be considered as criteria for selection, bearing in mind the requirement that selection must be based on objective criteria:

- length of service;
- attendance record;
- sickness record (use of this criterion must be carefully managed in accordance with the Equality Act (2010);
- disciplinary record;
- qualifications;
- skills;
- competencies;

- work experience; and
- performance records (based on formal documented and objective evidence e.g. performance management/development review documentation.

The organisation must take care when designing and applying their selection criteria, to avoid using factors, which may directly or indirectly discriminate against any employee, on the grounds of gender, race, disability, religion or belief, age, sexual orientation, pregnancy and maternity or because they are transgender, married or in a civil partnership. The same consideration should be given to part-time employment status and trade union membership. Organisations must undertake an equality impact assessment of the chosen selection method.

2.4 Time off to look for work

Employees will be given reasonable time off, with pay and reimbursement of expenses, to consult with management, trade union and staff representatives, to visit any new locations where they may be seeking alternative employment, to attend for interview and to attend training and retraining.

2.5 Retraining

Appropriate preparatory training, induction and on or off the job training will be provided to enable employees to move into areas of work, not fully covered by their original training or recent experience. This will include attendance at any courses or seminars that may be pertinent to current vacancies.

2.6 Additional assistance

Each employee who is displaced or at risk of redundancy will be given the opportunity for individual counselling, including provision of information e.g. entitlements and specific support as identified in section 8.6 of the OCP Support arrangements.

2.7 Notice periods

Contractual notice should be served to any employees that are given notice of termination of employment by reason of redundancy.

Circumstances will dictate whether the organisation can offer a notice period which is longer than the employee's contractual notice. Notice periods may be extended, to maximise the opportunity to find the employee suitable alternative employment.

Subject to mutual agreement an employee may leave before the expiry of their notice period if:

- they obtain other employment outside of the NHS. In such a circumstance the new termination date will become the revised date of redundancy, for the purposes of redundancy calculations; or
- the employee, after having been given notice by their employing organisation, gives written counter notice, which with agreement may be less than the contractual period, with no loss of redundancy payment rights.

An employee may also be required to leave if:

- they engage in conduct resulting in another reason for dismissal, during their redundancy notice period.

In respect of the above, the organisation reserves the right to make an outright payment in respect of notice and the redundancy entitlement, by way of full and final settlement, subject to statutory regulation.

2.8 Equality

In applying this redundancy policy, organisations will ensure that any proposed arrangements do not discriminate on the basis of disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation, trade union membership, age (except in so far as it is affected by the age retirement policy) etc. Part time employees should be treated in the same way as full time employees in all respects.

3. Entitlements of employees who are redundant

3.1 All NHS employees who are eligible to receive a redundancy payment will have their entitlement calculated and paid in accordance with section 16 (redundancy pay) of the Agenda for Change NHS Terms and Conditions of Service Handbook.

3.2 Provision also exists for eligible NHS employees to retire early without reduction of their pension benefits subject to the specific criteria set out in the NHS Pension Scheme membership rules and the provisions of Section 16 (redundancy pay) of the Agenda for Change NHS Terms and Conditions of Service Handbook.

3.3 It should be noted that these redundancy pay provisions apply to all NHS employees not just those covered by the Agenda for Change NHS Terms and Conditions of Service.

4. Right of appeal

4.1 Redundancy process grievances

In the case of dispute in respect of the redundancy process, associated with organisational change, an employee may follow the procedure set out in the All-Wales Respect and Resolution Policy.

4.2 Employees who are served notice of redundancy must be advised of their right of appeal. Any such appeal should be lodged within 21 days of the date of the letter of notice. Such appeals will be managed and conducted in accordance with the relevant organisation's dismissal procedure.

Appendix 3 – Arrangements for managing seconded, acting up and fixed term staff.

Seconded and acted up employees

The procedure for filling posts during organisational change, set out in section 9 of this policy, will not be applicable to a 'seconded' or 'acted up' role, which will be affected by the organisational change process, unless the employee has been in the post for a period of four continuous years or more, on the date on which they are displaced.

An employee who is 'seconded' or 'acting' up may however be included in the provisions of section 9, if they hold a substantive role which is subject to organisational change. In these circumstances the secondment or acting up arrangement may cease if appropriate where the employee may be slotted in or have prior consideration rights in regard to their substantive role.

1.1 Seconded and acted up employee with less than four years continuous service

Where an employee has been seconded or acted up in a post for a period of less than four continuous years, on the date on which they are displaced, the banding/grading and terms and conditions of service of their substantive post will be used to determine offers of suitable alternative employment, should they be unable to return to their substantive post.

Where an employee has been seconded or acted up into a post with no agreement to return to their **substantive post**, it will be the responsibility of their substantive employing organisation to find them suitable alternative employment where possible, at the end of the secondment/acting up period. This post should be at the same band/grade and on similar terms and conditions to those the employee was employed on, prior to the commencement of their secondment.

