

NHS Education for Scotland
ORGANISATIONAL CHANGE POLICY AND PROCEDURES
(To include NES REDEPLOYMENT POLICY AND GUIDANCE)

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NB. This policy will be reviewed biennially. However, during the initial 12 month period NES will regularly review the Policy in partnership to ensure that it meets the needs of NES.

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1. ORGANISATIONAL CHANGE POLICY

1.1 Introduction

NES recognises that, as part of its drive to continually improve the quality and effectiveness of its business and/or in response to national or local initiatives, it will need to make changes to the way it organises and structures its operations from time to time. When these changes affect the way NES employs its staff and/or the terms and conditions of employment, it is referred to as “organisational change”. This type of change is covered by this policy, and the detailed procedural arrangements that accompany it.

In addition NES has developed a Managers Toolkit to complement the Organisational Change Policy.

NES has established a Change Management Programme Board (CMPB) to provide an overview, in partnership, of organisational change proposals across NES, and to ensure that all such change is approached with consistency and equity.

NES understands that employees may experience concern about the impact on them of organisational change and will, therefore, make every effort to ensure the continued employment of employee(s) by utilising redeployment and job related retraining opportunities when planning for and implementing change.

NES will seek to ensure that no-one is treated in an unlawful and discriminatory manner in the workplace because of their age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity status, race, religion or belief, sex, sexual orientation. This applies to all employment practices including the management of organisational change. Every post holder affected by organisational change will be dealt with on a fair and equitable basis taking into account employment rights.

The Scottish Government Health & Social Care Directorate currently has a no compulsory redundancy position across NHS Scotland. Wherever possible, NES will redeploy employees affected by organisational change into suitable alternative employment. If an employee is placed on the redeployment register they may request early retirement/voluntary severance. Further information is included in Section 2.4.

This policy requires that those involved in the organisational change and redeployment processes adopt behaviours which will ensure adherence to the five Staff Governance Standards i.e. that staff are:

- well informed
- appropriately trained and developed
- involved in decisions
- treated fairly and consistently, with dignity and respect, in an environment where diversity is valued: and

- provided with a continuously improving and safe working environment, promoting the health and wellbeing of staff, patients and the wider community.

1.2 Purpose of the Policy

The purpose of this policy and the detailed processes which accompany it is:

- to provide a framework by which NES will implement any proposed change to the nature and size of its workforce
- to provide detailed guidance on the steps to be taken during organisational change
- to ensure fairness and equity throughout the process ensuring employees are well supported and treated sensitively at all times
- to protect the continued employment of staff, wherever possible, and safeguard staff morale
- to ensure compliance with relevant legislation
- to ensure employees affected by organisational change are not discriminated against either directly or indirectly, on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity status, race, religion or belief, sex, sexual orientation.

1.3 Scope of the Policy

Major Organisational Change

This policy applies to any individual who holds a permanent contract of employment. It concerns any department, directorate or NES wide organisational change which may result in significant changes to job role, responsibility or grading and/or where there is a reduction in the number posts.

NES recognises the wide spectrum of organisational change ranging from minor to major.

Typically, the phrase “organisational change” is about a significant change in the organisation, such as reorganisation or adding a major new service. This is in contrast to smaller incremental changes, such as slightly amending either a job role or post to ‘tweak’ the structure as a natural aspect of evolution of the service.

Organisation-wide change to include Directorate or Departmental Change would be governed by the Change Management Project Board (CMPB). However, smaller Incremental ‘tweaking’ change would be presented to the CMPB as minor change, and if the CMPB agree can be dealt with routinely via the ETSR, Kenexa business case process.

Minor Organisational Change

Both Major and Minor changes would be considered in partnership by the CMPB in the first instance.

However, if the CMPB agree that the change are 'minor' then to negate further delay the proposed change would present to the ETSR via Kenexa using the business case pro-forma .

Additionally, as a new structure embeds into the organisation there may be exceptional occasions, within a reasonable timeframe, when minor 'tweaking' changes to a single post are required e.g. post is originally at one Band but requires to be amended to another band -higher or lower.

In this circumstance approval of a further enhancement to a specific post would be considered by the CMPB as a minor change and then re-directed to the ETSR.

If the minor change is approved, and it is not a vacancy, then the post holder would, in most circumstances, be defined as being within a ring-fence of one, and regraded to the revised banding.

NB: This route is singularly to allow the organisation to make minor organisational 'tweaks' to evolving structures in partnership, and is separate from job re-evaluation which would continue to be enabled via the re-evaluation process as set out in NES Policy (which complies with national arrangements).

Short Term Interim Arrangements pending Organisational Change

Where a new Unit or Directorate is established as an interim arrangement, any short term interim changes would be managed through the Kenexa process. If, however, these interim arrangements are in place beyond 6 months, this will require to be extended on the basis of major organisational change, and consultation with affected staff would be necessary.

Executive Status

In accordance with Scottish Government Health and Social Care Directorate guidance, different arrangements will apply to chief executives and executive directors. Where new structures may not allow, for example, scope for the same range of executive posts, consequently, the no detriment clause will not guarantee retention of executive status.

Time Limited Contracts

Fixed term contract holders are directed to the Policy and Procedures for Fixed Term Contracts. Time Limited temps to include agency staff and contractors would not routinely be the subject of organisational change.

Secondments

Individuals who are currently acting up or in a seconded post would normally have their substantive post taken into account in relation to organisational change.

1.4 Principles and Values

In order to maintain and improve the quality of service, minimise disruption, and maintain the commitment and motivation of employees, NES has agreed that the following principles and values should apply to the organisational change process:

- NES will work within the guidance issued by the Scottish Government Health & Social Care Directorate, the legislative framework and in accordance with ACAS guidelines with regard to the management of organisational change.
- The organisational change process will be applied with consistency and fairness across the organisation and a full Equality Impact Assessment will be carried out on any proposed organisational change.
- Wherever possible security of employment will be maintained, with redeployment and retraining being utilised, as appropriate, to enable the retention of employees within the service.
- In accordance with Scottish Government Health & Social Care Directorate guidance, any employee who is redeployed or appointed to a post as a result of organisational change will suffer no detriment to their terms and conditions of service. This includes full protection of income and earnings levels and all contractual entitlements (Appendix 7 provides further detail on pay protection arrangements).
- In circumstances where there are multiple instances of organisational change being considered, directorates will endeavour to manage and co-ordinate closely related organisational changes along the same time-scales. The objective will be to minimise disruption to both the workload and affected staff where possible.
- Those leading organisational change will work closely with HR and in partnership with Staff Side and will communicate with the affected employees openly, honestly and timeously about all proposed changes which may impact upon them and provide relevant support through the appraisal, KSF and personal development processes.
- Managers should not use the organisational change policy as a means of managing pre existing capability and or performance issues. Such issues should be addressed using the Management of Employee Capability Policy.

1.5 Consultation Requirements

Significant organisational change proposals must be supported by an Organisational Change Plan approved in partnership by the Change Management Programme Board. This proposal would cover implementation arrangements, including the consultation plan for staff (and external stakeholders) impacted by such a change. Following consultation the final business case for significant change will be subject to approval by the Executive Team.

NES is required to meet the statutory requirements with regard to formal consultation as guided by the HR&OD Team.

1.6 Duties

Managers Duties

- Managers are expected to review their area of responsibility to ensure that it meets the needs of the service and efficient work practice. Where the need for change is identified managers

must take account of how the proposed changes will impact upon other areas of work both within the Directorate and across Directorates.

- To treat all employees affected by organisational change with fairness and respect.
- To ensure a robust plan for any proposed organisational change is prepared for consultation with employees. This should include information on proposed changes to organisation structures and preparation of a business case, implementation plan and consultation plan.
- To give proper consideration to staff side and employees' views expressed during consultation processes giving appropriate feedback.
- To take advice and guidance from the relevant HR Business Partner.
- The Manager leading the organisational change should consider any employee within their team who is absent e.g. on secondment to another team or organisation and any employee on long term sickness, maternity or any other long term leave to ensure that they are consulted in line with this policy.

Employees Duties

- To seek advice from their Line Manager, Trade Union, Professional Association or HR representative where required.
- To participate in consultative processes in a constructive and timely manner
- To apply for suitable job opportunities during the organisational change process.
- To engage fully with the redeployment process and accept a reasonable offer of suitable alternative employment. To undertake such training as may be necessary in order to fulfil the new role effectively.

HR/OD Directorate

- To provide support and expertise to managers and employees during periods of organisational change, ensuring adherence to the Organisation Change Policy and Procedure and compliance with relevant legislation
- To provide advice and guidance to staff including signposting them to relevant sources of help and advice, e.g. independent counselling.
- To ensure that employees on maternity or adoption leave will be treated in accordance with Regulation 10 of the Maternity and Parental Leave Regulations 1999.

Staff Side/Trade Union/Professional Organisation Representatives Role

- Maintain detailed knowledge of the procedures set out in the policy in order to provide informed advice to members involved in organisational change.
- Represent, advise and support employees throughout the process.
- Liaise with management at all stages of the process to ensure compliance with statutory requirements and local frameworks.
- To be engaged and represent employee's during collective consultations and negotiations relating to this policy.

