

HR 17

Organisational Change Policy and Procedure

Policy applicable to:

NHS East Surrey CCG	✓
NHS Guildford and Waverley CCG	✓
NHS North West Surrey CCG	✓
NHS Surrey Downs CCG	✓

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Owner (director)	Elaine Newton – ICS Executive Director
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Version control sheet

Version	Date	Author	Status	Comments / changes since last version
0.1 (1 st draft)	20/11/2019	Head of HR	Draft	Reviewed by JSPF policy working group. Agreed with timing of launching a SH CCG change policy and proposed changes.
0.2	11/12/2019	Head of HR	Draft	Reviewed by JSPF Changed the title to include procedure. Added in section 8 and additional definitions
0.3	16/12/2019	Head of HR	Draft	Reviewed by ICS Executive Team meeting Format amendments only
0.4	24/12/2019	Head of HR	Draft	
0.5	24/12/19	Governance Team	Draft	Minor formatting changes
0.6	06/01/20	Head of HR/ Remuneration Committees (x4)	Draft	Following amendments made following feedback from Rem Com members: <ul style="list-style-type: none"> • 3.3: Clarification added that this includes fixed term contracts and interims. • 8.5: Clarification added that this also applies to VSM staff. • 14.4: Appeals panel amended to: three people.
1.0	13/01/20	Governing Bodies (x4)	Final	Approved via Chairs' Actions.

Equality statement

The CCGs aim is to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. We take into account the Human Rights Act 1998 and promote equal opportunities for all. This document has been assessed to ensure that no employee receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the member of staff has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

We embrace the four staff pledges in the NHS Constitution. This policy is consistent with these pledges.

See next page for an Equality Analysis of this policy.

Equality analysis

Equality analysis is a way of considering the effect on different groups protected from discrimination by the Equality Act, such as people of different ages. There are two reasons for this:

- to consider if there are any unintended consequences for some groups
- to consider if the policy will be fully effective for all target groups

Title of Policy: Organisational Change Policy and Procedure	Policy Ref: HR17
Assessment conducted by (name, role): Becky Brewer – Head of HR	Start date for analysis: 23/12/2019 Finish date: 23/12/2019
Give a brief summary of the policy. Explain its aim. <p>This policy outlines the procedures, which will apply to all staff that are affected by service or organisational changes.</p> <p>Organisational change may be required to meet the CCGs responsibilities in providing the best possible health and social care services within the resources available in the most effective and efficient way. This policy and procedure provides staff with the process of how change will be managed.</p>	
Who is intended to <u>benefit from</u> this policy? Explain the aim of the policy as applied to this group. <p>Staff will be informed of the CCGs' business and development plans and as far as reasonably possible and to be involved in their formulation.</p> <p>It is recognised that the implementation of such business and development plans may lead to significant changes in work organisation or contractual relations, including TUPE transfers, redeployment, managing performance, retraining and redundancy and staff will be informed and consulted about employment implications at as early a stage as possible, through working in partnership with the Joint Staff Partnership Forum (JSPF) and staff affected by the changes.</p>	
1. Evidence considered. <i>What data or other information have you used to evaluate if this policy is likely to have a positive or an adverse impact upon protected groups when implemented?</i>	
2. Consultation. <i>Give details of all consultation and engagement activities used to inform the analysis of impact.</i> <ul style="list-style-type: none"> • Demographic data • The results of consultations or recent surveys • Comparison between our policies and functions and similar policies and functions in other public bodies • The review of this policy has been consulted with the Joint Staff Partnership Forum and is in accordance with NHS terms and conditions of employment which is a nationally agreed terms of appointment for NHS staff; therefore this is compliant to all equality requirements. 	

3. Analysis of impact

In the boxes below, identify any issues in the policy where equality characteristics require consideration for either those abiding by the policy or those the policy is aimed to benefit, based upon your research.

Are there any likely impacts for this group? Will this group be impacted differently by this policy? Are these impacts negative or positive? What actions will be taken to mitigate identified impacts?

a) People from different age groups (Age)	No adverse impact predicted from this policy.
b) People with disabilities (Disability)	No adverse impact predicted from this policy.
c) Men and women (Gender or Sex)	No adverse impact predicted from this policy.
d) Religious people or those with strongly held philosophical beliefs (Religion or belief)	No adverse impact predicted from this policy.
e) People from black and minority ethnic groups (Race)	No adverse impact predicted from this policy.
f) People who have changed gender or who are transitioning to a different gender (Gender reassignment)	No adverse impact predicted from this policy.
g) Lesbians, gay men, bisexual people (Sexual orientation)	No adverse impact predicted from this policy.
h) Women who are pregnant or on maternity leave (Pregnancy and maternity)	No adverse impact predicted from this policy.
i) People who are married or in a civil partnership (Marriage and Civil Partnership)	No adverse impact predicted from this policy.
j) Carers	No adverse impact predicted from this policy.

If any negative or positive impacts were identified are they valid, legal and/or justifiable? Please detail.

N/A

4. Monitoring- *How will you review/monitor the impact and effectiveness of your actions?*

This policy will be reviewed/monitored with feedback from change programmes taken into consideration. Any complaints made to line managers that are brought to the attention of the Human Resources team will be reported to the Remuneration Committee.

5. Sign off

Lead Officer:

Becky Brewer – Head of HR

Date approved:

23/12/2019

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1. Introduction and Policy Objective

- 1.1 The Clinical Commissioning Group (CCG) is committed to actively managing its services to commission the most effective health care for patients and clients within its resources. We recognise that as a result, changes may need to be made to our organisational requirements which may affect staffing requirements.
- 1.2 This policy sets out our approach to the management of organisational change, reflects legislative requirements and aims to provide a framework for common understanding for managers, staff and Trade Unions. This policy will be revised in light of any additional national HR guidance that is published or legislative changes.
- 1.3 The principles and procedures support the aim of managing strategic and operational change in a way that is both supportive to staff and enhances the provision of the highest quality service.
- 1.4 The CCG will provide those staff affected by change with support and guidance at the earliest opportunity and according to their individual needs. Recognising that the successful implementation of any change is dependent upon the continued commitment and efforts of line managers and the wider workforce. The CCG is committed to managing any change with due regard for the health and wellbeing of its workforce.