Where an employee has been seconded or acted up into a post with no agreement to return to their **substantive employing organisation**, it will remain the responsibility of their former substantive employing organisation to find them suitable employment. This post should be where possible at the same band/grade and on similar terms and conditions to those the employee was employed on, prior to the commencement of their secondment.

Where an employee's substantive employing organisation no-longer exists, it will be the responsibility of the successor organisation to the original employing organisation to honour their return to their substantive post, where this is still available, or to find them suitable employment where possible, should the post no longer be available or exist. This post should where possible be at the same band/grade and on similar terms and conditions to those the employee was employed on, prior to the commencement of their secondment.

Where a seconded employee has a substantive contract but never held a substantive post with their employing organisation, i.e. their contract is hosted, it

will be the responsibility of their employing organisation to find them suitable employment where possible. This post should where possible be at the same band/grade and on similar terms and conditions to those the employee enjoyed in their secondment post.

1.2 Seconded and acted up employee with four or more years continuous service

Where an employee has been seconded or acted up in a post for a period of four continuous years or more, on the date on which they are displaced this will be considered to be their substantive post.

In these circumstances the employee's secondment/acting up banding/ grading and terms and conditions will be used to determine offers of suitable alternative employment, should they not be appointed to a post using the slotting in or prior consideration principles.

Fixed term employees

Under the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002, an employee on a fixed term contract, (e.g. the employee has been appointed to work in a fixed term or temporary post until a specified end date, event or task) is entitled to equal treatment. This equal treatment applies in terms of pay, benefits, equal opportunities for promotion, training and further development, including the right to be informed of all suitable available vacancies, and equal access to the occupational pension scheme, unless the less favourable treatment can be objectively justified by the employer.

Where an employee has been appointed on a fixed term contract and is affected by organisational change, the manager should liaise with the Workforce and OD department. Where an employee has been employed specifically to cover e.g. maternity leave, sickness absence, or to undertake a specific project, it is unlikely that they will have an entitlement to the provisions outlined in section 9 of this policy.

Where an employer is proposing to dismiss an employee on a fixed term contract, there should be full consultation with the affected employee and a thorough consideration of alternative employment prior to this decision being taken.

Appendix 4 – Transfer to a new employer

1. Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014

2. The Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 are commonly known and referred to as the TUPE Regulations. These Regulations provide employment rights to employees when their employer changes as a result of a transfer of an undertaking. The effect of these Regulations is to preserve the continuity of employment and terms and conditions of those employees that are transferred to a new employer, when a relevant transfer takes place. This means that employees employed by the previous employer when the transfer takes effect will automatically become employees of the new employer on the same terms and conditions of service. The Regulations also contain specific provisions to protect employees from dismissal before or after the transfer.

The Regulations therefore ensure that employees are not penalised when they are transferred by being placed on inferior terms and conditions. Therefore, not only are their pre-existing terms and conditions transferred across on the first day of their new employment with the new employer, the Regulations also impose limitations on the ability of the new employer and the transferred employees to agree a variation to terms and conditions thereafter.

3. Partnership and Management Change Agreement

The Partnership and Management Change Agreement issued by the Welsh Assembly Government Workforce Forum in February 2008 provides employees with a further reassurance, as it requires the public sector to treat TUPE as applicable upon any change of employer as a result of reorganisation in the public sector.

4. Information rights

The Regulations requires the existing employer to provide information to the new employer regarding transferring employees, prior to the relevant transfer date. The Regulations state that this information should be given at least 28 days before the completion of the transfer, or if special circumstances make this not reasonably practical, as soon as is reasonably practicable.

As such existing employer is required to provide the new employer with specific information (in writing or other forms which are accessible to the new employer) which will assist then to understand the rights, duties and their obligations in respect of the transferring employees.

5. Consulting with affected employees

The TUPE Regulations place a duty on both the existing and new employers to inform and consult employees who may be affected by the transfer. The Regulations do not prescribe a timescale for such consultations, other than to state that such consultations should take place “long enough before a relevant transfer to enable the employer of any affected employees to consult with the appropriate representatives”.

5.1 Employees who are trade union members

NHS Wales encourages all employees to join a trade union. Where employees may be affected by a TUPE transfer are represented by a recognised trade union, the existing employer must inform and consult with a recognised authorised official i.e. local or full-time officer of that union.

5.2 Non-unionised employees

Where employees that may be affected by the transfer are not represented by a recognised trade union, the employer is required to inform and consult with an appropriate representative of these employees.

The employer will enable employees who wish to elect a representative to do so and will inform and consult with them as appropriate.

6. Refusal to transfer

It is accepted that some employees will struggle to accept change and may fail to make the adjustment, and may therefore need to be counselled as to their options. The legal position of those employees who may decide not to transfer is that they will be voluntarily leaving their employment without any entitlement to notice or other severance compensation.

Employers should treat such employees sympathetically and arrange to meet with them to fully explore their reasons for refusing to accept a transfer and discuss alternative re-deployment opportunities should they exist.