1.7 Monitoring

This policy will be reviewed biennially. However, during the initial 12 month period NES will regularly review the Policy in partnership to ensure that it meets the needs of NES and its workforce.

The statistical data will be included in the quarterly metrics and will be monitored to ensure fairness across the equality groups. The CMPB will continue to receive feedback from each of the Directorate's as change progresses across NES.

2. ORGANISATIONAL CHANGE PROCEDURES - PLANNING AND IMPLEMENTATION

2.1 Definitions

Throughout this guidance the following definitions are used:

“Organisational Change” – Any structural or managerial change where significant alterations in the way in which work, services and or functions are delivered which may result in changes to role, responsibility or grading and/or where there may be a reduction in the number of posts or working hours.

“In scope for Organisational Change” - ‘In scope’ for organisational change means that a post has been identified as being one that **may** be affected by the proposed organisational change, but where further work is required to determine the extent of the impact (e.g. to the individual’s workload or to their A4C banding). It is important to establish the full range of ‘in scope’ posts during the period of planning for the implementation of organisational change. Every attempt should be made to include all employees in these posts in the communications about the organisational change.

“Not Affected or Nominally Affected by Organisational Change” –

Post(s) where it was clear from the outset that the proposed organisational change would have no impact upon certain roles or

Post(s) which were initially identified as ‘in scope for Organisational Change’ but following further consideration the post(s) is defined as impacted only nominally.

“Ring Fenced” Ring Fence: A category in to which “in-scope” posts (see above), and the individuals currently occupying them, are placed where it is determined that as a result of organisational change their post will be affected. Employees in this category will be eligible for “matching” to posts in the new structure where appropriate (see below).

Employees who do not secure a matched post will be in the first group (along with staff on the Redeployment Register) from whom applications are sought for vacancies within the new structure and can apply for posts at any band. Where employees are applying for any post within the ring fence then the normal recruitment and selection process will apply.

New structures will normally be filled from the top down.

“Match”

Once in the ring fence, a matching process takes place. Where there are no significant differences between an individual’s current post and a post in the new structure then they are considered a

'match' for the new post.

Where the number of employees who match to a number of available posts is less than or equal to the number of posts available then those employees will be matched into those posts and no further processes will apply.

However, where the number of employees who match the new role description(s) exceeds the number of posts available, then a competitive process will be followed.

“Displaced and eligible for redeployment” - Employees who are in posts which are within the 'Ring Fence' but who are not successful in being matched to or being selected for posts within the new organisational structure are 'Displaced and eligible for redeployment'.

“Staff Side representatives” - The term “staff side representatives” refers to accredited trade union/professional representatives.

“Suitable Alternative Employment” - Posts will usually be of the same band or fulfilling similar functions, or posts with similar job or role descriptions (70% or more of the current job content) to the post held by employees on the redeployment register, prior to redeployment.

During redeployment, staff will be considered for a 'suitable alternative post'. A suitable alternative post is one which the Redeployment Sub Group considers to be a reasonable alternative to an employee's current job, taking into account:

- the Band
- accessibility (for disabled staff)
- geographical location
- knowledge, skills and abilities
- qualifications, training and performance appraisal
- job content
- personal circumstances.

For more details see 'Redeployment Matching Criteria' – (section 4.10).

There is a responsibility on staff to accept reasonable suitable alternative posts on appropriate band/terms and conditions of service and any reasonable changes in duties and responsibilities.

Pending redeployment employees may be considered for temporary filling of reasonable alternative assignments (See Section 3.3).

“Change Management Programme Board (CMPB)” – The CMPB is a partnership group whose role is to scrutinise organisational change projects, providing initial authorisation to new projects and monitoring progress.

“Kenexa” - Kenexa is a vacancy management and recruitment system used by NES to manage it's staffing establishment.

2.2 Support During the Change Process

NES is committed to ensure that its workforce and its representatives are kept informed of the need for change, and are consulted with and listened to prior to and throughout the process of change.

Change within the organisation can be unsettling and NES will endeavour to support employees through organisational change, this may include provision of counselling, training, redeployment and time off work to seek alternative employment.

Managers will have a key role in supporting their employees, and in addition support will be available from the HR Business Partner. Employees may also choose to make contact with their staff side representative.

Employees may contact the Independent Counselling & Advisory Services (ICAS). ICAS is available to both the employee and their immediate family members 24 hours a day, 7 days a week and will provide counselling over the phone or in person:-

Freephone 24 hours a day, 365 days a year Telephone Number 0800 072 7 072

(Minicom users should call: 0800 731 0302)

2.3 Initial Planning and Authorisation of Organisational Change

Initiatives to identify and implement performance improvement in NES will often involve considerable initial planning work to identify and document new processes and ways of working before it is possible to clarify associated new structures.

It is highly recommended that a small project team be established at the outset to plan and support all stages, and membership would include the appropriate HR Business Partners.

Once it becomes clear that the work being done is likely to result in significant Organisational Change, an application for approval to proceed must be made to the CMPB using the Template set out in Appendix 2. At this stage care should be taken to avoid upsetting or disconcerting individuals and/or team(s) unnecessarily.

The Template below* is designed to be completed at the stage where it is clear that organisational change is likely but prior to the detail of the new structure being fully understood or developed. The Template should be completed by the responsible Line Manager (or nominate), in partnership with the relevant HR Business Partner and should be submitted to the CMPB for approval to develop a detailed organisational change plan covering specific changes and their impact on the service, costs and staff. No formal consultation or communications covering the proposed organisation change should commence prior to approval by the CMPB.

The Template is designed to provide comfort to the CMPB in relation to the way in which the proposed organisation change will be managed, however it is also intended to act as a check list for the Line Manager (or nominate)s to ensure that they have considered the wide implications of their proposed change, including the range of staff who might be affected and this may include staff from other Directorates.

*See Appendix 2 for the Template that is required for CMPB approval prior to consulting widely.

2.4 Detailed Planning and Formal Consultation on Organisational Change

Advice must be obtained from HR at this stage as consideration would need to be given to e.g. Agenda for Change evaluations, formal consultation planning, allocating resource to enable and support the Change.

Following CMPB approval, managers and their project teams should develop their organisational change plans in detail and commence formal consultation in writing with staff 'in scope for organisational change' on the proposals.

Employees' in scope' for organisational change will have the opportunity to note their interest in Voluntary Severance/Early Retirement. This will enable their request to be considered alongside the Directorates change plans at an early stage of the Organisational Change process. Employees can request a confidential Voluntary Severance/Early Retirement estimate from HR. Should they indicate that they wish to proceed with their application, HR will notify their Line Manager. The Line Manager will meet with the employee to confirm that their request has been noted and provide a timeline as to when a decision will be made on whether the employee can be released. Normally employees will not be notified of a decision until all posts in the ring fence have been filled and the employee is placed on the redeployment register.

If an employee is placed on the Redeployment Register they may request early retirement/voluntary severance. This will be facilitated automatically provided that no suitable alternative post has been identified and Finance confirm that the request for voluntary severance is Affordable. Requests will be considered on an individual basis; however, the final decision will take into account NES's ability to fund such requests in any one financial year.

Consultation is a valuable step in ensuring the robustness of the final organisational change plans. Given that the organisational change involves changes that may affect job security and result in potential redeployment, staff should be encouraged to engage constructively in the process and their questions and comments should be respected. It is important to note that consultation and communication may include affected staff from other Departments/Directorates, and therefore Line Managers need to collaborate on the briefing and ongoing support to affected staff

The formal consultation process requires all affected staff to be provided with ggincluding:

- Initially required is the production of the proposed organisational change paper setting out:
 - † the rationale behind the organisational change, including the improvements and benefits which the change is intended to deliver
 - † an outline of the consultation plan
 - † details of posts in scope
 - † details of the proposed new structure including all posts and grades
 - † proposed draft job descriptions with an A4C outcome for the new structure

† details of the process and timescales to be adopted to populate the new posts within the proposed structure (e.g. matching, competitive process etc) † outline of any identified risks connected with the proposal.

- Notification and engagement with staff side representatives on the proposals and consultation arrangements set out in the organisational change management paper.
- As the process progresses utilise all reasonable communication routes e.g. staff meetings, individual meetings and regular communications via the intranet, letters, and e-mails giving the opportunity for questions and feedback
- All staff who are absent from work e.g. maternity or adoption leave, career break, secondment etc will be included in consultation, although it may be necessary to change how they are consulted if they are outwith the workplace. They must be considered for posts on a fair and equitable basis and there must be no detriment resulting from pregnancy/maternity leave/adoption leave or other types of special leave
- A reasonable period of time e.g. normally 15 to 20 working days (this can be variable depending on the extent of the change) for staff to reflect on the change, ask any further questions and give full feedback.

Managers must consider all consultation feedback formally and respond appropriately (e.g. through Frequently Asked Questions (FAQs), group staff meetings, individual feedback) before progressing. HR Business Partners can advise as required.

At the end of the initial consultation process, the Line Manager (or nominate) should communicate the outcome of the consultation to all staff normally within 4 weeks. This communication would indicate the changes to be made and provide staff with the final versions of all relevant documents and timescales for implementation.

Thereafter, managers need to communicate with staff regularly on progress and encourage questions and feedback.

