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This policy applies to all staff employed by Pennine Care NHS Foundation Trust. The Policy is based on the minimum requirements of legislation and nationally agreed conditions.	
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The purpose of this document is to set out the policy and procedure for dealing with redundancy after all reasonable steps have been taken by Pennine Care and the employee to explore suitable alternative employment.	
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HR041	Redeployment Policy
HR050	Managing Organisational Change Policy
Other external documentation/resources to which this policy relates:	
	Employment Rights Act 1996
	ICER 2004
	ACAS Guidelines
	Finance Act
	Agenda for Change Handbook

CQC Regulations**This Policy supports the following CQC regulations:**

Regulation 18	Staffing

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1. INTRODUCTION

Pennine Care NHS Trust will endeavour to provide security of employment for its employees. However, that may not always be possible due to, for example, funding problems, new working policies and technological developments. In these circumstances, it is the Trust's duty and responsibility to seek to offer suitable alternative employment to any employee whose job is redundant. Compulsory redundancy will be regarded as a last resort. Compulsory redundancy will be undertaken in consultation with individuals affected and the appropriate recognised trade unions.

2. PURPOSE

To set out the policy and procedure for dealing with staff retention, and redundancy after all reasonable steps have been taken by Pennine Care and the employee to explore suitable alternative employment.

The key to maintaining commitment is purposeful, consistent and sensitive handling of employees anxieties and concerns about their future. This is underpinned by the following values;

- **Fairness** – Employees have the right to be treated fairly, with dignity and respect. The application of this policy will ensure that all staff are treated fairly in line with statutory regulations throughout any period of change.
- **Consistency** – Managing change in a consistent manner is imperative if employees are not to feel disadvantaged. Managers, working in partnership with staff side representatives, will play a key role and will ensure that the timing and criteria of key decisions on for example, staffing arrangements, selection procedures and, where necessary, redundancies are consistent and in line with current legislative provisions and good employment practice.
- **Openness** – Employees will be fully briefed and informed to help them to contribute to the management of change. All change management must be open and honest.

3. RESPONSIBILITIES, ACCOUNTABILITIES AND DUTIES

Managers

Managers should not underestimate the effects that potential organisational change and being placed at risk of redundancy may have on staff health, morale, motivation and behaviour. Managers are responsible for providing information about the potential for organizational change in a timely, open, honest and understandable way.

Managers should observe the requirements of this procedure.

Managers should plan ahead as far as possible. This will allow time to make staff reductions by natural wastage.

It is the responsibility of the Manager to support directly affected staff that are at risk of redundancy in seeking suitable alternative employment.

Workforce & OD

The Workforce & OD Department is responsible for ensuring that appropriate advice and guidance on the use of this policy is provided to all parties in the change process. A member of the Workforce & OD Department will be involved in all formal meetings where staff and/or their representatives are being formally consulted about changes affecting the workplace.

4. RIGHT TO BE ACCOMPANIED

Employees will be made aware of their right to be accompanied at any meetings with Management where they are being formally consulted about organisation changes that may affect their contract of employment by either an accredited Staff Representative(s) or by a fellow worker who must be an employee of the Trust.

5. DEFINITIONS

Re-Organisation

Re-organisation or Organisational Change means any significant change in the organisation of health service provision, examples include where the Trust examines its structures with a view to:

- Rationalise service provisions
- Re-organisation of the staffing structure of a department
- Closure of wards/departments
- Termination of service contract
- Skill mix reviews
- Relocation of services

The aim of any such change must be to ensure that services are as efficient as possible in order to deliver service demands.

Redundancy

As defined within the Employment Rights Act 1996, an employee is dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to a position whereby:

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

Redundancies can occur in a variety of ways:

- Entire service or a particular workplace is closed down
- A job is disestablished as there is no longer any need for the work to be performed.
- There is a reduction in the Trust's requirement for employees to do their work. This may arise from there being less work or from the need to have fewer employees for the same amount of work.

At Risk

This is defined as:-

The individual is under contractual notice of termination of employment due to redundancy. Any individual with 'at risk' or 'formally at risk' will be afforded preferential rights.

There are statutory responsibilities that are afforded to certain staff groups e.g. staff on maternity leave, the HR Business Partner supporting the process will advise on these where appropriate.

6. THE CONSULTATION PROCESS

The Purpose of Consultation

When it has become apparent that any organisational change or other developments will affect the workforce, then the employees concerned and their representatives must be consulted. This consultation must begin at the earliest opportunity.