7. Re-engagement following redundancy

For NHS Terms and Conditions of Service purposes, NHS organisations are ‘associated employers’. Therefore if an employee is made redundant and accepts and commences a new NHS post within four weeks of leaving the previous post, they are not entitled to redundancy pay under the regulations. Steps should therefore be taken by NHS organisations to actively identify and pursue suitable vacant/advertised posts, to avoid a redundant employee receiving a significant redundancy and/or termination payment and then taking up another post elsewhere in the NHS, after the four-week period. Detailed legal advice may be necessary according to the individual circumstances and compliance with WG policy and directives.

8. Career planning and support for displaced employees

Local mechanisms will be established to provide support to those employees that are displaced or who may need support to adjust to a new working environment. The aims of developing such a scheme are to:

- retain skills and experience within NHS Wales;
- avoid unnecessary loss of staff and reduce redundancy costs;
- effectively support individuals whose career is in transition;
- ensure fair and equal treatment of employees across NHS Wales; and
- provide personal support for those employees who may not be displaced but who are generally concerned about the effects of organisational change on them.

Appendix 5 – Organisational Change within NHS Wales – Redeployment Policy

1. Introduction

The National Health Service (NHS) in Wales is committed to attracting and retaining excellent, committed staff and values the depth and breadth of experience, knowledge and skills that they hold and contribute to the service.

The changing needs of the NHS in Wales, as a result of ongoing organisational change and the requirement to pro-actively manage these changes, means that some employees may need to be redeployed into alternative roles, should they be displaced from their current post and / or their post has been identified as being at risk of redundancy. In these circumstances, it is recognised that the employees affected will have experience, knowledge, skills and expertise, which will enable them to continue to contribute to the success of a Health Board (LHB) / NHS Trust, should they be given suitable opportunities to do so.

It is the responsibility of each of the LHB and Trusts to make all reasonable efforts to assist employees, where necessary to find suitable alternative employment, to enable them to continue their careers within the National Health Service. This will include fully supporting the potential and actual redeployment of NHS Wales's staff from outside of their own organisations, into suitable vacancies in other organisations in circumstances where it is appropriate and where there is agreement to do so.

During any period of organisational change, the following Redeployment Policy will be utilised by all LHBs and Trusts when there is a requirement for them to seek to find suitable alternative employment for employees that have been displaced from their current post and / or their post has been identified as being at risk of redundancy.

The Policy must be read in conjunction with other NHS Wales policies.

2. Scope

This Policy will only apply in instances where redeployment is appropriate as a result of organisational change.

This Policy will apply to all NHS Wales employees who hold a substantive or fixed term contract that have been displaced from their current post and / or their post has been identified as being at risk of redundancy, as a result of an organisational change process.

Each NHS Wales organisation will establish arrangements within their Workforce & OD Departments to co-ordinate and manage the process of managing employees

who are eligible for redeployment and will ensure that collaborative arrangements are put in place with their counterparts within the other NHS Wales LHBs/Trusts.

Displaced employees will be designated as a Redeployment Candidates, once it has been confirmed in writing that they have been unsuccessful in securing a suitable post within the new organisational structure, i.e. they have been formally displaced or their post has been identified as being at risk of redundancy and it has been confirmed that continuing in their current post is not tenable.

Such employees will retain the designation as a Redeployment Candidate for a maximum period of 3 months, unless they secure a substantive post in the intervening period. It is anticipated that LHBs and Trusts, working co-operatively, should be able to find candidates, suitable alternative employment within the above timescale. It should be noted that any staff at risk of redundancy will be given precedence in identifying suitable alternative employment over staff who are already in an alternative post and on protection. Additionally, an employee being made redundant, and who is taking leave such as statutory maternity leave, must be offered any suitable vacancy before any other employee. Also, they do not have to apply for it. If the organisation has doubts about the employee's suitability for the role, it can assess/interview them for the role – and if they are found to be suitable, they must be offered the role first. However, if there is not a suitable role, they can be made redundant if the decision is not because of their legally protected leave, and the redundancy process is fair.

All Redeployment Candidates will have all of their employment rights protected, as required by the Employment Rights Act (1996). It should be noted and specifically communicated to employees in writing that where they are redeployed to a post within a new NHS Wales employer, they would be given a new start date in post with that employer, however their continuous NHS service would be counted as reckonable in respect of sick pay, annual leave and incremental credit.

3. Purpose

This Policy will assist employees to identify suitable alternative posts within NHS Wales, when they are unable to continue in their current substantive post, by providing a commitment and process which allows them preferential consideration when applying for identified vacant posts.