Communicating and Recording External Stakeholder Engagement

Within the communications planning stage consideration should be given to the extent of stakeholder engagement. The level of engagement needs to be bespoke, and it might be that a less intensive and participatory level of engagement may be sufficient to achieve the organisational goals when implementing organisational change. The level of engagement required will be dependent upon the level of impact any change has on external stakeholders. (A template is included within the Organisational Change Toolkit for recording external engagement)

2.5 Final authorisation for organisational change

It is recommended that final authorisation be normally sought within a 3 month period. However, recognising that some changes require a significant period of scoping time then alternatively a progress report to the CMBP would be required at the three month point.

The organisational change management paper should be submitted to the Change Management Programme Board indicating how all the requirements of this stage will be covered.

Equality Impact Assessment **must be** carried out at this stage and reported to the CMPB.

At the end of the consultation process, when all feedback has been received and responded to, a feedback report outlining all the results and responses to the consultation process and a Business Case for the proposed Organisational Change should be submitted to and approved by the Change Management Programme Board prior to consideration and agreement by the Executive Team.

Should the Executive Team request further amendments to a previously agreed CMPB decision, then any such amendments would require to be agreed in partnership prior to progressing further.

Depending on the scope of the proposed organisational change, the Executive Team may refer the matter to the Board for final approval, in line with the NES Scheme of Delegation which is available to view on the Finance Section of the Intranet.

Once final approval is given by the Executive Team, implementation of the new structure can commence with the post holders being notified if they are Not Affected, Nominally Affected or in the Ring Fence.

Throughout the process on going communications and briefing must be established to keep all those staff in the Ring Fence informed of progress.

Following implementation the responsible manager will report to the CMPB on the lessons learned, to include evidence of benefits realisation.

2.6 Implementing the new Organisational Structure

Supported by HR, meeting(s) should be held with all staff within the 'Ring Fence' (see 2.1 Definitions) to explain the implementation process. Staff side representatives should be informed of staff meetings and may choose to be present at the meeting(s), and individuals will have the right to representation at their individual meetings.

Where new structures are being implemented a logical, fair and transparent process will be followed to fill posts in the new structure. This will take account of any reasonable adjustments that may be required to enable disabled applicants to be considered equitably.

Employees in the ring fence are expected to apply for suitable job opportunities during the organisational change process. Should an employee chose not to apply this may impact on any request for Voluntary Severance/ Early Retirement

If a member of staff considers the procedures have not been applied fairly to them, they should raise the matter informally with their Line Manager as soon as possible, and thereafter in writing within 10 days of receiving the job matching decision.

The process of filling the new organisational structure will take place as follows:

New structures will normally be filled from 'the top down'.

Starting with the highest graded post(s) in the new structure, consideration will be given to whether there is a 'match' between a new post and an employee within the 'Ring Fence'. A match will occur when:

- Their substantive post remains largely unchanged (at least 70% of a post in the new structure can be identified within their current responsibilities) and they spend at least 70% of their time on those responsibilities.
- The new post is normally at the same grade as the employee's substantive post.
- The number of available posts and postholders are equal. (Where there are more employees than posts available then a competitive recruitment process will normally apply).

When no matches are identified at the highest graded post(s) in the new structure, ring fenced staff will be notified and restrictively invited to apply for I post(s), together with staff on the Redeployment Register.

Where no appointment can be made from within the ring fence then the post will be defined as a vacancy and processed via the normal approval route i.e. Kenexa.

Once the possibilities for appointing staff within the 'Ring Fence' to the highest graded posts within the new structure have been exhausted through the process as defined above then the same process will be repeated for the next level of posts, and so on.

Once a member of staff has been 'matched' or appointed to a new post they will be removed from the 'Ring Fence' and will be precluded from applying for other posts until all staff in the 'Ring Fence' have been accommodated in the new structure or have been placed on the redeployment register.

All individuals who are 'matched' or appointed will meet with the relevant Line Manager (or nominate) to explore perceptions about the new role and discuss, review and agree any training or development needs. Reasonable training will be provided where necessary to equip staff with new skills or knowledge they may require.

Where individuals have applied for posts where appropriate and are unable to be accommodated in the new structure via the above process and all posts in the ring fence have been advertised to the ring fence then they are 'Displaced and eligible for redeployment'.

At the completion of this process all staff should be issued with notification in writing confirming their outcome.

Displaced employees

On occasion an employee may be displaced at the outset as there are no posts that they can apply for within the ring fence. Equally staff may be displaced due to insufficient new posts as compared to the numbers of staff within the 'Ring Fence'.

Once displaced employees will be supported to complete the Redeployment Pro Forma at http://intranet.nes.scot.nhs.uk/hr/standard_forms/

This must be submitted to the HR&OD Team within 14 days from receipt of the letter advising that employee is displaced. The employee will then be included in the NES Redeployment Register. Further details regarding the redeployment process can be found in Section 3 and 4.

There is a responsibility on staff to accept reasonable suitable alternative posts on appropriate band/terms and conditions of service and any reasonable changes in duties and responsibilities.

For the majority of circumstances whilst individuals are waiting to be redeployed they will remain within their current location until redeployment is concluded. However, if opportunities arise where individuals' skills could be utilised elsewhere then employees will be expected to co-operate with NES to temporarily fill reasonable alternative job roles. Temporary filling of alternative job roles would require to be agreed in partnership to include consultation with the individual or group of employees.

3. REDEPLOYMENT POLICY

3.1 Introduction

From time to time, whether as a result of displacement due to organisational change, or following application of formal processes relating to capability (whether due to ill-health or performance), or in advance of the non-renewal of a fixed term contract upon expiry, consideration will have to be given to exploration of suitable alternative employment.

The purpose of this policy is to ensure a fair and consistent approach to the process of exploring suitable alternative employment (i.e. 'redeployment') for all employees who are identified as being 'displaced'.

NES is committed to preserving security of employment for its employees and recognises that, beyond compliance with legislation and national policy, there are clear organisational benefits to adopting such a process.

Where individuals are able to be successfully redeployed, this serves to retain the valuable knowledge, skills and experience of affected staff within NES, which would otherwise have been lost if employment ended. It also serves to further a positive staff experience, which in turn will assist NES in achieving and maintaining exemplar employer status.

This policy has been developed in partnership with local trade union/professional organisation representatives. It meets the minimum standards set out within the Redeployment within NHSScotland Partnership Information Network (PIN) Policy, and reflects relevant current employment legislation.

3.2 Definitions

‘Redeployment’ - is the process of securing suitable alternative employment for an employee who is identified will be displaced, at a stated future date, from their post as a result of organisational change, or, following application of formal processes relating to capability (whether due to ill-health or performance), or, in advance of the non-renewal of a fixed term contract upon expiry. It is, however, recognised that there may be other circumstances where NES determines that redeployment may be appropriate.

‘Displaced’ - means that there is no longer a need for a post, or, that the particular skills or experience of a post-holder are no longer required, or, that the employee is unable to undertake the duties of the post.

‘Redeployment Register’ - The database maintained by Workforce Directorate which holds details of all redeployees.

‘Redeployment Coordinator’-a member of the HR Business Partner team who has a central coordinating and liaison role with displaced employees and managers across NES in support of the application of the redeployment process.

‘Redeployment Sub Group’ – Consisting of Depute Director of HR, Employee Director and supported by the Redeployment Co-ordinator to provide recommendations to the ETSR of suitable matches/temporary redeployment opportunities for individual redeployees.

‘Redeployment Pro-Forma’ - Completed by all redeployees, the Pro-Forma is an important document which provides information on the individual’s skills, experience and qualifications and is used to determine whether there is a match between the individual and a vacant post.

3.3 Scope

This policy applies to all affected employees of NES from the point at which it is identified that they will be ‘displaced’, although the process by which employees access redeployment may vary, and individual employee entitlements within this may differ, depending on the grounds upon which they have been displaced. For ease of reference, however, this policy will refer to ‘displaced employees’.

3.4 Aims of Policy

This policy will ensure that displaced employees are dealt with in a non-discriminatory, fair and consistent manner, with regard to exploration of suitable alternative employment opportunities. In order to achieve this aim, the following principles and values apply:

- This policy will be appropriately communicated to all employees and will be made readily accessible to them.

- Suitable alternative employment opportunities (including temporary redeployment) will be sought for all displaced employees (within the employee's existing Directorate and other areas).
- There will be no unreasonable delay in commencing this process. No vacancy will be opened to applications from within the wider internal workforce or externally until it is established that it does not present a suitable alternative role for a displaced employee. However, it should be noted, that the purpose of redeployment is to preserve employment. As such, exploration of suitable alternative employment opportunities will ordinarily only involve posts at the same or lower pay band/grade as the post from which the affected employee was displaced.
- Consideration will be given to NES' Organisational Change policies and procedures including protection (Appendix 7 provides further detail on pay protection arrangements) .
- Decisions in relation to suitable alternative employment opportunities will be made objectively and without prejudice. A decision not to appoint must be based on evidence, which will withstand objective scrutiny, that the individual does not meet the identified essential criteria required for the role and would be unlikely to be able to do so following reasonable training and support. While there may be instances requiring prioritisation and/or a competitive selection process where more than one employee is identified as a potential match, suitable alternative employment opportunities will not otherwise be unreasonably withheld or refused.