2. Legislative Framework and core standards

- 2.1 The list below provides an example of when this policy may apply. This list is not exhaustive.
 - National and local policy impacting on organisational form and structure
 - Departmental restructuring
 - Transfer of a service in or out of the organisation
 - Cross organisational moves (such as to the local authority)
 - Changes which affect staff terms and conditions of employment
 - Workforce modernisation and large changes to current processes of work
- 2.2 Change may take place for the following reasons. This list is not exhaustive.
 - To respond to government initiatives to bring about change in health care provision
 - To develop the organisation and ensure it is performing effectively
 - To support the organisation's strategic vision and direction
 - To respond to the transfer of a service in or out of the organisation

- 2.3 It is acknowledged that changes within both the CCG and partner organisations may cause concern to staff, but can also present career and personal development opportunities.
- 2.4 The policy has been prepared in consultation and agreement with the Joint Staff Partnership Forum and takes into account Advisory, Conciliation and Arbitration Service (ACAS) guidelines and current, relevant legislation. This policy covers all employees within the CCG and will supersede all other relevant policies under previous terms and conditions of employment held by individuals who have transferred into the CCG from other NHS organisations.

3. Scope

- 3.1 This policy applies to all NHS staff directly employed by the CCG, whether on a permanent contract, fixed term contract or those seconded to another organisation and will be applied consistently and equitably to all staff.
- 3.2 It does not apply to staff employed by another organisation and seconded to the CCG (those staff are the responsibility of their substantive employer)
- 3.3 Bank workers and Independent contractors / consultants working under a contract for services are not covered by this policy.

4. Definitions

- 4.1 **Continuous service** means full or part time employment within the CCG or any previous NHS employer provided there has not been a break of more than one week (Sunday to Saturday) between employments. This reflects the provisions of the Employment Rights Act 1996 and the Agenda for Change Handbook (where applicable) on continuous employment.
- 4.2 **Reckonable service** means continuous service plus any service with a previous NHS employer where there has been a break of 12 months or less. At the CCGs' discretion any period of employment outside the NHS which is deemed to be relevant to NHS employment may be counted as reckonable service.
- 4.3 **Staff affected by change** means staff who may be affected by change e.g. change of line manager or changes to responsibilities, but are not 'at risk' of redundancy
- 4.4 **Staff at risk** means staff whose posts may potentially be redundant as a result of organisational change if suitable alternative employment cannot be found.
- 4.5 **Slotting in** means the process by which staff who are deemed to be 'at risk' are confirmed into a post in a new staffing structure which is the same or broadly similar (at least 75%) to their current post and where that individual is the only

contender for that post. Slotting in may occur where a post is the same band as the individual's current post and where it remains substantially the same with regard to, for example, job content, responsibilities, status and requirements for skills knowledge and experience.

The purpose of using slotting in is to ensure that the maximum numbers of staff are swiftly transferred to posts within a new structure thus reducing uncertainty for staff as soon as possible. Determination of posts for slotting in should be discussed with staff-side representatives in advance.

- 4.6 **Ring fencing** means the process by which staff who are deemed to be 'at risk' will be considered for a post in a new staffing structure which is similar to their current post and where there is more than one contender for the post.
- 4.7 **Redeployment** means the transferring or recruitment of staff 'at risk' into a suitable alternative post.
- 4.8 **Suitable Alternative Employment (SAE)** – describes an alternative post which will be determined by reference to Sections 138 and 141 of the Employment Rights Act 1996. In considering to whether a post is suitable alternative employment, regard should be had to the personal circumstances of the employee. Employees will, however, be expected to show some flexibility.
- 4.9 **Redundancy:** the fact that the employer has ceased, or intends to cease to carry on the business for the purposes of which the employee was employed; or to carry on the business in the place where the employee was so employed
- 4.10 **TUPE** means the Transfer of Undertaking (Protection of Employment) Regulations 2006.
- 4.11 **COSOP** means the Cabinet Office Statement of Practice. National NHS guidance should be referred to if COSOP applies.

5. Roles and Responsibilities

- 5.1 Staff are central to the achievement and success of organisational change. We acknowledge that change can cause concern and uncertainty and it should therefore be managed fairly and consistently in accordance with established good practice.
- 5.2 The CCG will consult with staff and the Joint Staff Partnership Forum representatives on any change management process. We recognise the important roles that staff, line managers and Trade Unions have in the effective management of a change process.

5.3 Human Resources

- Provide advice and guidance to managers and staff including the provision of relevant support.
- Ensure due process is followed in a fair and equitable manner, in line with national legislation and best practice.
- Work closely with managers and relevant colleagues to ensure engaging communication methods are applied.
- The HR Department will ensure the policy is compliant with employment legislation and CCG requirements.

5.4 Directors and Managers

- Directors and Managers are critical to the change management process and shall therefore be regularly briefed so that they are in a position to update and respond to the concerns of staff in their teams.
- In turn managers should provide information to staff so that they are able to make meaningful contributions to the consultation process. Managers must ensure that no member of staff is discriminated against on the grounds of contractual status, caring responsibilities, and any protected characteristic as defined by the Equality Act.
- Managers are required to notify HR of any proposed changes in the first instance.

5.5 Trade Unions

- Trade Unions play a vital role in advising and representing staff undergoing organisational change and in working with managers to ensure that organisational change is managed with the least disruption to services and in accordance with the principle of avoiding redundancies.
- The CCG will formally notify Trade Unions of any proposed organisational changes and will undertake consultation with them in line with legal requirements.