Consultation is the process where management and employees and/or staff representatives jointly examine and discuss issues of mutual concern. Consultation does not remove the right of managers to manage, they must still make the final decision, but it does impose an obligation that the view of the employees will be sought and considered before decisions are taken (ACAS Guidelines).

The Information and Consultation of Employees Regulation 2004 (ICER) introduce all procedures requiring employers to inform and consult with the employees in all undertakings.

The Trust will provide in writing to the recognised Trade Unions information relating to:-

- The reason for the proposals
- The numbers and descriptions of employees affected
- The total number of employees in the description concerned
- The proposed method for carrying out redundancies and the timescale
- The proposed method of calculating redundancy payments

The Trust will carefully consider representations made by the employee and appropriate recognised trade union before coming to a decision on proposed redundancies.

Consultation will be with a view to seeking agreement on ways to avoid dismissals reducing the number of employees to be dismissed and how to mitigate the effect of dismissals. The outcome will be confirmed in writing to the individual employee concerned and the appropriate recognised Trade Union.

7. MANAGING THE CONSULTATION PROCESS

Consultation will be carried out with the relevant staff representatives for the affected group of staff.

Staff side representatives will be consulted on the timetable and progress should be made in a realistic and timely manner.

8. LEGAL REQUIREMENT TO CONSULT WHERE REDUNDANCIES ARE POSSIBLE

Where organisational change may lead to staff being made redundant then the Trust has a legal obligation to inform and consult the relevant staff organisations representing the employees whom it is proposed to make redundant, and to consult individuals affected.

The legal duty to inform and consult appropriate representatives depends on the number of employees it is proposed to make redundant. If 100 or more redundancies are proposed, consultation must begin at least 45 days before the first dismissal takes place. If more than 20 but less than 100 redundancies are proposed, consultation must begin at least 30 days before the first dismissal takes effect. If less than 20 redundancies are proposed, the Trust will inform and consult individual employees as appropriate.

Employees who are potentially at risk of redundancy will be notified of this possibility, together with details of the steps that will be taken to seek to avoid redundancy at the earliest opportunity.

The purpose of consulting with the recognised staff organisations in these circumstances will be to improve communications and try to:-

- Reach agreement on ways to avoid redundancies
- Reduce numbers to be made redundant
- Minimise consequences of the redundancies
- Agree selection criteria for redundancy.

9. MEASURES TO AVOID REDUNDANCIES

When management are considering the possibility of redundancies, all reasonable steps to minimise the effect of redundancy will be considered.

- Natural staff turnover
- Reducing the use of temporary staff including bank/agency within the area of potential redundancy and in other identified areas of potential redeployment

- Reducing overtime
- Where redundancies arise from a restructure within or across Departments, any new posts will be 'ring fenced' to employees at risk of redundancy according to the particular circumstances. Such posts will be open to other applicants after employees at risk and who apply have been considered.
- Redeployment into suitable alternative roles in line with the Trust's redeployment procedure.

10. VOLUNTARY REDUNDANCIES AND VOLUNTARY EARLY RETIREMENT

When the Trust is considering possible redundancies, it will seek and consider voluntary redundancies and early retirements before finalising any proposals for compulsory redundancy. The 'catchment' area for volunteers for redundancy and early retirement will be considered in consultation with the relevant staff organisations during the consultation process.

Applications from volunteers may not necessarily be agreed to by management. The financial consequences of agreeing to voluntary redundancy or early retirement will be a major consideration. The Trust might, at its discretion, refuse the application. If an employee volunteering for redundancy or early retirement is refused the reason will be confirmed in writing. Where there are more applications for voluntary redundancy than are needed to cope with the problem, volunteers will be selected in accordance with predetermined criteria, which will be the subject of consultation with appropriate staff side representatives.

11. SELECTION CRITERIA FOR COMPULSORY REDUNDANCY

If the measures to avoid compulsory redundancy (section 3) does not result in the necessary reduction in posts, then the Trust may introduce compulsory redundancies as a last resort.

- a) Where there are a number of employees performing basically the same job and the number of employees doing that job are to be reduced then this will be done by a selection process.

Management will identify how many such posts will remain and, therefore, how many posts have to be disestablished. The remaining posts will then be filled following a determined redundancy selection process with the potentially redundant staff.

- b) Where a redundancy situation results from a restructuring but some posts within such a restructuring remain substantially the same, those post-holders will be confirmed as remaining in these jobs.
- c) If however, other posts are substantially altered then those post-holders could be in a redundancy situation. For example, if the existing posts are merged into one post then the two staff in post are both in a redundancy situation which will be dealt with by both

being interviewed for the one resulting post. The most suitable person will be appointed to the post. The person not appointed to a new post remains in a redundancy situation and attempts will be made to redeploy such employees.