- Displaced employees will be made aware of their rights and responsibilities in relation to the process, including their right of recourse should they consider that a suitable alternative employment opportunity has been unreasonably withheld or refused.
- Displaced employees will receive appropriate organisational support during the period in which suitable alternative employment is being explored (including access to reasonable learning and development opportunities) in order that they are more fully equipped to exploit all potential suitable alternative employment opportunities.
- Displaced employees on the redeployment register can also choose to apply for posts within the ring fence(s) - (see Section 2.1).
- Joint training on the policy will be provided for managers and trade union/professional organisation representatives using a partnership model, in order to ensure that all relevant staff are sufficiently skilled and competent in implementing the procedure.
- The redeployment process will be centrally coordinated by HR in order to ensure that it is efficiently, effectively and fairly managed.
- Appropriate HR advice will be available to managers involved in implementing the process and,
- This policy will be subject to ongoing monitoring to ensure that it is being fairly and consistently applied and that the stated principles and values are being met. The policy will be subject to regular review, in partnership, to ensure that any new standards and/or structures are incorporated when necessary and that it remains fit for purpose.

3.5 Roles and Responsibilities

Displaced Employees will:

- Ensure that they are aware of both their rights and responsibilities under this policy, and that they seek further guidance if unclear.
- Participate and fully engage with the redeployment process, particularly with regard to any potentially suitable alternative roles to which they are matched.
- Complete a Redeployment Pro-Forma within 14 days in order to be entered on the Redeployment Register and to be considered for Redeployment.
- Identify any reasonable training requirements with their Line Manager.
- Ensure that they fully engage with any relevant training and development programmes that are integral to any role that they subsequently accept.
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- Give full and fair consideration to a reasonable offer of suitable alternative employment.

Co-operate with NES and undertake reasonable temporary redeployment opportunities.

- Ensure that any concerns/issues are raised as soon as possible during any trial period, in order to enable early discussion with a view to potential resolution.

Failure to adhere to these requirements and/or to participate in the redeployment procedures including accepting suitable temporary redeployment opportunities and suitable alternative posts could result in disciplinary action under the NES Management of Employee Conduct Policy : Disciplinary Policy and Procedures.

Manager of the Displaced Employee will:

- Ensure that, in discussion with the displaced employee, the employee receives, where possible, appropriate training and development opportunities in order to widen the scope of potential suitable alternative vacancies including an up to date review of PDP and objectives to obtain evidence of the employee's knowledge and skills, to help identify any requirements for training and development that the employee may require.
- Ensure that displaced employees are made aware of their rights and responsibilities under this policy, and that they comply with those responsibilities.
- Ensure that they are fully aware of and comply with their own responsibilities under this policy, including ensuring that there is no unreasonable delay in enabling displaced employees access to the provisions of the policy.
- Provide regular contact and support to employees whilst suitable alternative employment is being explored.
- Ensure that they seek advice from HR (including the redeployment coordinator) where necessary and appropriate when dealing with redeployment issues
- Support the employee to complete Redeployment Pro-Forma and return to HR within 14 days
- Report vacancies promptly to Kenexa.

Manager recruiting to a vacancy (or temporary redeployment) will:

- Ensure that they are fully aware of and comply with their responsibilities under this policy, including ensuring that displaced employees matched to such a vacancy are considered objectively and without prejudice and not unreasonably refused appointment, and that any concerns/ issues arising during
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any subsequent trial period are raised as soon as possible in order to enable early discussion and with a view to potential resolution.

- Ensure that (a) the duties and work assigned are in line with the Job Description and banding and (b) to discuss and agree with employees' objectives/priorities for the redeployment. The Organisational Development team will also work with line managers and the employee to put in place a supporting Personal Development Plan, and

Ensure that they seek advice from HR (including the redeployment coordinator) where necessary and appropriate when dealing with redeployment issues.

HR will:

- Develop and deliver, in partnership, training on this policy for managers and trade unions/professional organisation representatives.
- Advise managers on the correct implementation of this policy.
- Support displaced employees by providing advice on this policy.
- Facilitate training and development opportunities for displaced employees, where possible, in order to widen the scope of potential suitable alternative vacancies (although it should be noted that both the displaced employee and their line manager have a clear role in this regard).
- Monitor and report on the application of the policy and procedures across the organisation.
- Co-ordinate all administrative and recruitment aspects of redeployment.
- Ensure that displaced employees have fully completed the Redeployment Proforma.
- Maintain an accurate and up to date Redeployment Register on the Workforce Database.
- Ensure that no vacancy is opened to applications externally or from within the wider internal workforce until it is established that it does not present a suitable alternative employment opportunity for a displaced employee.
- Routinely identify vacancies from establishment control records to ensure that all vacancies are progressed via Kenexa to be considered for redeployment or deletion.
- Identify and flag to the ETSR all vacancies progressed via Kenexa which are an exact match to employee/s on the Redeployment Register.
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- Carry out a basic skills match between redeployees and all vacant posts identified at the same band and report and make recommendations to the Redeployment Sub Group.
- Carry out a basic skills match between redeployees and all temporary Redeployment opportunities identified and report and make recommendations to the Redeployment Sub Group.
- Ensure that the Redeployment Sub Group is provided with all necessary information e.g. redeployment pro-formas, job descriptions, person specification documents, KSF/PDP outlines, job evaluation reports etc. to facilitate matching.
- Ensure that displaced employees matched to vacancies are appropriately prioritised based on the reason for their displacement.

Where appropriate, liaise with Occupational Health Services.

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- Contact an employee on the Redeployment Register when a suitable vacancy/temporary redeployment opportunity has been identified by the Redeployment Sub Group, and approved by the ETSR, and liaise with the Line Manager and Recruiting Manager.
- Liaise with key stakeholders on any required employment decisions where redeployment has not proven successful.
- Collate appropriate information to inform the monitoring and evaluation of this policy.

The Redeployment Sub Group will:

- Consider skills match decisions.
- Bring forward recommendations regarding redeployment placing opportunities via the Depute Director of HR to the ETSR for final approval. (Detailed information would not progress to the Executive Team to preserve confidentiality of individuals).
- Ensure that refusal by a manager to appoint a displaced employee to an identified potential match is reasonable and stands up to objective scrutiny.
- Co-ordinate subsequent actions based on ETSR recommendations.

Trade unions/professional organisations will:

- In partnership with NES, agree a redeployment policy which meets the minimum standards set out within the Redeployment within NHSScotland Partnership Information Network (PIN) Policy, and reflects relevant current employment legislation.
- Work in partnership with NES to develop joint training as part of the implementation of this policy, and participate in such joint training.
- Support their members, including ensuring that their members are aware of their rights and responsibilities under this and other relevant policies and, in particular, ensuring that any concerns/issues are raised as soon as possible in order to enable early discussion and, where possible, facilitate early resolution.
- Participate in partnership monitoring, evaluation and review of this policy.

Occupational Health will:

- Provide timely and comprehensive guidance, where sought as necessary and appropriate, to support the process of identifying suitable alternative employment.

4 REDEPLOYMENT PROCEDURES

4.1 Redeployment

Displaced employees will have the right to be considered preferentially for suitable posts before they are advertised within NES and will not be unreasonably denied a substantive post. All considerations for redeployment opportunities will ultimately be monitored and approved by the ETSR.

Redeployment will be sought to posts of the same or lower pay band/grade to the post from which an employee has been displaced.

NES will seek to redeploy employees within their existing geographical location. It is recognised that there may be exceptions to this and that processes need to be flexible to deal with this. Should an employee prefer to be redeployed out with their geographical location, or be prepared to consider a redeployment out with their geographical location then this should be indicated on the Redeployment Pro-Forma.

Displaced employees wishing to be considered for a post at a higher band will be expected to apply under the normal recruitment process, via competitive interview. Redeployment to higher band posts will not normally occur and will only be considered by the Redeployment Sub Group in exceptional circumstances based on disability. This will be determined on a case by case basis, refer to section 4.10.3 for further information.

NES will use temporary appointments to protect substantive posts, where there is a reasonable expectation that the post will be suitable for the appointment of redeployed employees. The timescales for the use of temporary appointments in such circumstances will vary depending on the scale of organisational change.

If an employee is placed on the Redeployment Register they may request early retirement/voluntary severance. See section 2.4 for further information.

4.2 Completion of Redeployment Pro-Forma

Displaced employees are required to complete the Redeployment Pro Forma (see Appendix 1) <http://intranet.nes.scot.nhs.uk/policies/standard-forms/>. Responsibility for supporting the displaced employee and enabling the completion of the redeployment pro-forma will remain with the line manager. This is an important part of the process and is a necessary step as this will enable line managers and HR to identify suitable temporary and permanent redeployment opportunities as quickly as practicable.

The pro-forma should be completed in detail and submitted to the Redeployment Coordinator for entering into the Redeployment Register within 14 days from receipt of the letter advising that employee is displaced. This information will be used to assist the Redeployment Sub Group with 'matching'.