5.6 All Staff

- Staff are expected to play an active role during the pre-consultation and consultation stages and in the further processes of implementation.
- Staff who are identified as 'at risk' are required to make every effort to apply for suitable posts as they are advertised. Staff should give serious consideration to all opportunities for suitable alternative employment. This reflects the provisions of the NHS Terms and Conditions of Service section 16.22 which states that employees will be expected to show some flexibility.

5.7 **Governing Body and Committee members**

- Where organisational change has become necessary, the revision to Organisational Structure and/or services will be approved by the CCGs Governing Body and the ICS Executive team if deemed significant or strategic or redundancies may result, before formal consultation.
- The Governing Body will scrutinise the paper, balancing the needs of the business within the requirement to manage costs, review and sign off the decision as to whether the organisational change should proceed.

6. **Procedure**

6.1 **Communication and Consultation Process**

- 6.1.1 The involvement of staff members and the Joint Staff Partnership Forum are crucial throughout the change process to achieve a successful outcome. In accordance with legislation and the partnership working principles of the NHS, the CCG is committed to meaningful and appropriate consultation with Trade Unions and staff affected by organisational change, with a view to reaching agreement on the way forward;
- 6.1.2 There may be occasions when organisational change will need to proceed without a consensus being reached on all issues. The timing and extent of consultation will be proportionate to the degree of proposed change, the number of staff affected and the impact on individuals.
- 6.1.3 Depending on the size of the proposed organisational change communication methods may vary. They may include a combination of individual or group briefings depending upon the size and scope of the change to be managed. The CCG will inform and consult with the recognised trade unions in advance of formal discussions with staff.
- 6.1.4 In order to meet changing business needs more effectively, there may be occasions when managers need to implement relatively minor changes. For example, a change in role or duties, or reporting line can be agreed locally between staff and their manager. Reasonable minor changes and adjustments to duties and working practices may be implemented without recourse to the formal procedures in this document but will require reasonable consultation about the proposal with staff affected. Any situation which may lead to redundancy will not be deemed to be a minor change and a formal consultation document will be provided to support the change process.

- 6.1.5 Appendix 1 provides the documentation used during the consultation period in meetings with staff affected. The purpose of the consultation meetings with staff will be:
- to receive and, where possible, address any questions on the consultation document;
 - to consider any comments or views on the consultation document including any alternative proposals and costings (which the CCG shall as far as is practicable make available) before determining any final decision to proceed;
 - to clarify any change processes and timeframes specific to the proposed organisational change under discussion.
- 6.1.6 During the consultation period, staff will be given every opportunity to comment on the proposals outlined in this document. Staff who are absent from work, such as those on maternity, long term sick leave or secondments should also be included within the consultation. Consideration should be given as to the most appropriate way to collect feedback.
- 6.1.7 Arrangements should be made to respond to staff feedback and to modify structures on the basis of such feedback where this is considered appropriate.
- 6.1.8 Prior to the launch of any formal consultation, a consultation document will be produced and an equality impact assessment will be carried out.
- 6.1.9 The consultation document will include details of the following, as appropriate:
- current situation analysis including staffing structure
 - impact on service/business/patients
 - impact on other areas / services
 - consideration of any relevant health and safety assessment
 - the need for change and the rationale behind the change
 - the options that have been considered
 - the proposals for change including the proposed staffing structure(s)
 - and any location change
 - the financial, staffing and workload implications of the proposals
 - the number and grades/bands of staff who may be at risk of redundancy
 - as a result of the proposal
 - proposed timescale for consultation and implementation of the proposed change
 - the way in which staff will be selected for posts within the new structure or transferred

- if necessary, the selection criteria for redundancy
- the measures to be taken to avoid redundancies which may include natural wastage, redeployment with retraining, or voluntary early retirement or voluntary redundancy
- details of any suitable alternative employment which may exist
- details of how this information will be disseminated to staff
- description of the consultation process, including planned meetings, timetable, how staff and representatives can respond and the deadline by which that response must be submitted.

6.2 Approval of Organisational Change

- 6.2.1 Dependant on the level of change, directorate level sign off is required and a paper should be submitted to the Executive team detailing the need for business change, costs, and potential impacts.
- 6.2.2 If the Executive Team deem the change to be significant (where redundancies fall in line with 16.19) then this will be referred to the Governing Body for approval.
- 6.2.3 Trade Unions and staff may request additional information or an extend timeframe if this is necessary to enable them to understand and contribute to an informed discussion on the merits of the proposal. Such requests will not be unreasonably refused, and where they cannot be accommodated, an explanation will be given.
- 6.2.4 The CCG is committed to commencing informal consultation with our recognised Trade Unions and the Joint Staff Partnership Forum as early as possible; this is also known as pre- consultation. Meaningful pre-consultation often leads to an agreed shorter formal consultation period and greater staff satisfaction with the process.
- 6.2.5 Formal consultation with recognised Trade Unions will commence within the minimum timescales set out in 6.19 once the consultation document has been finalised. The consultation document will be shared with staff-side colleagues, prior to its launch. This will take the form of:
- ongoing discussions with the local accredited representatives
 - Trade Unions representing staff affected by the change should be invited to the first meeting with staff affected by the change and given reasonable notice to attend.

6.3 The Consultation Period

- 6.3.1 We are committed to allowing sufficient time for meaningful consultation with staff and their representatives. In exceptional circumstances, where changes need to

be made very quickly, Trade Unions will be briefed immediately and the verbal briefing will be followed by a written briefing.

- 6.3.2 In a collective redundancy scenario, consultation will commence for a period of no less than the following statutory timescales:
- Where 20-99 redundancies are proposed, then consultation should commence at least 30 days before the first redundancy is due to take place
 - Where 100 or more redundancies are proposed then consultation should commence at least 45 days before the first redundancy is due to take place.