- d) If management propose to disestablish a unique post, there is no selection process. That post-holder is in a redundancy situation.

12. POSSIBLE REDEPLOYMENT OF POTENTIALLY REDUNDANT STAFF

Employees whose former posts are disestablished including those who may have unsuccessfully competed for new posts in a restructuring are in a redundancy situation. However, before employees in this situation are declared compulsory redundant, reasonable efforts will be made to redeploy such staff.

Redeployment Process

The Trust has an established redeployment process which is supported by the Trust's Redeployment Policy. Potentially redundant employees will be considered for vacant posts without competition from employees in secure employment or applicants who are not employees of the Trust. The duties of the vacant post must represent suitable alternative employment, with retraining where appropriate. Potentially redundant employees in such circumstances will be interviewed for vacant posts unless they are not suitable for such alternative employment.

If reasonable retraining is felt by management to be appropriate to enable a potentially redundant employee to be redeployed into a vacant post, such retraining will be provided.

13. COMPULSORY REDUNDANCIES

Notice Periods

If redeployment is not practical and compulsory redundancy is necessary, management and HR will discuss this with the appropriate recognised Trade Union and will meet with and advise the employee accordingly. The employee will be given the maximum possible notice of dismissal. As a minimum, the notice period will be:

Either The contractual notice as detailed in their Written Statement of Terms and Conditions of Service

Or One week's notice for each year of reckonable continuous service up to a maximum of twelve weeks.

Management may decide to pay a redundant employee in lieu of notice.

Facilities for Employees under Notice of Termination

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

- Given reasonable paid time off to look for new employment and/or make arrangements for training to assist them to find new employment
- Given advice and guidance on job searching and applying for jobs

- Offered counselling and support where necessary

Staff Support

Individual counselling should be made available on a confidential basis to help employees to cope with the implications of change. A referral through the Trust's Health and Wellbeing service can be made by the Line Manager with the staff member's consent or the individual can self-refer should they wish to do so.

Appropriate career counselling and support should be available, if necessary, to all affected employees during the period of change. This is accessible through the OL&D department and Workforce.

14. REDUNDANCY PAY

Qualification for Redundancy Payments:

To qualify for a redundancy payment the member of staff must be an employee, working under a contract of employment for an NHS employer. 'NHS employer' means any of the organisations listed at Annex A of the A4C handbook and any predecessor or successor body. Non-executive Directors of NHS organisations do not qualify. Contracts of employment may be written or verbal, and can be for a fixed period or be continuous. In law employees have a contract as soon as they start work and accepting and undertaking the work required they accept the terms and conditions offered by the employer. To qualify for a redundancy payment the employee must also have at least 2 years of continuous full-time or part-time service. A redundancy payment will only be paid where the employee is dismissed by reason of redundancy.

Calculation of Redundancy Payment

The redundancy payment will take the form of a lump sum, dependent on the employee's reckonable service at the date of termination of employment. The lump sum will be calculated on the basis of one month's pay for each completed year of reckonable service, subject to a minimum of two years' continuous service and a maximum of 24 years' reckonable service being counted.

- For those earning less than £23,000 per year (full time equivalent) the redundancy payment will be calculated using notional full-time annual earnings of £23,000, pro-rated for employees working less than full time.
- For those earning over £80,000 per year (full time equivalent) the redundancy payment will be calculated using notional full-time annual earnings of £80,000, pro-rated for employees working less than full time. No redundancy payment will exceed £160,000 (pro rata)
- Fractions of a year of reckonable service will not be taken into account.

Early Retirement on Grounds of Redundancy

Qualification Criteria

Members of the NHS Pension scheme who are made redundant and meet the conditions set out below may choose to retire early and use the redundancy payment to buy out all or

part of the pensions benefit reduction. To qualify for early retirement the member of staff must:

- Be an active member of the NHS Pension Scheme in respect of the employment that is being terminated
- Have at least two years' continuous service and two years' qualifying membership of the NHS Pension Scheme
- Have reached the minimum pension age. The Finance Act 2004 allows for protection of a minimum pension age of 50, for members who had the right to take reduced benefits on 5 April 2006. This protection may continue, as long as member retiring early after 6 April 2010 take all their benefits payable under scheme rules. In the NHS Pension Scheme, for those without this protection, members who first joined and some who returned to the scheme after 6 April 2006, minimum pension age is 55.