The purpose of the Redeployment Candidate designation is to:

- ensure that displaced employees are made aware of vacancies prior to them being advertised via the open competition process;
- ensure that displaced employees are matched to appropriate vacancies, to secure alternative employment in accordance with the 3-month timescale and in accordance with best practice;
- ensure that a fair, equitable and consistent approach is adopted in the management of suitable alternative employment, within NHS Wales, during any organisational change process;

- maintain continuity of service and service efficiency and effectiveness during all organisational change processes;
- ensure that all employees remain valued and that their ongoing contribution to NHS Wales is recognised and supported during any organisational change process;
- provide effective and ongoing support to employees who have been displaced from their current post or their post has been identified as being at risk of redundancy and is no-longer tenable for them to continue working in that post:
- assist and support employees to find suitable employment and where possible, provide for their career development and aspirations; and
- ensure that NHS Wales's organisations meet all of their relevant legal obligations, as regards finding suitable alternative employment for employees at risk of redundancy, in accordance with the Employment Rights Act (1996).

4. Equality Statement

All employees subject to redeployment will be treated with dignity and respect and in accordance with equality and human rights legislation. No individual will be treated less favourably on the basis of age, disability, gender, race, religion and belief and non-belief, sexual orientation, pregnancy and maternity or because they are transgender, married or in civil partnership. No employee should be treated less favourably due to their hours worked (full-time or part-time) or trade union membership.

Selection for suitable alternative employment or training / re-training will be on the basis of the employee's qualifications, knowledge, skills and relevant experience, against the job description, essential person specification criteria and requirements of the role.

5. Roles and responsibilities

The effective operation of this all Wales Policy is dependent on the full co-operation of all Welsh NHS LHBs and Trusts working collaboratively, to ensure that all appropriate vacancies are made available to staff Redeployment Candidates.

Each LHB and Trust will therefore review and consider all of their new vacancies, against any notified Redeployment Candidates, to determine whether they may provide suitable alternative employment opportunities.

NHS Wales LHBs and Trusts will not therefore arrange open competition interviews for new vacancies, until potential eligible redeployment candidates have been considered for these posts, via the agreed recruitment process.

5.1 Executive Organisational Change Redeployment Lead

The Director of Workforce and OD will have overall organisational responsibility for ensuring the effective resourcing and operation of this Policy.

It will also be their role to facilitate local discussions with senior managers and appointing managers within their own organisation (as well as cross organisational discussions with their counterparts), where it is identified that there are challenges, which may be preventing an employee being deployed to a suitable alternative post, which they clearly have the knowledge, skill and experience to fulfil.

The Director of Workforce and OD will also ensure that their organisation implements a vacancy control process. This process will ensure that no vacancies are authorised to be advertised via an open competition process, until it has been confirmed that these vacant posts will not offer a potential suitable alternative opportunity, to any Redeployment Candidates.

5.2 Head of Department

Initial responsibility for finding suitable alternative employment opportunities for an employee, displaced from within a departmental structure, will rest with the Head of Department*****

The Head of Department***** will initially be required to make every effort to find a suitable alternative position for the affected employee, within their new structure.

The Head of Department* must liaise with their HR representative, supporting the organisational change within their structure, to obtain and provide appropriate advice to the affected employee, in relation to the Organisational Change Policy, redeployment etc. This will be necessary to ensure that any employees designated as Redeployment Candidates receive timely and appropriate support and advice throughout the change process.

* **N.B.** This responsibility may rest with the head of department, functional head, line manager or professional lead, depending on the organisation's structure.

5.3 Nominated HR Officer/Manager

Each NHS LHB and Trust will nominate a HR Officer / Manager, to support Redeployment Candidates in their search for suitable alternative employment. Such HR nominees will act as the "Case Manager" for all such redeployments cases.

It will be the role of the nominated Case Manager to:

- work proactively with redeployment candidates to assist them to secure where possible suitable alternative employment, within 3 months of being designated as such;
- Seek completion of and signature on the Agreement Form to confirm that both parties (the employee and the LHB/Trust) are committed to work

together, within the specified period to find a suitable post;

- ensure the identified employee's information is recorded by the LHB / Trust in a system which can ensure appropriate management of all employees designated as Redeployment Candidates;
- review all vacancies that are submitted via the vacancy control process, to establish whether any of these posts could offer a potential suitable alternative opportunity, to redeployment candidates.
- make regular contact with redeployment candidates;
- as necessary, assist redeployment candidates to access NHS jobs and download vacancy information;
- ensure that all appropriate vacancies and the associated recruitment documentation are made available to redeployment candidates;
- discuss appropriate vacancies with redeployment candidates to assist them to assess and make an informed decision regarding their suitability of the post, with particular reference to the person specification, job description and any other information available, which is relevant to vacancy;
- as necessary, assist redeployment candidates with their application for suitable alternative posts, where it has been identified that they meet the essential selection criteria for a post;
- ensure that employees designated as redeployment candidates that meet the essential short-listing criteria are offered the opportunity to discuss the post with the appointing manager, prior to the agreed redeployment recruitment process;
- liaise with a more senior HR Manager, should an appointing manager fail to consider an employee, that meets the essential criteria for the post, to ensure the matter is investigated and resolved appropriately and in a timely manner;
- liaise with a more senior HR Manager, in view of the potential consequences, should a registered employee decline to apply for a potential suitable alternative employment post, which has been brought to their attention.
- provide *initial* constructive and timely feedback to the employee, following their application being considered for a post, as appropriate;
- as appropriate provide support to redeployment candidates in seeking approval for requests in respect of funding for training, to enable them to update their skills and / or knowledge or to re-train for work of a different type or in a different discipline / field;
- ensure employees designated as redeployment candidates have access to counselling / careers advice services, communicating the availability of such services as appropriate;
- ensure the details of redeployment candidates is maintained and kept up to date
- manage the transactional processes associated with redeploying an employee e.g. any agreed pay protection, terms and conditions protection, and excess mileage payments arrangements etc.