6.4 Recruitment and Selection

- 6.4.1 The process for appointing to approved posts within the new structure will follow once the consultation period has closed. Appropriate communication arrangements will be put into place to ensure that affected staff are made aware of all vacancies for which they are eligible to apply.
- 6.4.2 A matching process will be used to ascertain which staff are eligible to apply for the roles in the new structure.
- 6.4.3 The matching process will be undertaken to compare a person's substantive post in line with Appendix 2 with one or more posts in the new structure. 75% of the duties of the existing role as described in the job description should remain consistent. This will include a review of;
- Current band, salary and status (flexibility on band may be required to take account of regional variation)
 - Nature of work and job responsibilities
 - Skills and knowledge required
- 6.4.4 Qualifications and training staff who are absent from work, such as those on maternity and long term sick leave will be included in the matching process
- 6.4.5 Members of staff on fixed term contracts covering a post usually filled by an absent permanent member of staff or performing a role that is time and funding-limited, will not be eligible to be considered for a post in the new structure.
- 6.4.6 However, members of staff on fixed term contracts who are covering a vacant but substantive post, will be eligible. For staff currently on secondment or in an acting up role, their substantive role will be used for the purpose of consultation and matching. Staff will be excluded from the process when they have already formally given notice of their intention to resign/retire at any time before the interview date:
- when they have already secured employment with another employer at any time before the interview date

- when they have been notified of the date of the termination of their contract of employment for any other reason.

6.5 On completion of the matching process the following stages will be applied:

6.6 Direct Slot into a Substantive Role – Stage 1

6.6.1 Direct Placement into a substantive post may apply where the duties and accountabilities of a post are not significantly reorganised and are substantially the same. By way of example (although some flexibility in relation to percentage may be required, depending on the circumstances of the change);

- 75% of the duties of the existing role as described in the job description remain consistent.
- The Pay Band/Grade of the post does not change as a result of direct placement
- The scope of the role does not alter significantly, and;
- No other person from within the CCG has a substantiated claim that they should be deployed into the same post.

6.6.2 Staff will be notified of the outcome in writing, including any right of appeal.

6.7 Pooling – Stage 2

6.7.1 Where a post has not been filled by direct placement, all outstanding vacancies, where possible, should be filled from the remaining substantive staff pool. This will be a closed pool round of competition for staff “at risk” currently doing similar work at a similar level.

6.7.2 Only staff assigned to the appropriate pool will be eligible to apply at this stage. Adequate time will be afforded to staff to consider which posts to apply for and to prepare for interview where these are necessitated.

6.7.3 If an employee wishes to make a case to change pools, this request should be made in writing to the HR Department as a matter of urgency and before interviews take place. Each case will be considered on the basis of individual circumstances.

6.7.4 In line with best practice, the interview and selection process will be based on the job description and person specification of the role, supported by a robust scoring system.

6.7.5 In some circumstances the posts in the new structure may be at a higher grade. In these cases, limited competition interviews may take place for the higher graded post(s) involving eligible staff. This will consider whether the individual(s)

meets the essential qualifications, competence or requirements of the higher banded post(s).

- 6.7.6 Staff will be notified of the outcome, in writing, including any right of appeal. Staff offered a post in the new structure may consider their decision to accept this for a maximum of 7 calendar days. If they do not accept the post, they need to provide in writing, the reasons for not deeming the post to be suitable alternative employment.

6.8 Open Competition – Stage 3

- 6.8.1 If vacancies remain open due to no one moving into a post on direct slot in or through a pool of competitive interviews, wider advertisement of the post will apply.
- 6.8.2 This may run in parallel following the outcome of the matching but all reasonably practicable steps will be taken to avoid redundancies and priority will be given to “at risk” staff.

6.9 Redeployment

- 6.9.1 Once the formal consultation period has been exhausted, should individual post holders remain displaced, they will be formally placed “at risk” of redundancy, and depending on length of service and other contractual entitlements, contractual notice of between 4 and 12 weeks will be issued.
- 6.9.2 When staff are placed ‘at risk’ the final date of employment will be identified and a formal redeployment search will commence, and continue throughout the notice period.
- 6.9.3 If it is identified that an individual is to be redeployed, they will be required to attend a redeployment meeting, with the HR Lead who will explain the process to be followed. This meeting should take place within 1 week of redeployment being identified and the details will be recorded and held by the HR Team. Individuals are entitled to be accompanied at this meeting by a work colleague, staff side or trade union representative, and it is their responsibility to make the necessary arrangements.
- 6.9.4 At the redeployment meeting discussion will take place surrounding the types of roles which may be available. Details will be obtained of the individual’s skills, experience and knowledge. In addition, they should be given access to and information regarding NHS Jobs, which they will be required to use to access vacancies. For those employees who are unable to use NHS Jobs, alternative systems should be made available, the detail of which will be discussed at the redeployment meeting. At this meeting, the individual will be formally placed on the redeployment register for the duration of their notice period.

- 6.9.5 Redeployees should be given reasonable time off to attend interviews within the CCG and other organisations.
- 6.9.6 It is a joint responsibility between the CCG and the individual to identify any suitable vacancies to be explored. Regular communication should take place, with respect to the suitability of roles identified.
- 6.9.7 Suitable alternative employment should take into account:
- Current band and salary
 - Reporting line and line management responsibilities
 - Nature of work and job responsibilities
 - Working times
 - Location including additional travel time and cost, and travel arrangements including access to public transport
 - Personal circumstances such as family or caring responsibilities
 - Capacity to make reasonable adjustments (for someone with a disability)
 - Status associated with their current role that may not be addressed even with pay protection.
- 6.9.8 Some degree of flexibility is expected on the part of both the employee and the CCG in this respect and it is important that each case is looked at on its own merits.
- 6.9.9 Where an individual meets all the essential criteria in the person specification, consideration should be given to pursue this as a redeployment opportunity. Although individuals will be considered before posts are open to other candidates, making an application does not guarantee appointment. When considering whether posts are suitable for employees with a disability, consideration will be given to whether the role would be suitable with reasonable adjustments in place.
- 6.9.10 Other than in exceptional circumstances, where redeployment is due to organisational change, posts generally considered as suitable employment will be no more than one pay band higher or lower than the current post, and pay protection pay be applicable in accordance with the Organisational Change policy. For all other cases of redeployment, posts of all grades may be considered, however pay protection will not apply, other than in exceptional circumstances.
- 6.9.11 In cases of redeployment on health grounds, an Occupational Health Practitioner will be asked to perform a detailed job/person suitability assessment regarding the vacancy to determine if it is suitable. In all cases of redeployment all pre-employment checks that are relevant to the post will be required i.e. References, Disclosure and Barring Service clearance and Occupational Health clearance.