4.3 Support to Employees

Displaced employees should seek on-going support from their Line Manager with regard to exploring all the possible opportunities and their Line Manager should provide every assistance in securing an alternative post e.g. supporting employees with the completion of paperwork, time off for attending interviews, time off to attend agreed identified training etc. NES through the Executive Team also has a corporate responsibility to identify opportunities as outlined above. Performance appraisal and personal development planning for displaced individuals is a requirement.

4.4. Right to be accompanied

Displaced employees have a right to be accompanied by a trade union/professional organisation representative or a work colleague at meetings being held under the redeployment procedure.

4. 5 Specific Conditions

As outlined above, whilst this policy applies to all affected employees of NES from the point at which it is identified that they will be 'displaced', the process by which employees access redeployment may vary, and individual employee entitlements within this may differ, depending on the grounds upon which they have been displaced. As such, this procedure should be read alongside the subsequent section on specific conditions which apply in relation to each of the grounds upon which employees may be displaced.

4.6 Assessment

Before accessing redeployment, consideration requires to be given to the likelihood of a suitable alternative role arising within a reasonable period of time. If it can be clearly demonstrated that this will not be the case, a decision may need to be taken to convene a meeting to consider termination of employment in line with NES Policy.

4.7 Access Period

Access to redeployment should be limited to three months in the first instance. Following this the position should be reviewed with the option of extending the access period, depending on whether suitable employment opportunities have arisen or are likely to arise within the immediate period thereafter.

On commencement of and during the access period, meetings will take place, as necessary, involving the displaced employee, their trade union/professional organisation representative or work colleague

(if they wish to be accompanied), the employee's line manager, and HR. Appendix 5, the Redeployment Checklist will be completed in conjunction with the employee.

These meetings would involve advising the displaced employee of their rights and responsibilities under the policy; completion of the Redeployment Proforma; help to understand and consider the transferability of their existing knowledge and skills and exploration of potential training and development opportunities, in order that they are more fully equipped to exploit all potential suitable alternative employment opportunities; and, subsequently, a review of progress in obtaining a suitable alternative role with a view to reaching a decision at the end of the access period (if no such role had been secured) as to whether it should reasonably be extended. In relation to the Redeployment Proforma, the displaced employee should be provided with assistance in its completion.

The decision as to whether to extend the access period will be dependent upon whether suitable alternative employment opportunities have arisen or are likely to arise within the immediate period thereafter. In addition, an extension to the access period may amount to a reasonable adjustment for a disabled employee.

In relation to the Redeployment Proforma, the displaced employee should be provided with assistance in its completion by the Line Manager.

Should a displaced employee consider that a post to which they have been matched is not suitable, they will be required to provide an explanation. A displaced employee may determine that a post is not suitable upon initial matching, following discussion with the manager recruiting to the vacancy, during any subsequent selection process (if applicable), and during any subsequent trial period. Appendix 3 is to be completed and returned to HR. If it is considered that the displaced employee has unreasonably refused suitable alternative employment opportunities to which they have been matched, a decision may need to be taken to progress under the Management of Employee Conduct Policy : Disciplinary Policy and Procedures.

4.8 Clearing all vacant posts via Kenexa

All vacant temporary and permanent posts will be identified from across NES to be considered for redeployment by the ETSR (All vacant posts that are considered by the ETSR will include every single vacancy across NES regardless if it has been submitted via Kenexa or not.)

HR will routinely identify remaining vacancies from establishment control records that are at the same grade or lower pay band/grade to the post from which an employee has been displaced, and contact Managers to progress these vacant posts for filling, or deletion via Kenexa.

The Redeployment Co-ordinator will identify any potential basic skills matches based on an exact match amongst Kenexa requests going forwards to the ETSR and will flag these to the ETSR.

Following clearing for recruitment via Kenexa the Redeployment Co-ordinator will pass detailed information in relation to potential basic skills matches to the Redeployment Sub Group. Consideration at this stage should also take account of any 'skills gap' that could be closed by training and development.

4.9 Partnership Working

To ensure that the right people are appointed to the right job, the established partnership group Executive Team Sub on Recruitment (ETSR) will endorse all redeployment placing, including temporary redeployment, across NES based on recommendations from the Redeployment Sub Group.

4.10 Matching

The process of matching should be undertaken in the case of all displaced employees, with the completed Redeployment Proforma providing the basis for comparison.

Matching involves:

- A comparison of the essential criteria of posts which arise within the organisation (as identified within the person specification/job description) with the knowledge, skills and experience of displaced employees, Knowledge and Skills Framework (KSF) post outlines and factor levels assigned to posts to aid the matching process). Matching will only involve comparison of applicable vacant posts (i.e. ordinarily only those at the same or lower pay band/grade to the post from which an employee has been displaced. However, if the employee is disabled for the purposes of the Equality Act 2010 consideration may require to be given to vacant posts at a higher pay band/grade).
- Consideration of whether a post is a match in terms of organisational change protection of terms and conditions, where applicable.
- Consideration of the employee's particular circumstances, particularly in circumstances in which protection of terms and conditions does not apply. In such circumstances, those of any new post will apply. It is therefore important that consideration during the matching process is given, for example, to the minimum pay band/grade, hours of work, and travelling distance which the displaced individual would be willing to consider.

In the case of those displaced employees who would be entitled to no detriment protection of terms and conditions of employment, and who, prior to being displaced, possessed special class status in relation to their membership of the NHSScotland pension scheme, such employees should have the option not to be matched against vacant posts which do not also attract special class status. This option allows the displaced employee to be clear that they may suffer a detriment in this regard.

The redeployment coordinator will establish, from amongst those matched, whether any displaced employees take priority over others due to the reasons for which they were displaced or because of any characteristics protected under the Equality Act 2010.

They will then advise those with the highest priority that they have been matched and pass their details to the manager recruiting to the vacancy (as well as alerting the managers of those employees).

Should an appointment not be made from amongst those with the highest priority, the same process will apply in the case of those with the next level of priority, until either an appointment is made or the process is exhausted.

Personal circumstances will be considered in partnership on a case by case basis.

4.10.1 Posts which are an exact match

Where there is a vacancy that is deemed to be an exact match for the displaced employee, they will be automatically matched into the post by the Redeployment Sub Group. An exact match is a post which is:

- At the same pay band/grade and has the same skills set;
- At the same or similar geographical location or within reasonable travelling time, subject to the availability of public transport; and,
- With comparable terms and conditions of employment (hours, shifts, etc.).

In these circumstances the displaced employee will be allocated to the post and the recruiting line manager will make the necessary arrangements for integration and induction into the work area. The trial period in this situation will normally be four weeks. The redeployment coordinator will seek advice from the manager of the displaced employee, as appropriate, if the manager recruiting to the vacancy requires clarification on transferable skills and relevant experience.

4.10.2 Posts which are not an exact match

For an alternative vacancy to be deemed suitable there must be at a minimum, a basic skill match between the requirements of the vacancy, based on the essential criteria in the person specification, and the skills and experience of the individual. If no specific skills or qualifications are required, experience in a similar role/environment will be deemed desirable.

If a full skill match does not exist, the vacancy would be deemed suitable if it were agreed at the outset that, after a reasonable period of training, one would exist. This should ensure that there is no excessive delay in the candidate being able to undertake the core duties of the post.

Staff redeployed into an alternative post which is not an exact skills match will be entitled to a trial period in the new post. These provisions incorporate the statutory trial period of four weeks, but also allow for a further period of four weeks, thus giving a total of eight weeks during which the employee and the manager recruiting to the vacancy can determine whether the alternative post is suitable. In exceptional circumstances this may be extended.

4.10.3 Disabled employees

In circumstances where a displaced employee is also disabled for the purposes of the Equality Act 2010, and that employee's disability puts them at a particular disadvantage in relation to the requirements of the duties, physical location or nature of the vacancy, consideration must be given to what reasonable adjustments can be made to the role to overcome this disadvantage and allow the employee to be matched to the vacancy.

4.11 Prioritisation

It is recognised that circumstances may arise whereby a vacancy presents a potential suitable alternative employment opportunity for more than one displaced employee. Where the reasons for displacement of such employees differ, it will be necessary to prioritise in terms of the order in which such individuals are considered for the vacancy, with managers only being asked to consider further matched staff where appointment from amongst those with a higher priority has been reasonably refused. The Redeployment sub group will be required to ensure that any refusal stands up to objective scrutiny.

In general terms, the order of prioritisation (from highest to lowest) will be as follows:

- Employees displaced on grounds of organisational change.
- Employees displaced on grounds of capability.
- Fixed-term employees displaced on grounds of nonrenewal of their contract upon expiry (where termination of employment meets the definition of redundancy).
- Other fixed-term employees displaced on grounds of nonrenewal of their contract upon expiry.

While the above will be correct in general terms, it will not apply in every case. For example, where an employee displaced is disabled for the purposes of the Equality Act 2010, or in circumstances where a local decision is taken to explore suitable alternative employment for an employee displaced for reasons other than those set out above.

4.12 Selection Decisions

Once the ETSR has endorsed the Redeployment Sub Group's recommendations, HR will agree a start date with the receiving line manager and arrange for the redeployee to be placed into the role.

