



# **REDEPLOYMENT WITHIN NHSSCOTLAND PIN POLICY**

**December 2014**

## Ministerial Foreword



NHSScotland aims to deliver the highest quality healthcare services and, through this, to ensure that we are recognised by the people of Scotland as amongst the best in the world. The Quality Strategy sets the overall direction for achieving this, both now and in the future, focussing on three Quality Ambitions: 'person-centred', 'safe', and 'effective'. The 2020 Vision for Healthcare recognises that, over the coming years, the demands for healthcare and the ways in which it is delivered will be radically different.

The 2020 Workforce Vision, 'Everyone Matters', which was launched in June 2013, sets out our vision for the workforce, with values that are shared across NHSScotland, and asks everyone who works for NHSScotland to play their part in supporting the changes and living these values. The accompanying Implementation Framework and Plan sets out our five Priorities for Action in a 7-year plan to 2020 and will allow us to measure progress in these important areas.

I am proud of the progress made by NHSScotland Boards in striving towards exemplar employer status. Staff Governance (ensuring the fair and effective management of staff) has been enshrined in legislation, and is an integral part of the NHSScotland Governance Framework. Similarly, the evolution of partnership working between employers and trade unions/professional organisations at both local and national level has helped to ensure that we have employment relations which have been described by an independent report as 'groundbreaking' and 'arguably the most ambitious labour-management partnership so far attempted in the UK public sector'.

The development of NHSScotland Partnership Information Network (PIN) Policies provides a means of further ensuring sound staff governance practice. They set a minimum standard of practice in the area of employment policy, helping to ensure a fair and consistent means of managing staff which meets both current legislative requirements and best employment practice. These PIN Policies have been published following significant work in partnership between the Scottish Government, NHSScotland employers and recognised trade union/professional organisation partners, and following widespread consultation across the service.

These PIN Policies also form part of the terms and conditions of employment of all NHSScotland employees. While Boards may develop policies to meet particular local needs, I expect all Boards to adhere to the PIN Policies and ensure that practice never falls short of any of the provisions set out within these policies. By doing so, we can ensure that employees are treated fairly and consistently irrespective of the part of the service in which they work.

I am asking all NHSScotland managers and leaders to ensure that they adopt and embrace the PIN Policies within their Boards and within their individual roles. I am also tasking Employee Directors and Board Partnership Forums to champion these policies and to raise non-compliance in a positive and constructive manner.



Shona Robison MSP  
Cabinet Secretary for Health, Wellbeing and Sport

# Preface

## Staff Governance

Staff Governance is defined as “a system of corporate accountability for the fair and effective management of all staff”. The [Staff Governance Standard](#)<sup>1</sup>, which is applicable to all staff employed in NHSScotland, sets out what each NHSScotland employer must achieve in order to continuously improve in relation to the fair and effective management of staff. The Standard requires that all NHS Boards must demonstrate 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.

It is recognised that staff are central to achieving the principal aims of NHSScotland, namely to improve health and wellbeing, and to deliver high quality care to those with ill health. Achievement against the Staff Governance Standard is therefore key to the effective and efficient delivery of services by providing an environment that is inclusive and conducive to employees giving of their best.

NHSScotland’s commitment to staff governance has been reinforced by its legislative underpinning within the [National Health Service Reform \(Scotland\) Act 2004](#)<sup>2</sup>, which ensures parity with the other two governance pillars of clinical and financial governance.

## PIN Policies

Partnership Information Network (PIN) policies define a minimum standard of best employment practice and are designed to achieve a consistent approach to the way NHSScotland deals with its employees. They have been developed in partnership between NHSScotland management, trade unions/professional organisations and Scottish Government. While local adaptations may be agreed in partnership to suit Boards’ own local needs, any such adaptations must still meet or exceed the minimum standards set out within the PIN policies.

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<sup>1</sup> <http://www.staffgovernance.scot.nhs.uk>

<sup>2</sup> <http://www.legislation.gov.uk/asp/2004/7/contents>

Compliance with the Staff Governance Standard includes implementation of PIN policies. Boards will be expected to evidence adherence to the PIN policies as part of the annual Staff Governance Standard Monitoring Framework. Part 1: Principles and Partnership of the *Agenda for Change Terms and Conditions Handbook*<sup>3</sup> incorporates PIN policies within the terms and conditions of employment of all NHSScotland staff and serves to further reinforce the fact that adherence to the minimum standards set out within them is mandatory for all NHSScotland Boards.

Board Partnership Forums therefore have a key role in ensuring that locally developed policies meet or exceed the minimum standards set out in the PIN policies; and in raising non-compliance in a positive and constructive manner.