- 6.9.12 Once a post is identified as potentially suitable, the individual will be invited to attend an informal meeting with the line manager to discuss suitability for the post. In the event that more than one staff member is considered potentially suitable for the same post, all eligible redeployees will be formally interviewed. A Human Resources Representative should be present at any meetings or interviews and a record will be made of this meeting. Competency based assessments may also be required for employees requiring redeployment, e.g. Typing and ICT tests.
- 6.9.13 Where suitability cannot be agreed by the recruiting line manager and the HR representative attending the meeting or interview, a referral will be made to the Director for their consideration. The interviewing manager will be required to provide written feedback to the candidate following the interview or meeting giving reasons for their decision.

7. Trial periods

- 7.1 Individuals will be offered a 4-week trial to allow both parties to assess the suitability of the role. The trial period may be extended for training purposes only and by prior agreement in writing. If an individual is successful in obtaining the post after the trial period, the offer will be made to them in writing and they will be required to formally indicate acceptance in writing. Appointment to the post may be offered on a trial period of four weeks, and may be extended for training purposes only and by prior agreement in writing.
- 7.2 Should the individual be absent from work through sickness or on compassionate grounds, there is an opportunity for an extension to the trial period.
- 7.3 Individuals have a statutory right to a trial period of four weeks, and following this may be eligible to a redundancy payment if the post is not considered suitable by either party.
- 7.4 During the trial period, clear performance objectives should be set by the Line Manager and regular review meetings will take place to discuss and assess performance against the objectives. A Human Resources Representative should be present at any meetings and a record will be made of this meeting.
- 7.5 Should the individual successfully achieve the performance objectives set for during the trial period, and be considered fit to undertake the role following any Occupational Health appointment, a substantive contract should be issued.
- 7.6 Should individuals fail to achieve the performance objectives set during the trial period, a further review of employment status will follow. A meeting will be convened to discuss the issues which may result in the termination of the individual's employment, on the grounds of capability or redundancy, depending on the circumstances leading to the redeployment.

- 7.7 When an employee is undertaking a trial period, their terms and conditions remain as they are in their substantive post. Any changes to their terms and conditions of employment will take effect on permanent appointment to the post. If the trial period is with a separate employer, this will be done via a secondment arrangement. Employment would only change if the trial is successful.
- 7.8 Individuals will be required to formally indicate, in writing, their intention to accept or decline an offer of employment, and forward this to the HR Team. Where they have declined a post, the individual must clearly state the reasons for this.
- 7.9 Should it be deemed that the individual has unreasonably declined an offer of employment their employment status will be reviewed. In cases of organisational change, employment may be terminated and the individual may forfeit entitlement to any redundancy payments due.
- 7.10 Should the post the individual is redeployed to be temporary in nature, they will resume redeployment status at the end of the tenure, this will include rights to redundancy payments if applicable.
- 7.11 If it is not possible to successfully redeploy the individual into a suitable post, they will meet with their line manager and an HR Representative at the end of the notice period, to complete appropriate leaving procedures.

8. Redundancy

- 8.1 Whilst the CCG is committed to avoiding redundancies as far as possible, this may become necessary in certain circumstances. Every effort will be made to help the staff member secure suitable alternative employment, with additional support provided where appropriate.
- 8.2 A member of staff will only have their contract of employment terminated on the grounds of redundancy if no suitable alternative employment can be found or if a trial period is unsuccessful.
- 8.3 Employees shall not be entitled to redundancy payments or early retirement on grounds of redundancy if:
- they are dismissed for reasons of misconduct
 - if suitable alternative employment has been secured at the date of the termination, and without a break exceeding 30 days
 - if suitable alternative employment has been secured and the employee unreasonably refuses to accept it
 - if the employee leaves before the expiry of their notice, except if they are being released early
 - if their contract is renewed

8.4 The terms under which a redundancy payment and/or early retirement benefit are payable are summarised below:

- To qualify for a redundancy payment/early retirement benefit the individual must have:
 - a contract of employment with the CCG; and
 - at least 2 years' (104 weeks) continuous service within the NHS

8.5 A redundancy payment will be calculated in line with section 16.8 in the agenda for change handbook Those on a VSM contract, contractual redundancy clauses will apply. The payment takes the form of a lump sum, dependent on the employee's reckonable service at the date of termination of employment

9. Protection of Salary and Terms

9.1 Protection arrangements are in place in order to support staff who as a result of organisational change, are required to move to a new post which would entail a reduction of earnings and/or certain terms and conditions of employment.

9.2 Short term protection

9.2.1 Short term protection of certain conditions of employment where they have been a regular requirement of the previous post, e.g. hours of work, annual leave or notice periods, a protection period will apply in the timeframes set out in table 1.

9.2.2 Hours of work – where there is an organisational change that impacts on an individual's hours of work and there is a reduction in hours, short term pay protection will apply.

9.2.3 Annual Leave – annual leave entitlement will be calculated based on the hours of work in the new post. Where there is an organisational change that impacts on an individual's hours of work and therefore reduces their annual leave entitlement short term protection will apply.

9.2.4 Notice Period – Employees required to move to a new post will have their contractual notice period protected (this includes their accrued statutory notice entitlement)

Table 1

Length of Continuous NHS service	Protection Period
Less than 1 year	Nil
1 – 5 years' service	6 months
Over 5 years' service	12 months

9.3 Long term protection

- 9.3.1 Long term pay protection will apply for basic pay, including high cost area allowance for the agreed periods as set out below in line with Table 2 or until the member of staff moves voluntarily to a new post within the organisation. Pay protection will fall in line with years of continuous service.
- 9.3.2 Excess travel - When an employee is required to change their base of work as a result of a reorganisation or merger of NHS employers resulting in extra daily travelling or when an employee accepts another post as an alternative to redundancy any reimbursement rates will be in accordance with the long term pay protection period stipulated above.