Managers recruiting to a vacancy will be expected to appoint from amongst matched employees unless they can provide a robust case to the Redeployment Sub Group demonstrating that none met the essential criteria of the post, nor were likely to be able to do so following a short period of training and development. It is essential that fair selection processes are undertaken, with individuals being assessed against an agreed person specification/job description. It is recommended that two managers from a different directorate are part of the interview panel.

Subject to agreement with HR, a formal selection process may be required in the following circumstances:

- Where a post does not present an exact match and the individual's suitability for the role is unclear; or,
- Where more than one displaced employee is matched to a vacancy at a particular level of priority.

Any subsequent offer made will be conditional upon all relevant pre-employment checks, as set out in NES policy, developed in line with the Safer Pre and Post Employment Checks in NHSScotland PIN Policy, having been undertaken satisfactorily. The checks required will be the same as those which would otherwise be required in the case of an existing employee of NES changing roles within NES as a result of having applied via the normal recruitment process, with the exception that references will not normally be required in the case of redeployment.

Unsuccessful candidates will be given written reasons for non-appointment on request, in line with good employment practice. HR will ensure that displaced employees are made aware of this right.

Following interview, if the person is unsuccessful the employee would remain on the Redeployment Register for the remainder of the redeployment period.

Where there are no matches from amongst displaced employees, or where managers recruiting to a vacancy have been able to provide a justifiable explanation for non appointment from amongst those matched, vacancies may be advertised through the normal recruitment process.

Members of staff subject to redeployment are expected to accept a reasonable offer of a post which NES considers is a suitable alternative. Further involvement in the redeployment process will be dependent on the employee providing acceptable grounds for the refusal of post.

4.13 Trial Period

Where displaced employees are appointed to posts via redeployment, a trial period of four weeks will apply in all cases. Such trial periods may be extended by agreement at the outset of the appointment depending upon the nature of the post and whether additional training and development is required, or, thereafter, by mutual consent. An extension of any trial period may amount to a reasonable adjustment if the employee is disabled for the purposes of the Equality Act 2010.

Employees will retain the pay band/grade of their earlier post during the four week trial period (where the pay band/grade of the new post is lower), reverting to the pay band/grade for the new post (where appropriate) upon satisfactory completion of the trial. Should the trial be extended beyond the four weeks the employee will be paid at the rate of the new post.

During the trial period, either the new line manager or the employee may determine that the post is not suitable. In either case, this unsuitability must be clearly demonstrated. If either the new line manager or the employee indicates, for good reasons, that the new post is unsuitable, the employee will return to the redeployment register for the remainder of their redeployment period.

Where the parties concerned agree that the post is suitable, the employee will be confirmed in post. In either event, the outcome of the trial period will be confirmed, in writing, to the employee and, if successful, a new contract of employment will be issued.

4.14 Temporary Redeployment

Displaced employees may be appointed temporarily for developmental purposes or in a holding position, retaining their employment status, where appropriate, until a suitable alternative employment opportunity becomes available.

In circumstances in which a permanent employee is matched by the organisation to a temporary or fixed term post, they will retain their permanent employment status.

As soon as an employee is displaced and on the redeployment register, NES will proactively seek suitable and reasonable alternative employment and explore the possibility of a temporary redeployment. Temporary redeployment will not necessarily be into a vacant post and HR will work with the current line manager to identify work that provides a suitable and reasonable match with the skill set of the employee. There will also be full consultation with the employee in identifying areas they are interested in and reviewing opportunities that arise.

Temporary redeployment will be a short term step initially for a minimum 3 month period. For clarity while undertaking temporary redeployment the employee will be managed by the temporary line manager but will also remain on the redeployment register for the duration of the redeployment period and will have the full opportunity to be considered for redeployment into a post as opportunities arise. Employees will be expected to co-operate with NES to undertake such an assignment. At the conclusion of a 6 month period HR and the current line manager will discuss and agree with the temporary line manager a longer term succession plan.

Directors are required to consider if a permanent post can be created to which the employee can be redeployed, this should normally be achieved with no increase to the overall establishment and may for example involve a review and regrading of a vacant post. HR will provide advice and support. In the event that this is not possible, HR will work with the employee and the line manager to identify a further temporary redeployment opportunities should the employee not be redeployed permanently in the meantime.

The Redeployment Co-ordinator will coordinate the setting up of temporary redeployment including facilitating the process of determining a skills match and reporting to the Redeployment Sub Group, and ultimately the ETSR on all activity in this regard. For the duration of the temporary redeployment HR will continue to keep the original line manager appraised of progress with regard to securing permanent redeployment of displaced members of staff.

Where individuals' skills could be utilised elsewhere then all salary costs will be costed to the temporary role for the duration of the redeployment

For the duration of the temporary redeployment, day to day line management responsibilities transfer to the receiving line manager e.g. sickness absence reporting, annual leave, providing support and guidance to the employee etc.

4.15 Protection of Terms and Conditions of Employment

Protection of terms and conditions of employment (as well as reimbursement of excess travel and relocation expenses), will apply as per NES travel expense policy, and as detailed within the Redeployment within NHSScotland PIN Policy. Where a displaced employee is redeployed to a post where protection does apply, it should be made clear that they will continue to be matched to subsequent vacancies which arise, with ongoing protection being conditional upon acceptance of any future suitable alternative employment offered which presents a more exact match in relation to their protected terms and conditions of employment. See Appendix 7 for Policy on Organisational Pay Protection for Agenda for Change Staff (effective 1st April 2019).

In those circumstances in which pay protection does not apply, and where, as a result, a displaced employee takes up suitable alternative employment but with earnings lower than those prior to being displaced, members of the NHSScotland pension scheme may be able to preserve their pension benefits at the time of this change, subject to meeting the relevant eligibility criteria (see <http://www.sppa.gov.uk>).

5 Specific Conditions

5.1 Organisational Change

There are two types of redeployment which apply in terms of organisational change:

- The first involves circumstances where individuals are displaced as a result of a change in the number or nature of roles required, and where appointment to those resulting roles is by limited competition from amongst affected employees. In such circumstances, the process will be as determined within NES' Organisational Change policy and procedures.
- The second occurs where an individual is displaced in circumstances where there is no such resulting role, or where they have been unsuccessful in securing such a resulting role via the limited competition process. In such a case, they will be 'displaced as a result of organisational change', with the process to be followed as defined within this policy.

Protection of earnings will apply to redeployment in relation to organisational change (refer to Appendix 7, Policy on Organisational Pay Protection).

5.2 Capability

The process to be followed in reaching a decision to displace an employee due to issues of capability (whether related to attendance or performance), as well as the process to be followed where redeployment proves unsuccessful, is set out within the NES Management of Employee Capability Policy and the NES Management of Sickness Absence Policy.

In these circumstances, specific consideration requires to be given when matching as to whether a role is likely to be performed to the required standard and not present a continuing capability concern. If the employee is disabled, consideration will also be given to any reasonable adjustments that could be made to roles to assist in matching them to the displaced employee.

Depending on the nature of the capability issues, Occupational Health advice will require to be sought, both as part of the initial assessment stage of the procedure outlined above (insofar as whether suitable alternative employment should be considered and, if so, any restrictions as to the type of role, or adjustments which would require to be made to a role, in order to ensure suitability, and thereby avoid similar capability issues arising in future), as well as during the subsequent access period where consideration is being given to the suitability of particular posts.

Protection of earnings does not apply to redeployment in the case of capability.

Refer to the NES Management of Employee Capability Policy for further information.

5.3 Non-renewal of fixed term contract upon expiry

In this case, in line with NES' Use of Fixed Term Contracts Policy, there is a requirement for a meeting with the employee, advising of the non-renewal of their contract and issuing notice in line with their contract of employment. If the employee has not secured an alternative post prior to the end of their notice period, their employment will be terminated as per that earlier meeting.

The access period for employees displaced as a result of nonrenewal of a fixed term contract will be for a period no less than the contractual notice period as discussed in the Use of Fixed Term Contracts within NHSScotland PIN Policy.

Protection of earnings does not apply to redeployment due to non renewal of fixed term contracts.

Refer to the NES' Use of Fixed Term Contracts Policy for further information.

5.4 Other Circumstances

Redeployment in other specific circumstances will be by exception (all other alternatives having been exhausted) and will be determined on an individual case by case basis, ensuring that the principles of fairness and consistency of approach are applied.

6 Grievance

Should a displaced employee consider that a suitable alternative employment opportunity has been unreasonably withheld or refused, or should they have any other concerns in relation to the application of this policy, the matter should be pursued in line with NES' Grievance Policy and Procedures.

7 Review

To measure against criteria that would indicate that the organisational change has been successfully implemented and is now business as usual it is recommended that the change is benchmarked against the 8-step change model defined by John Kotter. This model defines the mistakes that can occur when managing transformational change, and it is proposed that 6 months following such change that a follow up report be provided to the CMPB to consider the organisations performance against the following errors:-

- Error 1: Not Establishing a Great Enough Sense of Urgency
- Error 2: Not Creating a Powerful Enough Guiding Coalition
- Error 3: Lacking a Vision

- Error 4: Undercommunicating the Vision by a Factor of Ten
- Error 5: Not Removing Obstacles to the New Vision
- Error 6: Not Systematically Planning for, and Creating, Short-Term Wins
- Error 7: Declaring Victory Too Soon, and
- Error 8: Not Anchoring Changes in the Corporation's Culture.