5.4 Appointing Manager

The appointing manager is responsible for;

- ensuring that redeployment candidates that express an interest in a vacancy and meet the essential person specification criteria for the post are offered the opportunity to have an informal discussion about the role, prior to the redeployment interview;
- ensuring where redeployment candidates, meet the essential person specification criteria for the post (based on the content of their formal application for the post) are offered a formal interview, prior to any open recruitment competitive process;
- seeking advice from the HR Case Manager where there is an application from a redeployment candidate for their post and they consider that they do not meet all of the essential elements of the person specification and provide written reasons.
- Approval to advertise the posts for open competition will not be granted until this information is provided by the appointing manager;
- notifying the HR Case Manager supporting the redeployment candidate of the outcomes from any meetings/interviews and providing initial feedback to them;
- notifying the candidate of their recruitment decision and providing constructive feedback, following a recruitment interview, should the employee not be appointable; and
- providing the HR Case Manager with a copy of the recruitment documentation, to ensure the reasons for not appointing are reasonable and documented.

5.5 Employee

All employees that are displaced from their substantive post and / or their post has been identified as being at risk of redundancy, as a result of an organisational change process, will be designated by their LHB and Trust as a Redeployment Candidate.

These Redeployment Candidates may also request that their details be notified to other NHS Wales LHB/Trusts for consideration of vacancies. The appointed HR Case Manager will ensure that the employee's details are forwarded to the LHB/Trust HR Case Manager, for consideration of vacancies within that organisation.

It will be the responsibility of these Redeployment Candidates to:

- maintain regular contact with their LHB/Trust HR Case Manager (and the HR Case Managers of any external LHB/Trust , which they have requested to be considered for), including notifying them of any protracted periods of absence, such as extended leave whether annual, maternity, sick leave etc., to ensure that information about vacancies can continue to be made available to them;

- complete and sign the Redeployment Registration Form, providing all relevant information / documentation in relation to contact details, employment record, qualifications, experience and role / job preferences;
- submit their Form to their HR Case Manager, so that their base-line skills levels and competencies can be established;
- complete and sign the Redeployment Scheme Employee Agreement Form to comply with the terms of the redeployment scheme and work proactively with the LHB/Trust to secure alternative employment within the prescribed 3-month timescale;
- access and review NHS jobs on a daily basis and other relevant recruitment media on a regular basis to assist in the identification of potentially suitable internal and external NHS vacancies;
- consider and pursue all reasonable suitable alternative employment opportunities within NHS Wales, expressing an interest in those vacant posts for which they may be potentially suitable (with reference to their knowledge, skills, qualifications and experience) and submitting an application;
- contact their HR Case Manager, should they require any additional information regarding a potential suitable vacant post, to enable them to make an informed decision regarding the suitability of the vacancy;
- consider alternative posts, which would be regarded as suitable except for the rate of pay, terms and conditions of service, location etc. In such circumstances the employing LHB / Trust organisation will give full and fair consideration to offering pay and / or terms and conditions of employment protection and / or excess travel expenses etc. in accordance with the provisions set out in the Organisational Change Policy;
- co-operate fully and to exercise reasonable flexibility when considering and being considered for suitable alternative posts, to ensure where possible that they are able to secure substantive employment, prior to the expiry of their Redeployment Candidate status. Whilst reasonable attempts will be made to accommodate employee's preferences, they should not unreasonably refuse a post within a reasonable travelling distance or at a lower band, as pay protection will be given in accordance with the terms set out in the OCP. Should an employee unreasonably refuse a post that has been assessed as one which could provide suitable alternative employment, the matter will be dealt with in accordance with Section 6.6 of this policy "Refusal of an Offer of Suitable Alternative Employment";
- contact their HR Case Manager, should they wish to consider attending a training course, to enable them to update their skills and / or knowledge or to re-train for work of a different type or in a different discipline / field;
- complete the application process in respect of all identified suitable alternative post and attend all associated arranged meetings and interviews;
- approach their manager to request reasonable time off work to find suitable alternative employment, including attendance at interviews and

meetings in relation to their redeployment and training events;
- meet with a senior HR Manager should their HR Case Manager believe that they have unreasonably refused an offer of suitable alternative employment.