Table 2

Length of Continuous NHS service	Pay protection period
Less than 1 year	Nil
1-5 years	2 years
Over 5 years	3 years
Over 10 years	4 years

9.4 Preservation of Pension benefits

- 9.4.1 An NHS Pension Scheme member who has at least two years qualifying NHS pension scheme service is eligible to apply to protect their NHS pay, (NHS pension benefits), when they have suffered a reduction in earnings 'through no fault of their own' i.e. through organisational change
- 9.4.2 The human resources team must inform staff whom this will affect at the time their protection commences and again once it ceases. The application request from the member must be made within 3 months of the member going on reduced pay. Appendix 4 states the process for the application.

10. Transfer of Services

10.1 Transfers of services and staff

- 10.1.1 Where there is a proposal to transfer services and staff to a different employer either within or outside the NHS, there will be consultation with management, Trade Unions and staff representatives at the earliest opportunity. This will usually be for a minimum of 30 days (unless otherwise jointly agreed).
- 10.1.2 The Cabinet Office Statement of Practice (COSoP) is a code of practice, developed by the UK [Cabinet Office](#) to support employees when work is being transferred between departments within the [civil service](#) or across the wider

public sector. COSoP provides transferring employees with [TUPE](#)-like protection when the TUPE [legislation](#) cannot apply as there will not be a change of employer, this is because transferring employee will continue to work within the civil or public sector and be employed by the Crown.

- 10.1.3 All the terms and conditions within the transferring employee's contract of employment (including contractual policies and procedures) will transfer with them.
- 10.1.4 Staff identified as subject to the transfer will normally be wholly or mainly dedicated to work activities that it is proposed will transfer to an alternative organisation. As an indicator 'mainly dedicated' means that more than 50% of the role comprises activities that will transfer.
- 10.1.5 Where staff have responsibilities working within a function spanning more than one NHS organisation or more than one service, discussions will take place with the individual, their Trade Union representative and the organisations concerned to determine if their employment should transfer. Options in this situation might be that the individual will transfer to one organisation with an agreement to provide services to the other(s), or have more than one contract of employment, or, in exceptional circumstances, to be declared at risk.
- 10.1.6 In all of these circumstances, for the purposes of the consultation that will be carried out, the manager will identify the services, posts and individual staff that will transfer or be affected in accordance with the obligations of TUPE and shall write to the staff affected and the Trade Unions informing them of the intention that staff will transfer, the implications of the transfer and any measures which will be taken in connection with the transfer.
- 10.1.7 The manager will hold one-to-one meetings with individual staff to discuss the implications of the transfer, measures to be taken in connection with the transfer, answer any concerns or queries, discuss possible options if appropriate and consider personal circumstances. Managers may also decide to hold team meetings to discuss the impact should whole teams be impacted by change. All discussions will be documented and confirmed in writing.
- 10.1.8 The employee is entitled to be represented at these meetings with either a work colleague or trade union representative.
- 10.1.9 Support will be given to staff to understand the reasons for and implications of the transfer and to ensure they have the necessary information with which to prepare themselves.
- 10.1.10 Where a potential redundancy situation arises as a result of a transfer, employers must consult directly with affected employees and indirectly through representatives when the incoming employer is making (or intending to make) 20 or more redundancies within a 90-day period. Where there are fewer than 20

employees being made redundant within a 90-day period, there is still a legal requirement to consult with employees individually but there are no prescribed time limits in which to do so.

- 10.1.11 Formal notice of a transfer will be issued as long before the date of the transfer as possible in order to comply with the obligations of TUPE and this policy. The CCG will make every effort to give up to 3 months' notice of a transfer where possible. Where 3 months' notice is not possible because, for example, of the timing of external announcements, service needs or decisions of approval, a shorter notice period will be provided following consultation with Trade Unions.

11. Appeals, Complaints and Joint Agreements

- 11.1 Any member of staff whose contract of employment is terminated by reason of redundancy will have the right of appeal against their selection for redundancy in line with the appeals procedure set out at Appendix 3. The decision of the Appeal panel will be final and there will be no further opportunity for recourse to the CCGs' Grievance Procedure.
- 11.2 In the event of a complaint about misapplication of this policy this will be dealt with in accordance with the CCG 's Grievance Procedure.

12. Appendix 1

Consultation Period

Record of one to one consultation meeting

Employee name:

Job title:

Date of consultation meeting:

Manager:

Others present:

Checklist of key points to discuss:

- Explain the purpose of the meeting
- To enable individuals to have a discussion about the proposals and input into the final outcomes
- Clarify that no final decisions have been made
- To discuss the possible impact on their post (this cannot be confirmed until after the consultation has closed)
- To raise any personal concerns and issues
- To explain next steps
- To ensure individual has access to personal support during the process
- Remind them of timescales for consultation and methods of input outside the meeting

Comments made regarding proposals
Issues for clarification
Particular areas of Personal concern
Issue for clarification/Action
Any other points of discussion
Further meeting

13. Appendix 2 Job Matching Template

This form is for recording the job matching outcomes for all posts that are affected by change and have the potential to be declared “At Risk”. The form should be completed by a Human Resources Lead (or independent provider) and approved by relevant line manager and staff representative. One form should be completed for every job matching undertaken, e.g. if an existing post is matched to two posts, the individual post-holder will need 2 forms to be completed.