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<sup>3</sup> <http://www.msg.scot.nhs.uk/wp-content/uploads/Agenda-for-Change-Handbook-Master-Scottish-Copy-October-2014.pdf>

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# 1 Introduction

- 1.1** The purpose of this Partnership Information Network (PIN) policy on redeployment is to set out minimum standards and provide a model which can be adapted and enhanced at a local level, to create policies which 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'. Local policies must be developed and agreed by the appropriate partnership forum; must meet or exceed the provisions contained within this PIN policy; and, must be jointly reviewed on a regular basis.
- 1.2** This PIN policy defines 'redeployment' as the process of securing suitable alternative employment for an employee, who it 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 Boards determine 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.
- 1.3** This PIN policy will apply to all affected employees 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 PIN policy will refer to 'displaced employees'.
- 1.4** The PIN is also designed to clarify the rights and responsibilities of Boards, managers, employees and trade unions/professional organisations in respect of displaced employees to whom resulting local policies apply.

## 2 Main Report

### 2.1 Strategic Framework/Organisational Culture

- 2.1.1** 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 (or in other circumstances determined by local organisations), consideration will have to be given to exploration of suitable alternative employment.
- 2.1.2** NHSScotland Boards have a legal obligation in certain circumstances to explore suitable alternative employment where staff are displaced from their existing roles.
- 2.1.3** In order to comply with the strand of the NHSScotland *Staff Governance Standard*<sup>4</sup>, which requires that staff are treated fairly and consistently, with dignity and respect, in an environment where diversity is valued, Boards have an obligation to ensure that staff have security of employment where a contractual relationship exists, and experience no detriment through any organisational change policy.
- 2.1.4** However, beyond compliance with legislation and national policy, there are clear 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 Boards, which would otherwise have been lost if employment ended. It also serves to further a positive staff experience, which in turn will assist Boards in achieving and maintaining exemplar employer status. As such, it is important that NHSScotland Boards are committed to preserving security of employment for all employees, where possible.
- 2.1.5** Indeed, it should be noted that, in the case of non-renewal of a fixed-term contract, while a legal obligation to explore suitable alternative employment only exists in circumstances where such non-renewal meets the definition of redundancy, this PIN policy goes beyond the legislation in requiring that access to redeployment be granted in the case of all instances of non-renewal of a fixed-term contract.

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<sup>4</sup> <http://www.staffgovernance.scot.nhs.uk/what-is-staff-governance/staff-governance-standard/>

## 2.2 Principles and Values

**2.2.1** All NHSScotland Boards must have a policy in place which ensures that displaced employees are dealt with in a non-discriminatory, fair and consistent manner, with regard to exploration of suitable alternative employment opportunities.

**2.2.2** In order to achieve this, the following principles and values apply:

- Suitable alternative employment opportunities will be sought for all displaced employees;
- There will be no unreasonable delay in commencing this process;
- No vacancy will be opened to applications externally or from within the wider internal workforce 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. An exception to this may occur where an employee is disabled under the [Equality Act 2010](#)<sup>5</sup> and is displaced from their original post due to their disability. In such circumstances, consideration of higher banded posts may amount to a reasonable adjustment (see section 2.4.6 of this PIN). Consideration should also be given to local Organisational Change policies and procedures including protection;
- 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. In the case of employees who are disabled under the [Equality Act 2010](#)<sup>6</sup>, where the essential criteria required for the role amount to a provision, criterion or practice which puts the employee at a disadvantage due to his or her disability when compared with non disabled employees, the employer will make such adjustments to the role as are reasonable (see section 2.4.6 of this PIN). While there may be instances requiring prioritisation and/or a competitive selection

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<sup>5</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

<sup>6</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

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; and,
- 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.

## 2.3 Roles and Responsibilities

### 2.3.1 Boards will:

- In partnership with local trade unions/professional organisations, agree a redeployment policy which meets or exceeds the minimum standards set out within this PIN policy;
- Ensure that the local policy is appropriately communicated to all employees and made readily accessible to them;
- Ensure that all relevant staff are sufficiently skilled and competent in implementing the local policy. Joint training on the local policy must be provided for managers and trade union/professional organisation representatives using a partnership model;
- Identify a designated redeployment coordinator (or locally determined alternative) to centrally coordinate the redeployment process, in order to ensure that it is efficiently, effectively and fairly managed;
- Ensure that appropriate HR advice is available to managers involved in implementing the local policy; and,
- Subject the local policy to ongoing monitoring to ensure that it is being fairly and consistently applied and that the stated principles and values are being met. The local policy must also 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.