Questions to respond to for the CMPB would be:-

- Q 1: Was a great enough sense of urgency established?
- Q 2: Was a powerful enough guiding coalition created?
- Q 3: Was there a clear Vision?
- Q 4: Was the communications plan prepared in advance of the Change successful?
- Q 5: Were the obstacles in the way of the new vision identified and addressed.
- Q 6: Was systematic planning for, and creating, short-term wins achieved?
- Q 7: Have we declared victory too soon?
- Q 8: Did we anchor the changes within NES culture?

(A template questionnaire has been added to the Toolkit for presentation to the CMPB circa 6 months following major change)

This policy will be subject to ongoing monitoring to ensure that it is being fairly and consistently applied and that the stated principles and values are being met.

The policy will be reviewed 3 years from its effective date, in partnership, to ensure that any new standards and/or structures are incorporated when necessary and that it remains fit for purpose.

The statistical data will be included in the quarterly metrics and will be monitored to ensure fairness across the equality groups.

**Ratified by the Staff Governance Committee on
29 October 2015**

APPENDIX 1

Redeployment Pro Forma

(To be completed in conjunction with your Line Manager and returned to HR within 14 Days)

Employee Name:	
Correspondence Address:	
E-Mail Address:	
Telephone No:	Fax No:
Current Job Title:	Hours:
Band:	Work Pattern:
	Job share:
Directorate:	Location:
Start Date with NHS:	
Start Date with NES :	
Qualifications:	Are you currently studying in line with the NES Continuing Education Policy?
	If yes please give course details

Knowledge, Training and Experience: (Please give as much detail as possible, particularly in relation to your existing job.

Expected end date of current post:	
Preferred hours of work:	Hours cannot work:
Please indicate geographical locations that you will consider for redeployment:	
Are you able to increase/reduce your hours of work (please specify)?	

Authorisation

To be signed by Employee

Signature of Employee

Date

Name (please print in block capitals)

To be signed by the Line Manager (or nominate):

Signature of Line Manager

Date

Name (please print in block capitals)

Position _____

PLEASE NOW RETURN TO HR

Do you have any other information that you may feel will help?

Data Protection

In line with The Data Protection Act 1998 all information contained on this form will be utilised only for redeployment purposes.

HR use only

Following receipt of this form from the employee please send this form to the HR Business Partner/Redeployment Coordinator, Central Offices.

APPENDIX 2

REQUEST TO CMPB FOR APPROVAL TO DEVELOP A DETAILED ORGANISATIONAL CHANGE PLAN
For assistance with the completion of this request please contact your HR Business Partner who will be able to provide you with samples of previously completed CMPB approval requests, and also sample(s) of business case(s) for the Executive Team to assist you with this process.
Who is the named Lead Officer for this Change?
Please provide an overarching narrative to describe your proposed change to include the purpose, objectives and efficiencies that you are seeking to achieve
If applicable, describe what scoping work has been undertaken to date, and what further work remains to be done
What, if any, are the implications for other Departments and/or Directorates with regard to this proposed change?
Identify the timescales that you are working towards to achieve this proposed change
What are the significant risks relating to your organisational project and how will you mitigate them?
What governance arrangements will be in place to project manage your change?
How will business continuity be affected during the organisational change?
Define the additional resources that will be required to research and implement the organisational change, including any from corporate resources i.e. Finance, IT, HR, Office Services etc?
(It is highly recommended that a Project Manager is identified for significant organisational change)
How will the posts and therefore postholders which are 'in scope' for this organisational change be identified?
Attach a broad communications and consultation plan to include stakeholder engagement.
(A detailed consultation plan will be required prior to communicating widely on organisational change).
When do you expect to have the detailed change plan ready for the Executive Team to finally approve?
Are you aware at this stage of any training and development implications that your proposed organisational change may require before, during and after your change?

How will you measure the success of the Project?

Please submit the NES Equality Impact Assessment Planning Document at this stage <http://intranet.nes.scot.nhs.uk/pfpi/impactassessment/>

Signed

Date Print Name

Signed Director

Date APPENDIX 3

Rejection of Reasonable Redeployment Opportunities (To be completed in conjunction with your Line Manager and returned to HR)

Employee Name:

Post Rejected:

Date:

Reasons for rejecting the post:

Authorisation

To be signed by Employee

Signature of Employee

Date

Name (please print in block capitals)

To be signed by the Line Manager (or nominate):

Signature of Line Manager

Date

Name (please print in block capitals)

Position _____

PLEASE RETURN TO HR.

Data Protection

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HR use only

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APPENDIX 4

**3 Monthly / 6 Monthly / 12 Monthly Review Discussion
(To be completed by the Temporary Line Manager in conjunction with the Employee and returned to HR)**

Employee Name:
3 Monthly or 6 Monthly Review or 12 Monthly Review (delete as appropriate)
Review Date:
Notes of the review discussion (please include any agreed actions):

Authorisation

To be signed by Employee	
_____ Signature of Employee	_____ Date
_____ Name (please print in block capitals)	

To be signed by the Temporary Line Manager:	
_____ Signature of Temporary Line Manager	_____ Date
_____ Name (please print in block capitals)	
Position _____	

PLEASE NOW RETURN TO HR

Data Protection

In line with The Data Protection Act 1998 all information contained on this form will be utilised only for redeployment purposes. **HR use only**

Following receipt of this form from the employee please send this form to the HR Business Partner/Redeployment Coordinator, Central Offices.

APPENDIX 5 Redeployment Checklist (To be completed by the HR Business Partner/Redeployment Co-ordinator during the initial discussion with the Employee)

Employee Name:	
Redeployment Discussion Date:	
The HR Business Partner/redeployment co-ordinator to discuss the following with the Employee during the initial redeployment discussion	Tick When Done
Explain the redeployment process (The Policy, completing the redeployment proforma, support to employees, redeployment procedure and regular interim reviews)	
Provide a copy of the redeployment policy to the Employee	
Provide sufficient notice of the changes to the employee's role / job	
Explain the timescales involved in accepting / rejecting a reasonable / unreasonable redeployment opportunity	
Provide information on protection arrangements (for pay protection, direct also to Appendix 7)	
Advise of the effect of redeployment on terms and conditions of employment	
Advise of the effect of redeployment on the employee's pension	
Provide information on relocation / travel expenses	
Provide information on training / re-training	
Redeployment will be sought at the same or lower pay band/grade to the post from which an employee has been displaced. Please note protection of earnings will only apply in certain circumstances, also see Appendix 7).	

Authorisation

To be signed by Employee	To be signed by Line Manager
_____ Signature of Employee	_____ Signature of Line Manager
_____ Name (please print in block capitals)	_____ Name (please print in block capitals)
Date _____	Date _____

To be signed by the HR Business Partner/Redeployment Co-ordinator:

Signature of the Redeployment Co-ordinator

Date

Name (please print in block capitals)

Position

Data Protection

In line with The Data Protection Act 1998 all information contained on this form will be utilised only for redeployment purposes.

HR use only Following receipt of this form from the employee please send this form to the HR Business Partner / Redeployment Coordinator, Central Offices.

Appendix 6 : Redeployment Assessment Form (Please return to HR on completion of the Form)

Employee Name:								
Date:								
The Process	1	2	3	4	5	6	N/A	Comments
I was given sufficient notice of the changes to my job								
The redeployment process was explained clearly to me								
I was given adequate time to deal with the issues relating to redeployment								
I understood the options that were available to me								
I found the one to one interview about my preferences helpful								
I was asked to identify preferred options								
All appropriate posts were brought to my attention								
I understood how to apply for a post during redeployment								
I understood how redeployment would affect my terms and conditions								
The protection arrangements were explained clearly to me								
I was advised of the effect of redeployment on my pension								

I was successful in obtaining my preferred option									
I felt that all staff were treated equally during the process									
I received suitable induction into my new post									

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Training / re-training was offered to me									
I was given adequate information on relocation / travel expenses									
I am satisfied with my new post									
Support	1	2	3	4	5	6	N/A	Comments	
I was satisfied with the level of support offered by HR									
I was satisfied with the level of support offered by Managers before change									
I was satisfied with the level of support offered by Managers after change									
Redeployment coordinator or HR Business Partner									
Occupational Health									
Are there any other comments you would like to make about the process?									

Key: 1 - Strongly Agree 2 - Agree 3 - Not really 4 - Disagree 5 - Strongly Disagree 6 - Not applicable Data Protection

In line with The Data Protection Act 1998 all information contained on this form will be utilised only for redeployment purposes.

HR use only

Please complete the form and send it to the HR Business Partner / Redeployment Co-ordinator, Central Offices after the initial discussion with the redeployment co-ordinator and 3 months after being in a temporary redeployment / permanent redeployment post)

Appendix 7

POLICY ON ORGANISATIONAL CHANGE PAY PROTECTION FOR AGENDA FOR CHANGE STAFF IN NHS SCOTLAND FROM 1 APRIL 2019

Introduction

For the purposes of pay protection, organisational change is defined as a management or organisational change which impacts on an individual's contractual earnings or where the individual is redeployed into a lower banded post. In these circumstances, organisational change protection will apply on a no detriment basis.