Employee name:		Managers name:	
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Existing Role in Establishment

Role title:		Band/Grade:	
Function:		Directorate:	

New Role in Establishment

Role title:		Band/Grade:	
Function:		Directorate:	

Matching Criteria: *Please use the table below to provide evidence where required to support the matching decision*

Areas of JD to consider (scoring to equate up to 33.3%)	Reference from JD/s	Additional Comments	Score & Awarded (0 = no similarity through to 10 = complete similarity)
Current band, salary and status within the organisational structure			

Areas of JD to consider (scoring to equate up to 33.3%)	Reference from JD/s	Additional Comments	Score & Awarded (0 = no similarity through to 10 = complete similarity)
Nature of work and job responsibilities			
Qualifications, Knowledge and Experience required			

Outcome of Job Matching

Matching score & Percentage: 0 – 10 = broadly a 25% match 11 – 20 = Broadly a 50% match 21 – 30 = Broadly a 75% match		Is there a job match? Yes/No:	
Any supporting comments:			

Signed and approved

HR Lead (Name & job title)		Date: Signature:	
Staff Representative (Name & job title)		Date: Signature:	
Governing Body Member (Name & Role)		Date: Signature:	
Current Line Manager (Name & job title)		Date: Signature:	

14. Appendix 3

14.1 Lodging an Appeal

- 14.1.1 The appellant must provide a detailed written statement of the grounds on which they are appealing. Appeals must be lodged in writing to the Head of Human Resources within 7 working days of receiving the letter confirming the slotting-in, outcome of the competitive slotting-in interview, a short listing decision, the outcome of an interview or a decision to dismiss due to redundancy. It is the responsibility of the appellant to ensure that the appeal has been lodged and received within the time period specified.
- 14.1.2 No additional grounds for appeal can be submitted either during further exchange of documents or in advance of the hearing or on the day of the hearing itself.
- 14.1.3 This timescale will enable the manager concerned to consider the details of the appeal and prepare a response. The manager will provide a statement of case addressing the specific points of concern raised in the appellant's written grounds and the rationale for their decision. The statement will also provide sufficient background information to enable the manager hearing the appeal to understand the reason for the action and appreciate the circumstances of the case. These statements together with copies of any relevant correspondence will be sent to all parties to the appeal at least five working days before the date of the hearing.

14.2 Procedure at the Hearing

- 14.2.1 The panel will consist of a minimum of three people, comprising of one senior manager, a lay or independent member of the Governing Body or another independent person and a Human Resources representative.
- 14.2.2 The Chair of the Hearing will be accompanied by a Human Resources representative, who has not previously been involved in the case, to advise on procedural matters.
- 14.2.3 The appellant has the right to be accompanied by a Trade Union/Professional Association representative or work colleague. The CCG will not reimburse any costs incurred by the appellant's representative. It will remain the responsibility of the appellant to arrange representation for the dates given.
- 14.2.4 The Chair has the right to rule on the admissibility of any questions asked or evidence presented at the hearing. He/she also has the discretion to seek clarification or amplification of evidence and to adjourn the hearing for any reason, such as to allow further evidence to be produced or to clarify procedural matters, at any stage in the proceedings.

- 14.2.5 Appeals against organisational change decisions except those relating to dismissal on the grounds of redundancy will be heard by a level of management above that involved in taking the decision.
- 14.2.6 Appeals against dismissal on the grounds of redundancy will be heard by the Accountable Officer or a Governing Body Member nominated by the Accountable Officer.
- 14.2.7 Failure of the appellant to attend the hearing without providing an adequate reason will result in the CCG assuming that the appeal has been withdrawn.
- 14.2.8 The procedure at the appeal hearing will be as follows:
- Introductions by Chair
 - Appellant will present evidence to support their case that the procedure was not carried out fairly
 - The Chair and line manager who made the original decision will have the opportunity to ask questions of the appellant/representative.
 - If the appellant calls any witnesses then the Chair and the manager who made the original decision will have the opportunity to ask questions of the witnesses.
 - The manager who made the original decision will present their case in support of the action taken, in response to the appellant's grounds for appeal.
 - The Chair and appellant will have an opportunity to ask questions of the manager.
 - If the manager calls any witnesses then the Chair and the appellant will have the opportunity to ask questions of the witnesses.
 - The Chair will invite the manager who made the original decision and the appellant/representative to sum up their evidence in turn. The appellant will have the right to sum up last. In summing up neither party may introduce any new matter.
 - After the summing up, both sides will withdraw to allow the panel to deliberate in private. The HR representative will remain with the panel to provide procedural and technical advice.
 - If necessary, the Chair may recall both parties to clarify points of uncertainty.
 - The decision will normally be given to all parties verbally on the day of the hearing, provided time constraints allow.
 - The outcome of the appeal will be communicated in writing to the appellant within 10 working days of the hearing taking place.
 - Please note: the term "Chair" refers to the manager hearing the appeal.