### 2.3.2 Displaced employees will:

- Ensure that they are aware of both their rights and responsibilities under the local policy, and that they seek further guidance if unclear;
- Ensure that they fully engage with the redeployment process, particularly with regard to any potentially suitable alternative roles to which they are matched;
- Ensure that they fully engage with any relevant training and development programmes that are integral to any role that they subsequently accept; and,
- Ensure that any concerns/issues are raised as soon as possible during any trial period, in order to enable early discussion and with a view to potential resolution.

### 2.3.3 Managers of displaced employees 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;
- Ensure that displaced employees are made aware of their rights and responsibilities under the local policy, and that they comply with those responsibilities;
- Ensure that they are fully aware of and comply with their own responsibilities under the local policy, including ensuring that there is no unreasonable delay in enabling displaced employees access to the provisions of the policy, and that they provide regular contact and support to them whilst suitable alternative employment is being explored; and,
- Ensure that they seek advice from HR (redemption coordinator (or locally determined alternative)) where necessary and appropriate when dealing with redeployment issues.

### 2.3.4 Managers recruiting to a vacancy will:

- Ensure that they are fully aware of and comply with their responsibilities under the local 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 any subsequent trial period are raised as soon as possible in order to enable early discussion and with a view to potential resolution; and,

- Ensure that they seek advice from HR (redeployment coordinator (or locally determined alternative)) where necessary and appropriate when dealing with redeployment issues.

### 2.3.5 Trade unions/professional organisations will:

- In partnership with the Board, agree a redeployment policy which meets or exceeds the minimum standards set out within this PIN policy;
- Work in partnership with the Board to develop joint training as part of the implementation of the local 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; and,
- Participate in partnership monitoring, evaluation and review of the local policy.

### 2.3.6 HR will:

- Develop and deliver, in partnership, training on the Board's local policy for managers and trade union/professional organisation representatives;
- Advise managers on the correct implementation of the local policy;
- Support displaced employees by providing advice on the local 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);
- 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;
- Ensure that displaced employees have fully completed the Redeployment Referral Form (see Appendix 1, Annex A);
- Liaise with managers recruiting to a vacancy in order to ensure that displaced employees are appropriately matched (see Appendix 1, Annex C);

- Ensure that staff matched to vacancies are appropriately prioritised based on the reason for their displacement (see Appendix 1, Annex D);
- Ensure that refusal by a manager to appoint a displaced employee to an identified potential match is reasonable, compliant with the *Equality Act 2010*<sup>7</sup>, and stands up to objective scrutiny;
- Liaise with key stakeholders on any required employment decisions where redeployment has not proven successful; and,
- Collate appropriate information to inform the monitoring and evaluation of the local policy.

#### 2.3.7 Occupational Health will:

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

## 2.4 Legal Framework

**2.4.1** There is no legal definition of redeployment. However, there are legal obligations placed upon employers where employees are displaced from their role.

**2.4.2** The purpose of this section is to provide the legal context against which this PIN policy has been developed and to provide a source of reference to Boards where questions arise on areas not covered within the PIN policy. It should be noted, however, that the PIN exceeds minimum legal requirements in a number of respects.

**2.4.3** Managers must always seek HR advice when addressing redeployment issues, where necessary and appropriate, to ensure compliance with current employment legislation and the Board's local policy developed in line with this PIN policy.

#### **2.4.4 *Employment Rights Act (1996) s.98(4)***<sup>8</sup>

The Act states that, where the reason for a dismissal falls under one of those permitted under the Act, 'the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee'.

<sup>7</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

<sup>8</sup> <http://www.legislation.gov.uk/ukpga/1996/18/contents>

In undertaking this test of reasonableness, an employment tribunal is likely to look at whether or not an employer has explored suitable alternative employment opportunities before reaching a decision to dismiss.

#### 2.4.5 **Employment Rights Act (1996) s.141**<sup>9</sup>

While the Act sets out the conditions surrounding 'suitable alternative employment' in cases of redundancy, those detailed below will also apply in an NHSScotland context in which individuals are displaced from their job as a result of organisational change.

The Act states that for a dismissal to be fair, an employer must offer any suitable alternative job to an employee to avoid their redundancy.

Whether a position is suitable depends on:

- The terms of the job being offered;
- The employee's skills, abilities and circumstances; and,
- The pay (including benefits), status, hours and location of the job.

The test of what is 'suitable alternative employment' is assessed objectively. However, whether it is reasonable for the employee to reject it is assessed subjectively (considering the individual's personal circumstances). Factors to be taken into consideration include pay, loss of status, loss of fringe benefits, place of work, general terms and conditions, job prospects and job content. An employee who unreasonably refuses the offer of a suitable alternative may forfeit their right to a statutory redundancy payment.