All Redeployment Candidates will be entitled to be accompanied by a trade union representative or a work colleague, if they so wish during any redeployment related meetings.

5.6 trade union / Professional Organisation Representative

At the request of the displaced employee the trade union / professional organisation representative is responsible for;

- Supporting the employee and attending meetings with them in relation to their redeployment. This will **not include** attendance at formal meetings with an appointing manager to discuss a specific post or recruitment interviews;

- Working with the Health Board/Trust representatives to address any concerns they may have regarding the organisation and/or the employee's adherence to the provisions of this policy, seeking to resolve any issues of concern, informally where possible.

6. Interview and appointment process

6.1 Process for identifying suitable alternative employment vacancies

All recruitment to suitable alternative employment vacancies must be undertaken in line with the NHS Wales Shared Services Recruitment Process and Procedures.

The person specification and job description for a post will be the principal documents used as the means by which the HR Case Manager and the Redeployment Candidate will identify and determine potential suitable alternative posts.

To be eligible for consideration for vacant posts, the employee must be able to demonstrate that they meet all of the essential person specification criteria for the post.

Whilst consideration of suitability will necessarily focus on knowledge, skills, experience and qualifications, it will also be necessary to take into consideration any personal circumstances which may render the post unsuitable such as caring responsibilities and hours of work. In addition, due regard must be given to the requirement to make reasonable adjustments to posts in accordance with the Disability Discrimination Act (2005) and the requirement not to unlawfully discriminate against disabled staff seeking redeployment opportunities, by providing staff at risk of redundancy with preferential treatment.

An employee will not have a right to more than one offer of suitable alternative employment, unless it can be established that the offer did not in fact provide them with a suitable alternative post.

6.2 Identified appropriate suitable alternative employment vacancies

Where a post has been identified as a potential suitable post for a Redeployment Candidate, the HR Case Manager will advise the appointing manager that they are required to consider and offer the employee an interview. Such vacancies will not be the subject of an open competition recruitment process, unless an appointment cannot be made from any eligible Redeployment Candidates.

If a full skills match does not exist at the outset, the vacancy may still be deemed suitable if it is agreed that after a trial period (see 6.6 below) and/or a period of training it is assessed that there is certainty that the full skills match would be achieved.

6.3 Appointment process

Where it has been identified and agreed that an employee on the Redeployment Candidate list is able to demonstrate, via their job application that they meet the essential person specification criteria for a vacant post, the appointing manager must meet with them to discuss the post and role requirements, prior to the recruitment interview process.

The purpose of the meeting will be to establish whether the employee is potentially appointable to the post. This will ensure that both parties are confident going into the recruitment process that the post may provide suitable alternative employment and could potentially be filled by the identified employee.

Where only one individual is involved, the decision to offer a post will still be based on whether the individual could reasonably be expected to undertake the duties to the required standard through a formal recruitment interview as the only candidate.

Should it be determined that the post would represent a significant change in responsibilities and pay band for the employee, a formal recruitment interview would be required under the normal open competition arrangements, to ensure that there was no unfair advantage in securing a promotion.

Where more than one redeployment candidate expresses an interest in a vacancy and they meet the essential person specification criteria for the post, they will all be interviewed for the post. The selection decision will be based on the appointed individual's ability, as demonstrated via the interview process, that they could undertake and perform in the role to the required standards.

Where appropriate, redeployment to a fixed term or temporary post on an interim basis will be considered if this is deemed to be in the best interests of an employee and the service. In such cases, the employee's designation as a Redeployment Candidate will be suspended, while they undertake this post. Their designation will

resume once the fixed term / temporary post comes to an end. In such circumstances, and in preparation for the ending of this post, the employee will be able to apply for vacancies as a redeployment candidate 3 months prior to the end of the fixed term/temporary arrangement.

Where an employee has been identified as suitable for a post and they can demonstrate that they meet the essential person specification criteria, and they are the only candidate, but they are not considered to be suitable by the appointing manager (either at the formal meeting or interview stage), the appointing manager will be required to provide written objective reasons to the HR Case Manager supporting the displaced employee, copied to the Director of Workforce and OD. The purpose of this written documentation will be to confirm the reason(s) for their decision, based on their deliberations against the post's essential person specification criteria, the job description and the candidate's knowledge, skills, qualifications and experience.

In such circumstances the appointing manager will not be permitted to proceed to appoint to the post, via a process of open competition, until they have met with a senior Workforce & OD Manager and / or executive lead (depending on the seniority of the post). The purpose of this meeting will be to discuss the decision, explore concerns and where possible reach a final conclusion, regarding whether the post would offer the employee suitable alternative employment.

Should it be concluded that the appointing manager can objectively justify not considering the employee for their post, the senior Workforce & OD Manager / executive lead will contact the HR Case Manager, to advise them of this decision.