Exclusions from Eligibility:

Employees shall not be entitled to redundancy payments or early retirement on the grounds of redundancy if:

- They are dismissed for reasons of misconduct with or without notice
- At the time of the termination of the contract have obtained without a break, or with a break no exceeding four weeks, suitable alternative employment with the same or another NHS employer
- Unreasonably refuse to accept or apply for suitable alternative employment with the same or another NHS employer
- Leave their employment before expiry of notice, except if they are being released early
- They are offered a renewal of contract (with the substitution of the new employer for the previous NHS one)
- Where their employment is transferred to another public service employer who is not an NHS employer

15. CLAIMS FOR REDUNDANCY PAYMENT

Claims for redundancy payment or retirement on grounds of redundancy must be submitted within 6 months of date of termination of employment. Before payment is made the employee will certify that:-

- They had not obtained, been offered or unreasonably refused to apply for or accept suitable alternative NHS service employment within 4 weeks of the termination date.
- They understand that payment is made only on this condition and undertake to refund it if the condition is not satisfied.

16. EQUALITY OF TREATMENT

The Trust will ensure that the application of any part of this policy does not have an effect of discriminating, directly or indirectly, against staff on grounds of race, colour, age, nationality, ethnic (or national) origin, sex, sexual orientation, marital status, disability.

Further, under no circumstances shall part time staff be singled out for redundancy selection on different criteria to those applied to full time staff.

17. APPEALS

Should an employee feel that any element of this policy has been applied unfairly, or that the selection criteria for redundancy has been applied unfairly, they have a right to submit an appeal

If they choose to exercise this right, the employee must do so in writing, stating clearly their grounds for submitting the appeal, to the Director of Workforce and OD within 10 working days of the date they were given the decision about which they are appealing.

Final appeals will normally be heard by a Trust Board panel which will consist of one Executive Director and One Non-Executive Director and will be supported by a HR Representative, where possible, not previously associated with the case. The employee will have the right to representation and will be notified of the outcome of the appeal hearing in writing.

18. REDUNDANCY COST LIABILITY

Liability for redundancy costs ordinarily sit with the employing Divisional Business Unit. Where staff members are redeployed into fixed term positions which result in a redundancy following the termination of these fixed term contracts, redundancy costs will remain the responsibility of the Divisional Business Unit who put the staff member at risk.

19. EQUALITY IMPACT ANALYSIS

As part of its development, this document was analysed to consider / challenge and address any detrimental impact the policy may have on individuals and or groups protected by the Equality Act 2010. This analysis has been undertaken and recorded using the Trust's analysis tool, and appropriate measures will be taken to remove barriers and advance equality of opportunity in the delivery of this policy / procedure

20. FREEDOM OF INFORMATION EXEMPTION ASSESSMENT

Under the Freedom of Information Act (2000) we are obliged to publish our policies on the Trust's website, unless an exemption from disclosure applies. As part of its development, this policy was assessed to establish if it was suitable for publication under this legislation. The assessment aims to establish if disclosure of the policy could cause prejudice or harm to the Trust, or its staff, patients, or partners. This assessment has been undertaken using

the Trust's Freedom of Information Exemption Guide, and will be reviewed upon each policy review.

21. INFORMATION GOVERNANCE ASSESSMENT

This Policy has been analysed to ensure it is compliant with relevant information law and standards as in place at the time of approval, and are consistent with the Trust's interpretation and implementation of information governance components such as data protection, confidentiality, consent, information risk, and records management.

Compliance will be reviewed against any changes to legislation / standards or at the next review of this document.

22. SAFEGUARDING

All staff have a responsibility to promote the welfare of any child, young person or vulnerable adult they come into contact with and in cases where there are safeguarding concerns, to act upon them and protect the individual from harm.

All staff should refer any safeguarding issues to their manager and escalate accordingly in line with the Trust Safeguarding Families Policy and Local Safeguarding Children/Adult Board processes.

23. MONITORING

The effective application of this policy, including adherence to any standards identified within will be subject to monitoring using an appropriate methodology and design, such as clinical audit.

Monitoring will take place on a biannual basis and will be reportable to the Quality Group via the Clinical Effectiveness and Quality Improvement Team.

24. REVIEW

This policy will be reviewed three-yearly unless there is a need to do so prior to this; e.g. change in national guidance.

25. REFERENCES

Employment Rights Act 1996
ICER 2004
ACAS Guidelines
Finance Act
Agenda for Change Handbook
Equality Act 2010
Freedom of Information Act (2000)