The employee is entitled to a statutory trial period of four weeks in the new job to decide if the alternative post offered is suitable. Any agreement for a longer trial period in order to facilitate retraining must be made in advance and in writing, specifying the date on which the period of retraining ends and the terms and conditions of employment which will apply in the employee's case after the end of that period.

The employee may:

- Decide that the new job is suitable and remain in the position beyond the end of the trial date; or,
- Decide that the new job is not suitable and give notice during the trial period. Where the employee is able to justify the unsuitability of the position, this would preserve the employee's right to a redundancy payment under the Act.

<sup>9</sup> <http://www.legislation.gov.uk/ukpga/1996/18/contents>

### 2.4.6 **Equality Act 2010**<sup>10</sup>

The Equality and Human Rights Commission *Statutory Code of Practice on Employment*<sup>11</sup> which accompanies the Act requires that, during a redundancy exercise, if alternative vacancies exist within the employer's organisation, these should be offered to potentially redundant employees using criteria which do not unlawfully discriminate (either in design or application). As above, this condition equally applies in an NHSScotland context in situations where someone has been displaced from their job as a result of organisational change, or is displaced for another reason covered by this PIN.

In cases where an individual is displaced as a result of capability, and where that individual has a disability as defined within the Act, the Code states that, where no reasonable adjustment would enable them to continue doing their current job, an employer should consider whether a suitable alternative post is available for them. Such a post might also involve retraining or other reasonable adjustments such as equipment for the new post and may be to a post of either the same or differing grade.

Further information is set out within the *Embracing Equality, Diversity and Human Rights in NHSScotland PIN Policy*<sup>12</sup>.

- 2.4.7** The relevant legislation covering those displaced as a result of the non-renewal of a fixed-term contract upon expiry is set out within the *Use of Fixed-Term Contracts within NHSScotland PIN Policy*<sup>13</sup>. However, it should be noted that, while a legal obligation to explore suitable alternative employment only exists in circumstances where such non-renewal meets the legal definition of redundancy, this policy goes beyond the legislation requiring that suitable alternative employment opportunities are explored in all instances of non-renewal of a fixed-term contract upon expiry.

## 2.5 Key Procedural Elements

- 2.5.1** This section sets out the key procedural elements which will be expected to be included, as a minimum standard, within local policies developed in line with this PIN policy. It is recognised that, beyond this minimum standard, local policies may be

<sup>10</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

<sup>11</sup> <http://www.equalityhumanrights.com/legal-and-policy/legislation/equality-act-2010/equality-act-codes-practice-and-technical-guidance>

<sup>12</sup> <http://www.scotland.gov.uk/Publications/2013/12/3747>

<sup>13</sup> <http://www.scotland.gov.uk/Publications/2012/04/4657>

further developed, in partnership, to reflect the culture, scale and complexity of the Board. In the case of employees who are disabled under the *Equality Act 2010*<sup>14</sup>, where the key procedural elements amount to a provision, criterion or practice which puts the employee at a disadvantage due to his or her disability when compared with non disabled employees, the employer will make such adjustments to the procedure as are reasonable.

- 2.5.2** As outlined above, whilst this PIN Policy applies to all affected employees 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 sections on specific conditions which apply in relation to each of the grounds upon which employees may be displaced.
- 2.5.3** Reference is made within this section to the circumstances in which protection of terms and conditions of employment apply, depending on the grounds upon which an employee has been displaced. 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, if they are a member of the NHSScotland pension scheme, they 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>).
- 2.5.4** ***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 procedure outlined below.
- 2.5.5** ***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 relevant local Board policies).
- 2.5.6** ***Access Period***  
Assuming that there is a likelihood of a suitable alternative role arising within a reasonable period, access to redeployment should be limited to three months in the first instance.

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<sup>14</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

Following this the position should be reviewed with the option of extending the period of access depending upon whether suitable alternative employment opportunities have arisen or are likely to arise within the immediate period thereafter.

Boards should be sensitive surrounding the three month access period in circumstances in which it is reasonably determined by either party, following a trial period, that a role is unsuitable, or where an individual has been redeployed on a temporary basis.

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.

These meetings would involve advising the displaced employee of their rights and responsibilities under the policy; completion of the Redeployment Referral Form (see Appendix 1, Annex A); 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 Referral Form, the displaced employee should be provided with assistance in its completion.

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. 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 convene a meeting to consider termination of employment (in line with the relevant local Board policy).