If no other Redeployment Candidates are eligible/suitable for appointment to the post, the HR Case Manager should notify the appointing manager, to enable them to put the vacancy through the Vacancy Process for approval to advertise the post via a process of open competition.

6.4 Appointment to the post

Should an appointing manager recommend that a Redeployment Candidate is appointable following an interview process, they should inform the relevant HR Case Manager of the outcome, the associated terms and conditions of service and where applicable the agreed commencement date. The manager will confirm the recruitment decision in a letter to the employee, which will be followed up with the official appointment letter and contract.

It will be the responsibility of the relevant HR Case Manager to ensure that the employee's status as a Redeployment Candidate is changed.

6.5 Not recommended for appointment to the post

Should an appointing manager conclude that a Redeployment Candidate is not appointable following an interview process, they should not inform the candidate of the outcome until they have discussed their decision with the HR Case Manager. (depending on the seniority of the post). Initial contact regarding this matter, will be

via the HR Case Manager who will refer the matter to a senior HR Manager /Executive Lead, depending on the seniority of the post.

Prior to contacting the HR Case Manager, the appointing manager should ensure that they have produced written objective reasons, supporting their decision. These reasons should be mapped across to the post's person specification criteria, the job description content and the candidate's knowledge, skills, qualifications and experience and fully explain why the employee was unsuccessful at interview.

This information will be used for the following purposes:

1. to aid the discussion between the appointing manager and the senior Workforce & OD Manager / or their executive lead (depending on the seniority of the post).

2. to enable the HR Case Manager to provide initial constructive feedback to the unsuccessful employee.

It will be the responsibility of the appointing Manager to provide the unsuccessful employee with detailed and constructive interview feedback.

The purpose of the meeting between the Appointing Manager and the senior HR Manager / or the executive lead (depending on the seniority of the post), will be to discuss the decision, explore concerns and where possible reach a final conclusion, regarding whether the employee is appointable to the post.

Depending on the reasons given not to appoint the employee, the Appointing Manager may be asked to consider offering the employee a minimum four-week trial period, in accordance with the statutory provisions set out in the Employment Rights Act (1996), to provide them with training and adaptation time in the new post.

Should the appointing manager agree to allow the employee to take up the post on a trial period, they must be advised during this meeting that they would be required to confirm the employee's appointment as permanent, at the end of this agreed period, should the trial prove successful.

They should also be advised that should a trial prove unsuccessful, due to practical and reasonable reasons the employee would return, where practicable to their previous position on a supernumerary basis. Where a return to their previous post is not possible, the employee's former manager will allocate them meaningful work to undertake, in accordance with the provisions set out in **Section 7** of this policy.

Should it be concluded that the appointing manager's decision not to appoint the employee was justified and it would not be appropriate in the circumstances to offer a trial period, the senior Workforce & OD Manager / an executive lead (depending on the seniority of the post) will contact the HR Case Manager, to advise them of this decision.

6.6 Trial period

In accordance with the employee's statutory rights, as set out in the Employment Rights Act (1996) redundancy provisions, they are entitled to a four-week trial period, to provide them with some time to decide whether they consider the new post to be suitable. A trial period may also be used where the suitability of the post is disputed or unclear to either the LHB/Trust or the employee. A longer trial period may be agreed by the appointing manager and the employee, in limited circumstances, for example to provide training or re-training.

Where a trial period is agreed, the appointing manager and the employee should establish in writing, the agreed duration of the trial and how both parties will assess the suitability of the post during and / or at the end of this period.

At the end of the trial period, it is the responsibility of the appointing manager to inform the employee and the HR Case Manager whether or not the appointment to the post has been regarded as successful. Where the employee proves to be competent in the new post at an early stage, the appointment can be confirmed at any stage prior to the end of the 4-week period.

Where the appointment is deemed not to have been successful at the end of the agreed trial period, the written objective reason(s) must be provided to the relevant HR Case Manager using the Record of Trial Redeployment Period Form.

Where the manager concludes that the trial appointment has been unsuccessful and the employee is not suitable for the post, they will be responsible for putting the reason(s) in writing to the employee using the Record of Trial Redeployment Period Form, copied to the HR Case Manager.

Where the employee concludes that the trial appointment has been unsuccessful and the post is not suitable for them, they will be responsible for putting the reason(s) in writing to the Appointing manager and the relevant HR Case Manager using the Record of Trial Redeployment Period Form.

The written reasons will be reviewed by the HR Case Manager and discussed with the senior HR Manager/ Executive Lead (depending on the seniority of the post), to determine what follow up action may be required.

Where it is concluded that an employee has **unreasonably** refused an offer of suitable alternative employment, following a trial period, their entitlement to a redundancy payment will be forfeited and the LHB / Trust reserves the right to proceed to terminate their employment.

Where it is established that an employee has **reasonably** refused an offer of suitable alternative employment, following a trial period, they will be required to continue to seek suitable alternative employment in accordance with the provisions set out in this policy.