Scope

This policy applies to all staff employed on Agenda for Change Terms and Conditions and will be applied on a prospective basis.

Key Principles

The principles described below apply in protection situations:

- i) "No detriment" protection means that staff will be no worse off, but not any better off, and they will continue to receive the benefit of annual pay uplifts and increments.
- ii) Managers must involve HR and the relevant Trades Unions in discussions regarding protection at an early stage.
- iii) Managers must alert the Pay Department to the possibility of protection being required in order that they can plan for this.

iv) Managers should avoid making temporary changes to working hours and working patterns which, through default, become long term and therefore may result in protection of earnings e.g. overtime working which becomes the norm.

v) Appropriate performance monitoring and assurance arrangements will be locally implemented with reporting through the Area Partnership Forum and nationally via STAC. The Area Partnership Forum may also access STAC for points of clarification and interpretation if necessary.

vi) Protection will be applied to that component that changes as a consequence of organisational change i.e. if the change relates to shift patterns the element of pay that will be protected relates to the shift changes.

vii) To ensure consistency and uniformity in calculating the level of earnings to be protected a reference period of 12 months will be applied. This will be adjusted accordingly for any employee on maternity leave or long term sick leave during the 12 month period or any other exceptional individual circumstance. Employees moving into protected earnings will receive written confirmation and guidance on how protected earnings will be applied and arrangements for working up to the level of protection.

viii) Individuals who, having received these written confirmations, do not wish to work up to the level of protection described may forgo their right to protection of earnings.

ix) ix) Employees who unreasonably refuse to work up to the previously agreed level of protection will forgo their right to protection of earnings.

x) Local operational unit level and Board level monitoring of protection i.e. to review the degree to which individuals work up to the level of protection is being explored via the SSTS Team. If a solution is found, reporting on this aspect of protection will also be incorporated into the monitoring arrangements.

xi) For employees who require grade protection as a consequence of organisational change, employers need to redeploy into suitable alternative posts as soon as possible, ensuring that staff maintain their skills and competencies. Employees also have an obligation to maintain their skills and competencies. To ensure

redeployment is maximised, and operates in line with PIN guidelines, STAC will monitor the situation on a six monthly basis.

xii) Employees who unreasonably refuse suitable redeployment into a post at the level of the protected grade will forgo their right to grade protection.

xiii) If employees secure a promoted post or their post is subsequently re-graded (in the same role) they will be placed on a pay point that takes into account their protected earnings to ensure no detriment. If the protected earnings exceed the top of the new pay scale they will move to the top and the balance of protected earnings will be paid on a mark time basis.

Written confirmation of Protection Arrangements

In order to process protection calculations and confirm these in a timely manner to employees it is proposed that the 12 month reference period should commence 15 months before the change is enacted, e.g. If the change is effective from 1 July 2019, the 12 month reference period would be the period 1 April 2018 to 31 March 2019.

Offsetting and Working up

Offsetting will still apply but has to be a payment connected to the reason for the change. Overtime and excess hours will not be offset unless the protection is related to contractual overtime or excess hours

If an employee is on protection, they can be asked to undertake additional duties connected with the reasons for their original protection up to the level of their protected salary. The following principles will apply:

For Staff Protected for On-Call Payments (including availability supplements and call outs)

i) If the employee works on-call and the frequency of on-call reduces the employee is protected at the higher frequency of on-call. However the employee can be asked to work up to that higher level if there are gaps to be filled due to increased demand or staff absences. This can be at their own site or another site.

ii) If the employee is no longer required to work on-call they will be protected for oncall, however they may be required to work on-call at another site due to staff absences or increased demand.

iii) In accordance with Annex A of NHS Circular PCS(AFC)2015/3, paragraph 8.1, staff will be paid according to the duration of call-out including actual travel time, rounded up to the nearest 15 minutes. The call-out time will be calculated from when the member of staff leaves home (or other agreed base) to when they return home (or other agreed base). In addition paragraph 8.3 also states that “Work undertaken from home, either by telephone or online, will attract payment for work done according to the actual duration of the period of work”.

Shift Pattern Changes and Change in Hours

i) If the employee works on a shift pattern that changes as a consequence of organisational change and their shift payments are reduced, the employee can be asked to work up to their level of earnings if there are any gaps in the shift due to increased demand or staff absences. Staff would not be expected to work beyond their contracted hours but may be required to work a higher level of unsocial hours (as per their protected salary). However, if staff agree to work beyond their contracted hours they would be paid as per Agenda for Change Terms and Conditions.

ii) In situations where there are significant changes to rota, NHS Boards should try to redeploy staff into posts which reduce the reliance on protection in order to stabilise the employees’ working pattern.

iii) If an employee’s contractual hours of work are reduced they will be entitled to organisational change protection. However, the employee can be asked to work up to their contractual hours if there is increased demand or staff absences.

iv) If an employee has their contractual overtime stopped or reduced they will be entitled to organisational change protection. However, the employee can be asked to work up to their level of contracted overtime.

Working on Different Sites

- i) Employees on protection can be asked to work at different sites within reason and with reasonable notice.
- ii) For staff required to work at another site other than their home base, line managers must ensure that the individuals are competent to work on the different site and have received appropriate induction/orientation training. Staff will be entitled to travel costs as per Agenda for Change terms and conditions.

Financial Governance

It is proposed that payroll departments conduct an annual audit and review of protection payments to ensure proper financial governance of this process and all payments associated with protection. Boards should ensure the annual review process is conducted, and take appropriate management action to ensure financial governance standards are maintained.

Q&A ON NEW ARRANGEMENTS FOR THE PROTECTION OF EARNINGS

Q1: Who do these new arrangements apply to?

A1: They apply to any employee that requires organisational change pay protection from 1st April 2019. This may be as a consequence of a management or organisational change which has impacted on an individual's contractual earnings, or where they are redeployed into a lower banded post. There is no retrospective change to the organisational change protection arrangements that were in place for protected employees prior to 1st April 2019.

Q2: What am I entitled to?

A2: If an employee requires pay protection they will be entitled to retain the same level of contracted earnings including annual pay uplifts and increments to ensure they suffer no detriment.

Q3: What happens if I am redeployed into a lower banded post?

A3: If you are redeployed into a lower banded post you will still continue to receive your higher banded salary including pay uplifts and increments. However the organisation will continue to seek opportunities to redeploy you into a suitable alternative post at the higher band. Your local human resources team will support you through this process. Staff are also entitled to seek representation and guidance from their Staff Side representative.

Q4: How do I maintain my skills, competencies and professional accreditation if I am redeployed into a different post?

A4: Your new manager will ensure that you are provided with the opportunities to allow you to maintain your skills, competencies and professional/clinical accreditation.

Q5: What happens if I refuse a post on redeployment?

A5: The aim is to redeploy employees into a suitable alternative post. However, if you unreasonably refuse suitable redeployment into a post at the band you are protected on, then you will forgo your right to protection.

Q6: What happens if my shift patterns / hours of work / on-call rota changes?

A6: Protection will be applied to that component that changes as a consequence of organisational change e.g. if you are no longer required to undertake on-call, you will continue to receive on-call payments or if you move from nightshift to day shift you will continue to receive your night shift allowance or if your contracted hours of work reduce you will continue to be paid your contracted hours.

Q7: Can I be asked to work up to my level of protected earnings?

A7: Yes, you can be asked to work up to your level of protection in additional duties connected with the reasons for the change. This will be off set against protection payment. However you will not be expected to work more than your contracted hours. The principles for this are described in Section 5 of Annex A.

Q8: How will I know what my protected earnings are?

A8: You will receive written confirmation and guidance on how your protected earnings will be applied and arrangements for working up to your level of protection. The payroll department will use a reference period of twelve months to calculate your protection.

Q9: What happens if I want to apply for a promoted post?

A9: If you secure a promoted post or your redeployed post is subsequently regraded, you will be placed on a pay point that takes into account your protected earnings to ensure no detriment. If the protected earnings exceed the top of the new pay scale you will move to the top and the balance of your protected earnings will be paid on a mark time basis.

Q10: I have submitted a request to have my previous post re-evaluated prior to being redeployed will that affect my level of protection if the re-evaluation results in my grade increasing?

A10: Yes your protection will need to be recalculated to take into account your change in grade.

Q11: What does 'mark time' mean?

A11: Mark time means that element of your pay that is still subject to protection following promotion to a higher level post will not attract any future cost of living increases.

Q12: Can I be asked to work on a different site?

A12: Yes, you can be asked to work at a different site within reason and with reasonable notice. For employees required to work at a different site other than their home base, line managers must ensure that the individuals are competent to work on the different site and have received appropriate training. Employees will be entitled to travel costs as per Agenda for Change terms and conditions. In regard to travel time, if the employee is asked to work at a different site which results in a significantly longer journey time, the employee will be allowed to claim for the additional travel time.

Q13: What arrangements are in place to ensure protection is paid fairly and consistently?

A13: To ensure that all employees are treated fairly and consistently, Area Partnership Forums will be asked to monitor protection arrangements and they will be required to provide reports to STAC. Staff who feel they have not been treated fairly can seek support and advice from their Human Resources team or their staff representative.