15. Appendix 4

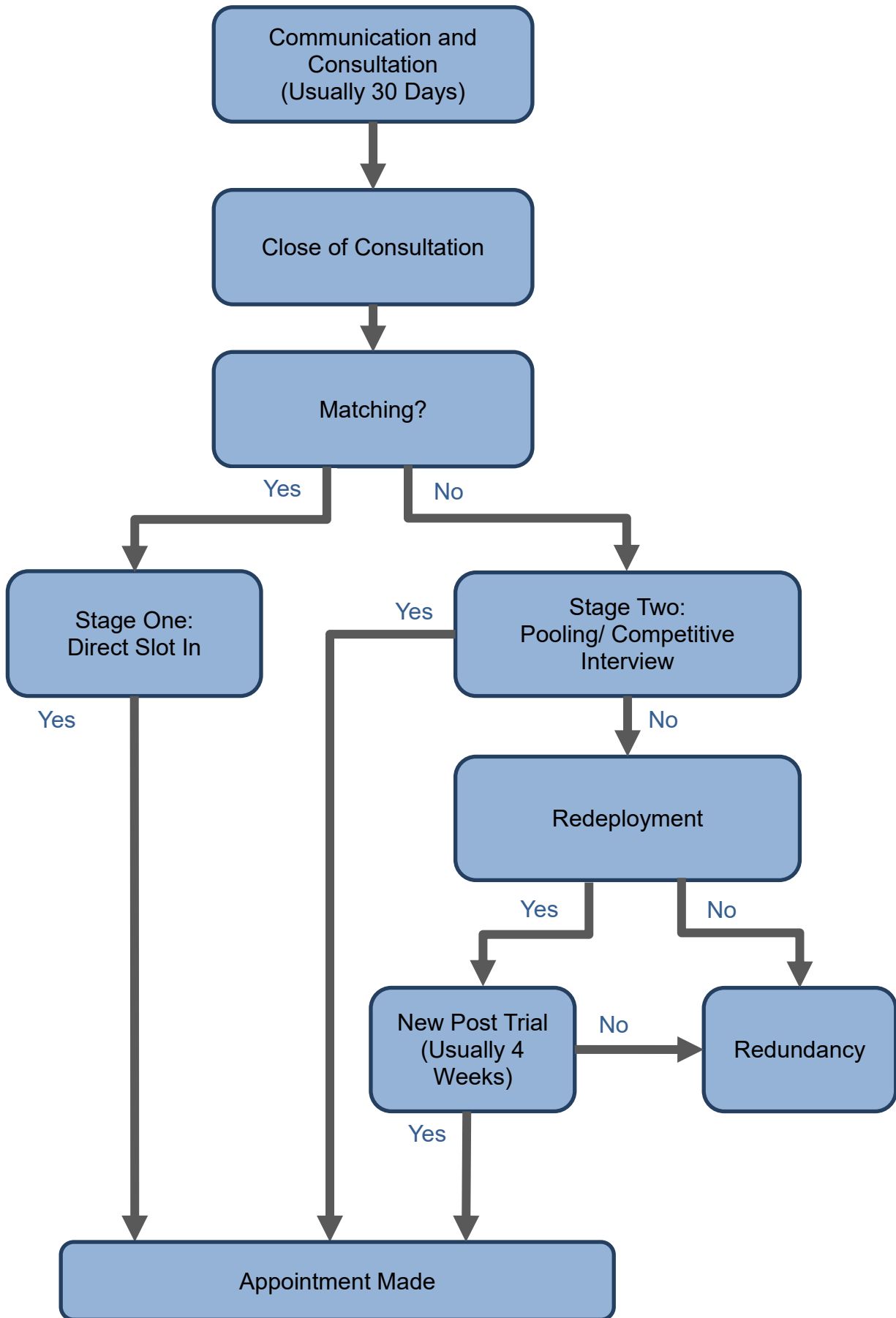
15.1 Protection of Pension Application: How does a member apply?

- 15.1.1 The member must apply by completing application form 'SMR9 App' available on the NHSBSA website. This should be done as soon as possible and must be submitted to the HR department 4 weeks of the end of the pay protection period.
- 15.1.2 Upon receipt of a completed application form 'SM R9 App', form the HR department will complete an 'SM R9 EA' form ensuring that all relevant information is provided.
- 15.1.3 Both forms should then be sent to the pensions team for processing and then for forwarding to NHS Pensions Agency (NHSPA).
- 15.1.4 NHSPA will then consider the application and write to the employer to confirm the outcome of the application. The employer will advise the member of staff of the outcome of their application.
- 15.1.5 If a member's application is accepted their NHS pension will be calculated thus,
- a) When they retire, if they have one period of protection, two pensions will be calculated, i.e. A pension based on the protected rate of pay* plus inflation increases for membership up to the date the pay protection ended and a second pension for membership after that date will be calculated using pay* at retirement.
 - b) If by retirement the protected pay plus inflation increases is not more beneficial, then the whole of the pension benefits will be calculated using pay* at retirement.

**1995 Section - The best of the last three years pensionable pay.*

**2008 Section - The reckonable pay, which is an average of the best three consecutive years pensionable pay in the last ten years.*

16. Appendix 5 – Flow diagram



17. Appendix 6 – Procedural Document Checklist for Approval

Title of document being reviewed:		Yes/No/ Unsure	Comments/ Details
A	Is there a sponsoring director?	Yes	
1.	Title		
	Is the title clear and unambiguous?	Yes	
	Is it clear whether the document is a guideline, policy, protocol or standard?	Yes	
2.	Rationale		
	Are reasons for development of the document stated?	Yes	
3.	Development Process		
	Do you feel a reasonable attempt has been made to ensure relevant expertise has been used?	Yes	
	Is there evidence of consultation with stakeholders and users?	Yes	
4.	Content		
	Is the objective of the document clear?	Yes	
	Is the target group clear and unambiguous?	Yes	
	Are the intended outcomes described?	Yes	
5.	Evidence Base		
	Is the type of evidence to support the document identified explicitly?	Yes	
	Are key references cited?	Yes	
6.	Approval		
	Does the document identify which committee/group will approve it?	Yes	
7.	Dissemination and Implementation		
	Is there an outline/plan to identify how the document will be disseminated and implemented amongst the target group? Please provide details.	Yes	Communication plan and HR roadshows.
8.	Process for Monitoring Compliance		
	Have specific, measurable, achievable, realistic and time-specific standards been detailed to	Yes	

Title of document being reviewed:		Yes/No/ Unsure	Comments/ Details
	<u>monitor compliance</u> with the document? Complete Compliance & Audit Table.		
9.	Review Date		
	Is the review date identified?	Yes	
10.	Overall Responsibility for the Document		
	Is it clear who will be responsible for implementing and reviewing the documentation i.e. who is the document owner?	Yes	
Director Approval			
On approval, please sign and date it and forward to the chair of the committee/group where it will receive final approval.			
Name		Date	
Signature			
Committee Approval			
On approval, Chair to sign and date.			
Name		Date	
Signature			

18. Appendix 7 – Compliance and Audit Table

Criteria	Measurable	Frequency	Reporting to	Action Plan/ Monitoring
Further consideration to be given to evaluation measures to demonstrate compliance with and effectiveness of this policy.				