6.7 Refusal of an offer of suitable alternative employment

Where the senior HR Manager/ executive lead concludes that an offer of suitable alternative employment has been **unreasonably** refused, a formal meeting will be held with the employee.

The employee will have the right to be accompanied by a trade union / professional organisation representative or a work colleague. The purpose of this meeting will be to fully explore and discuss the reasons for the refusal and to establish whether the reasons are valid and reasonable in the circumstances.

Where it is established that the employee has unreasonably refused an offer of suitable alternative employment, their entitlement to a redundancy payment will be forfeited and the employing LHB / Trust may reserve the right to proceed to terminate their contract of employment. An employee may appeal against this decision directly in accordance with the All-Wales Respect and Resolution Policy.

Where it is established that an employee has reasonably refused an offer of suitable alternative employment, following a trial period, they will be required to continue to seek suitable alternative employment in accordance with the provisions set out in this policy.

6.8 Failure to secure a suitable alternative employment post

If at the end of the 3 month redeployment period a Redeployment Candidate has not secured suitable alternative employment, as a last resort, the LHB / Trust organisation may need to consider terminating the employee's contract of employment by reason of redundancy, in accordance with the provision set out in the Employment Rights Act (1996), Section 16 of the NHS Agenda for Change Terms and Conditions of Service Handbook and their contract of employment.

No redundancy payment will be made where suitable alternative employment has been identified but the displaced employee has unreasonably refused the post.

6.9 Posts advertised under open competition

Should no Redeployment Candidate meet the specified essential person specification criteria and the vacancy is not considered to provide a suitable alternative employment opportunity, then posts will be advertised via the open competition process. In these circumstances Redeployment Candidates may apply for the post, in accordance with the LHB's/Trust's recruitment and selection policy. As such these candidates will be considered for the post, in competition with other applicants.

Where a Redeployment Candidate secure a post via a process of open competition, they are required to advise their HR Case Manager as soon as practicably possible, to ensure that their status as no longer being a Redeployment Candidate is appropriately recorded.

7. Allocation of meaningful work

Wherever possible, employees who have been displaced and / or identified as being at risk of redundancy will remain in their original post, and continue to report to the appropriate manager.

Where it is not possible for an employee to remain in their original post and they cannot be immediately redeployed to a suitable permanent post, their manager in conjunction with the Head of Department / Function will find and allocate the employee, meaningful, interim work

In such cases, the employee is expected, through discussion and agreement with their Head of Department / Function, to be flexible regarding the type and nature of work that they are allocated to undertake, to ensure that the LHB / Trust can provide continuity of service and meet its operational needs, during the period of organisational change.

In any such discussions, the employee would be offered reasonable interim work, which was broadly commensurate with their substantive pay band / grade and which would best utilise their knowledge, skills, experience and expertise. The employee's personal circumstances and commitments outside of work would also be taken into consideration, during any such discussions.

The employee would be entitled to be accompanied by a trade union or work colleague, should they so wish during any meetings to discuss this matter.

8. Secondments and fixed term posts

A Redeployment Candidate who takes up a secondment or fixed term post will have their displaced / at risk status suspended until the contract comes to an end.

If the secondment or fixed term post is for less than 12 months, they would have the balance of their 3 months as a Redeployment Candidate reinstated and the search for suitable alternative employment continue from the date of the termination of the fixed term / temporary post.

If the secondment or fixed term post is for more than 12 months, then the employee will become displaced 3 months before the secondment or temporary post is due to end and their status as a Redeployment Candidate will be re-activated for a further 3 months at that stage.

9. Pay Protection

Where an employee accepts a suitable alternative post, which attracts a lower salary, their pay will be protected in accordance with the **Arrangements for Salary Protection**, set out in **Section 10** of the **Organisational Change Policy**.

10. Grievance and right of appeal

Where an employee has a grievance, in respect of the application of the Organisational Change Redeployment Policy or the management of their case, they may follow procedures as set out in the All-Wales Respect and Resolution Policy.

Should an employee raise a grievance which is not entirely within the control of their LHB / Trust (*for example; failure of an external LHB / Trust to consider an application from an eligible displaced* employee), their organisation should treat the matter in the same way as any other internal grievance.

In such circumstances the employing LHB / Trust will be required to make the third-party organisation aware of the grievance and their need to fully engage, participate and contribute to the investigation process. Where appropriate the employing LHB / Trust will also inform the third-party organisation of their obligation to be involved in the implementation of any agreed resolution, decision or recommendations.

Once this process has been exhausted the employee will have no further recourse to the All-Wales Respect & Resolution Policy.

11. Monitoring and review

This Policy will come into effect in December 2025 and will be used solely for the purpose of managing employees who are displaced / at risk during the implementation of an organisational change process.

The Welsh Government in conjunction with the NHS Wales LHB / Trust will regularly monitor and review the effectiveness and any issues of concern, regarding the implementation of this Policy and the local management arrangements for supporting Redeployment Candidates.