### **2.5.7 Matching**

Boards should take steps to ensure that the process of matching displaced employees with potentially suitable alternative employment vacancies is efficiently, effectively and

fairly coordinated. This includes compliance with the *Equality Act 2010*<sup>15</sup>. While ideally this should involve a designated redeployment coordinator, it will be for Boards to determine a local approach which best meets the above requirement.

The process of matching (see Appendix 1, Annex C) should be undertaken in the case of all displaced employees. 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 (consideration may also be given to examining 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).
- 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.
- Consideration of reasonable adjustments, as described in section 2.2.2 of this PIN.

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 individual's completed Redeployment Referral Form (see Appendix 1, Annex A) will provide the basis for comparison.

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<sup>15</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

The redeployment coordinator (or locally determined alternative) will establish, from amongst those matched, whether any displaced employees take priority over others due to the reasons for which they were displaced (see Appendix 1, Annex D).

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.

### 2.5.8 **Selection Decisions**

Managers recruiting to a vacancy will be expected to appoint from amongst matched employees unless they can provide a robust case 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, and that reasonable adjustments are made for disabled employees, as described at section 2.2.2. of this PIN.

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 (see Appendix 1, Annex C); or
- Where more than one displaced employee is matched to a vacancy at a particular level of priority (see Appendix 1, Annex D).

Any subsequent offer made will be conditional upon all relevant pre-employment checks, as set out within local Board policies developed in line with the *Safer Pre and Post Employment Checks in NHSScotland PIN Policy*<sup>16</sup>, having been undertaken satisfactorily. The checks required will be the same as those which would otherwise have been required in the case of an existing employee changing roles within the same local Board as a result of having applied via the normal recruitment process, with the exception that reference will not normally be required in the case of redeployment.

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<sup>16</sup> <http://www.scotland.gov.uk/Publications/2014/03/7176>

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

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.

### **2.5.9 Trial Periods/Retraining**

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 (see Appendix 1, Annex C). An extension may amount to a reasonable adjustment for a disabled employee, depending on the particular circumstances.

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, responsibility for pursuing further redeployment, if appropriate, will pass back to the redeploying line manager.

### **2.5.10 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.

### 2.5.11 *Specific Conditions – 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 local Boards' Management of Organisational Change policies.
- 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 PIN policy.

In either case, according to current national policy (as originally set out within [NHS MEL\(1999\)7](#)<sup>17</sup>, and then extended by [NHS MEL\(2000\)22](#)<sup>18</sup> and subsequently [NHS HDL\(2001\)38](#)<sup>19</sup>), employees displaced as a result of organisational change will suffer no detriment to their existing terms and conditions.

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.

Separately, and irrespective of the reason for contract, should a situation arise where a fixed-term contract employee becomes displaced from their role as a result of organisational change prior to its agreed point of expiry, the organisation has a duty to explore suitable alternative employment for the remainder of the fixed-term period, during which period, organisational change protection of terms and conditions will apply.

In circumstances in which a Board permits an employee to commence a secondment or a career break, but where it is agreed that their substantive post will not be held open

<sup>17</sup> [http://www.sehd.scot.nhs.uk/mels/1999\\_7.htm](http://www.sehd.scot.nhs.uk/mels/1999_7.htm)

<sup>18</sup> [http://www.sehd.scot.nhs.uk/mels/2000\\_22.pdf](http://www.sehd.scot.nhs.uk/mels/2000_22.pdf)

<sup>19</sup> [http://www.sehd.scot.nhs.uk/mels/hdl2001\\_38.htm](http://www.sehd.scot.nhs.uk/mels/hdl2001_38.htm)

for them and, instead, suitable alternative employment will be provided upon their return, the rules detailed above, surrounding protection of earnings, will similarly apply.

Where appropriate, excess travel and relocation expenses (within the same Board area) incurred as a result of redeployment will be reimbursed in line with the relevant terms and conditions of service.

#### **2.5.12 *Specific Conditions - 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 *Management of Employee Capability PIN Policy*<sup>20</sup> and the Promoting Attendance PIN 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.

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.

#### **2.5.13 *Specific Conditions - Non-renewal of fixed-term contract upon expiry***

In the case of non-renewal of a fixed-term contract, while a legal obligation to explore suitable alternative employment only exists in circumstances where such non-renewal meets the definition of redundancy, this policy goes beyond the legislation requiring that access to redeployment be granted in the case of all instances of non-renewal of a fixed-term contract.

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<sup>20</sup> <http://scotland.gov.uk/Publications/2012/08/5605>

In this case, in line with the *Use of Fixed Term Contracts within NHSScotland PIN Policy*<sup>21</sup>, 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.

The access period for employees displaced as a result of non-renewal of a fixed term contract will be for a period no less than the contractual notice period, and no more than 3 months, as discussed in the *Use of Fixed Term Contracts within NHSScotland PIN Policy*<sup>22</sup>. Where the notice period is less than or equal to three months, the access period will run concurrently with the notice period. Where the notice period is greater than three months, the access period will start three months before the contract end date.

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. However, given that a role may be secured at any point prior to expiry of the notice period, it may be necessary to extend a fixed-term contract in order to facilitate a trial period (with termination taking effect thereafter if the trial period proves unsuccessful).

#### **2.5.14 Other Circumstances**

Redeployment in other specific circumstances should 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, non-discrimination, and consistency of approach are applied. Such other specific circumstances may include, for example, redeployment to a role with less responsibility as an alternative to dismissal as an outcome in a disciplinary case, or, to another role as a consequence of needing to separate parties as a result of a dignity at work issue although not by way of disciplinary sanction.

#### **2.5.15 Grievances**

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 local policies, the matter should be pursued in line with local Board policies.

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<sup>21</sup> <http://www.scotland.gov.uk/Publications/2012/04/4657>

<sup>22</sup> <http://www.scotland.gov.uk/Publications/2012/04/4657>

## 2.6 Training

NHSScotland Boards are required to ensure that those with responsibilities for managing redeployment have been appropriately trained in order that such responsibilities are appropriately met.

Joint training on Boards' local policies developed in line with this PIN policy should be developed in partnership and be delivered to managers and trade union/professional organisation representatives using a partnership model. It may be appropriate to incorporate such training into local management development programmes.

## 2.7 Basis for Evaluation/Indicators Of Success

Boards must subject their local policy, developed in line with this PIN policy, to ongoing monitoring to ensure that it is being fairly and consistently applied and that the stated principles and values are being met. The local policy must also 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.

In order to gauge how successful the local policy has been in operation, it is important in the first instance to establish baseline criteria.

Boards should monitor application of the policy in order to ensure that its approach avoids discrimination on grounds, for example, of the protected characteristics set out within the *Equality Act 2010*<sup>23</sup> and that, in the case of disability, the process is conducive to supporting the identification and implementation of reasonable adjustments when considering suitable alternative employment.

In order to do this, Boards will need to gather information about the current approach to redeployment. This information gathering can then be repeated after an agreed time span, following the introduction of the policy, to determine improvement or otherwise.

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<sup>23</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

A basis for evaluation could include:

- Feedback from employees and their representatives, for example:
  - Completed Redeployment Process Evaluation Forms (see Appendix 1, Annex B);
  - Focus groups for affected employees;
  - Exit interviews;
  - Results of local/national staff surveys.
- Feedback from those with responsibilities for supporting the management of redeployment (i.e. line managers, HR and Occupational Health, and trade union representatives and professional bodies);
- Workforce information, for example:
  - Number of employees who have been displaced;
  - Proportion of employees who have been displaced by reason;
  - Number of employees successfully redeployed;
  - Timescales for successful redeployment;
  - Number of employees who have not been successfully redeployed;
  - Turnover of employees who have been displaced and successfully redeployed;
  - Costs to the organisation, above what would have been incurred had individuals not been displaced.

Other indicators of success can include:

- Awareness by employees that a policy exists and an understanding of how it works;
- Managers and employees believing in the policy and feeling comfortable when using it;
- Improvements in the approach to redeployment;
- Open discussions at local partnership forums about the effectiveness of the policy.

# Appendix 1

## Model Redeployment Policy

### 1 Policy Statement

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'.

[*Name of organisation*] 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 [*name of organisation*], which would otherwise have been lost if employment ended. It also serves to further a positive staff experience, which in turn will assist [*name of organisation*] 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.

## 2 Definition

‘Redeployment’ is the process of securing suitable alternative employment for an employee who it 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 *[name of organisation]* 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.

## 3 Scope

This policy applies to all affected employees of *[name of organisation]* 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’.

## 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 will be sought for all displaced employees;
- There will be no unreasonable delay in commencing this process. No vacancy will be opened to applications externally or from within the wider internal workforce 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 should also be given to local Organisational Change policies and procedures including protection;
- 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;
- 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 [state] 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.

## 5 Roles & 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;
- Ensure that they fully engage with the redeployment process, particularly with regard to any potentially suitable alternative roles to which they are matched;
- Ensure that they fully engage with any relevant training and development programmes that are integral to any role that they subsequently accept; and,
- Ensure that any concerns/issues are raised as soon as possible during any trial period, in order to enable early discussion and with a view to potential resolution.

Managers of displaced employees 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;
- 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, and that they provide regular contact and support to them whilst suitable alternative employment is being explored; and,
- Ensure that they seek advice from HR (including the *[redemption coordinator or locally determined alternative]*) where necessary and appropriate when dealing with redeployment issues.

Managers recruiting to a vacancy 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 any subsequent trial period are raised as soon as possible in order to enable early discussion and with a view to potential resolution; and,

- Ensure that they seek advice from HR (including the *[redeployment coordinator or locally determined alternative]*) where necessary and appropriate when dealing with redeployment issues.

Trade unions/professional organisations will:

- In partnership with *[name of organisation]*, 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 *[name of organisation]* 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; and,
- Participate in partnership monitoring, evaluation and review of this policy.

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);
- 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;
- Ensure that displaced employees have fully completed the Redeployment Referral Form;

- Liaise with managers recruiting to a vacancy in order to ensure that displaced employees are appropriately matched;
- Ensure that displaced employees matched to vacancies are appropriately prioritised based on the reason for their displacement;
- Ensure that refusal by a manager to appoint a displaced employee to an identified potential match is reasonable and stands up to objective scrutiny;
- Liaise with key stakeholders on any required employment decisions where redeployment has not proven successful; and,
- Collate appropriate information to inform the monitoring and evaluation 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.

## 6 Procedure

### 6.1 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 procedure outlined below.

### 6.2 Specific Conditions

As outlined above, whilst this policy applies to all affected employees of [*name of organisation*] 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.

### 6.3 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 the relevant [*name of organisation*] policy.

### 6.4 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.

These meetings would involve advising the displaced employee of their rights and responsibilities under the policy; completion of the Redeployment Referral Form; 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 Referral Form, 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.

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. 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 convene a meeting to consider termination of employment in line with the relevant [*name of organisation*] policy.

## 6.5 Matching

The process of matching should be undertaken in the case of all displaced employees, with the completed Redeployment Referral Form 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 (consideration may also be given to examining 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](#)<sup>24</sup> consideration may require to be given to vacant posts at a higher pay band/grade).

<sup>24</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

- 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 or locally determined alternative]* 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](#)<sup>25</sup>.

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.

## 6.6 Selection Decisions

Managers recruiting to a vacancy will be expected to appoint from amongst matched employees unless they can provide a robust case 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.

<sup>25</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

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 [*name of organisation*]'s [*state*] policy, developed in line with the [Safer Pre and Post Employment Checks in NHSScotland PIN Policy](#)<sup>26</sup>, 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 [*name of organisation*] changing roles within the organisation 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. Managers recruiting to a vacancy must ensure that displaced employees are made aware of this right.

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.

## 6.7 Trial Periods/Retraining

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](#)<sup>27</sup>.

<sup>26</sup> <http://www.scotland.gov.uk/Publications/2014/03/7176>

<sup>27</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

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, responsibility for pursuing further redeployment, if appropriate, will pass back to the former manager of the displaced employee.

### **6.8 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.

### **6.9 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 national 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.

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>).

## 7 Specific Conditions

### 7.1 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 [*name of organisation*]'s Management of Organisational Change policy.
- 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.

### 7.2 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 [*name of organisation*]'s Management of Employee Capability and the Promoting Attendance policies.

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.

### 7.3 Non-renewal of fixed term contract upon expiry

In this case, in line with [*name of organisation*]'s Use of Fixed Term Contracts within NHSScotland PIN 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 non-renewal 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.

### 7.4 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.

## 8 Grievances

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 [*name of organisation*]'s Grievance Policy.

## 9 Review

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.

## Annex A: Redeployment Referral Form

### PERSONAL DETAILS

Title:	Forename:	Surname:
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Home Address (incl. postcode):
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Telephone Numbers:	Work:	Home:
	Mobile:	

Email Address:
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### CURRENT POST

Post:	Pay Band/Grade:
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Department/Division:	Location:
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Contracted hours of work/week:	Payroll No.:
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Please provide a brief Statement of duties and/or achievements in current post:

CURRENT WORK PATTERN

Days worked	(describe number of days worked over a standard rota period - e.g. 5/7)		Sunday/Monday/Tuesday/Wednesday/Thursday/Friday/Saturday (*delete those which do not apply)
Shift Length	(state normal shift length or, where this varies, describe shift durations over a standard rota period)		
Start/Finish times	(state normal start/finish times or, where this varies, describe start/finish times over a standard rota period)		
Regular unsocial hours working	(state regular unsocial hours worked (i.e. weekday nights, Saturdays or Sundays) or, where this varies, describe the average number of such hours worked over a standard rota period)		
Contractual On-Call working	(state on-call frequency over a standard rota period & associated payments)		

### DETAILS OF PREVIOUS EMPLOYMENT

Post	Department/Organisation	Brief Description of Duties/Responsibilities

### CURRENT TRAVEL ARRANGEMENTS

Current mode of transport to and from work:	
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Distance to and from work:	
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Current travel costs per week/month:	
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Do you have a current full driving licence? Yes/No	Do you have access to a vehicle? Yes/No	Do you have a Lease or Crown Car? Yes/No
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Please provide a brief list of qualifications

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Please provide a brief list of key knowledge, skills and experience

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EMPLOYMENT OPTIONS

(Please list type of posts you may be interested in, in order of preference)

1.	
2.	
3.	
4.	

PREFERRED HOURS/SHIFT PATTERN


PREFERRED LOCATION

1.	
2.	
3.	

DO YOU HAVE ANY OTHER CIRCUMSTANCES THAT SHOULD BE TAKEN INTO CONSIDERATION?

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## Annex B: Redeployment Process Evaluation Form

We would be grateful if you could complete this short questionnaire. The information collected is used to monitor and develop the redeployment process

	Strongly Agree	Agree	Not really	Disagree	Strongly Disagree	Not applicable	Comments
<b>The Process</b>							
I was given sufficient notice of the changes to my job	1	2	3	4	5	6	
The redeployment process was explained clearly to me	1	2	3	4	5	6	
I was given adequate time to deal with the issues relating to redeployment	1	2	3	4	5	6	
I understood the options that were available to me	1	2	3	4	5	6	
I found the one to one interview about my preferences helpful	1	2	3	4	5	6	
I was asked to identify preferred options	1	2	3	4	5	6	
All appropriate posts were brought to my attention	1	2	3	4	5	6	
I understood how to apply for a post during redeployment	1	2	3	4	5	6	
I understood how redeployment would affect my terms and conditions	1	2	3	4	5	6	

	Strongly Agree	Agree	Not really	Disagree	Strongly Disagree	Not applicable	Comments
The protection arrangements were explained clearly to me	1	2	3	4	5	6	
The effect of redeployment on my pension was clearly explained to me	1	2	3	4	5	6	
I was successful in obtaining my preferred option	1	2	3	4	5	6	
I felt that all employees were treated equally during the process	1	2	3	4	5	6	
I received suitable induction into my new post	1	2	3	4	5	6	
Training/re-training was offered to me	1	2	3	4	5	6	
I am satisfied with my new post	1	2	3	4	5	6	
<b>Support</b>							
<i>I was satisfied with the level of support offered by:</i>							
HR	1	2	3	4	5	6	
Trade Unions/Professional Organisations	1	2	3	4	5	6	
Managers before change	1	2	3	4	5	6	
Managers after change	1	2	3	4	5	6	

	Strongly Agree	Agree	Not really	Disagree	Strongly Disagree	Not applicable	Comments
<i>[Redeployment coordinator or locally determined alternative]</i>	1	2	3	4	5	6	
<i>Occupational Health</i>	1	2	3	4	5	6	
Are there any other comments you would like to make about the redeployment process?							

Please return the completed form to the *[redeployment coordinator or locally determined alternative]* at.....

## Annex C: Guidance on Matching

### 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. An exact match is a post which is:

- At the same pay band/grade and has the same skills set; and
- At the same location or within reasonable travelling time (e.g. within 1 hour), 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 redeployment coordinator (or locally determined alternative) 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 (or locally determined alternative) will seek advice from the manager of the displaced employee and the manager recruiting to the vacancy, as appropriate, if they require clarification on transferable skills and relevant experience.

### 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.

### Disabled employees

In circumstances where a displaced employee is also disabled for the purposes of the *Equality Act 2010*<sup>28</sup>, 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.

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<sup>28</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

## Annex D: Guidance on 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.

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 non-renewal of their contract upon expiry (where termination of employment meets the definition of redundancy)
- Other fixed-term employees displaced on grounds of non-renewal of their contract upon expiry

While the above will be correct in general terms, it will not apply in every case. Boards should take particular care, for example, where an employee displaced is disabled for the purposes of the *Equality Act 2010*<sup>29</sup>, 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.

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<sup>29</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

## Appendix 2

### PIN Policy Review Group

Members:	Lorraine Allinson	HR Services Manager, NHS Shetland
	Colin Herbert	Head of Human Resources, NHS Borders
	John Huband	Head of Recruitment and Employment Services, NHS Highland
	Adam Palmer	Branch Secretary (Highland, Healthcare), UNISON
	Darren Paterson	Staff Governance Associate, Scottish Government
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