



# Redeployment and Pay Protection Policy

## Policy

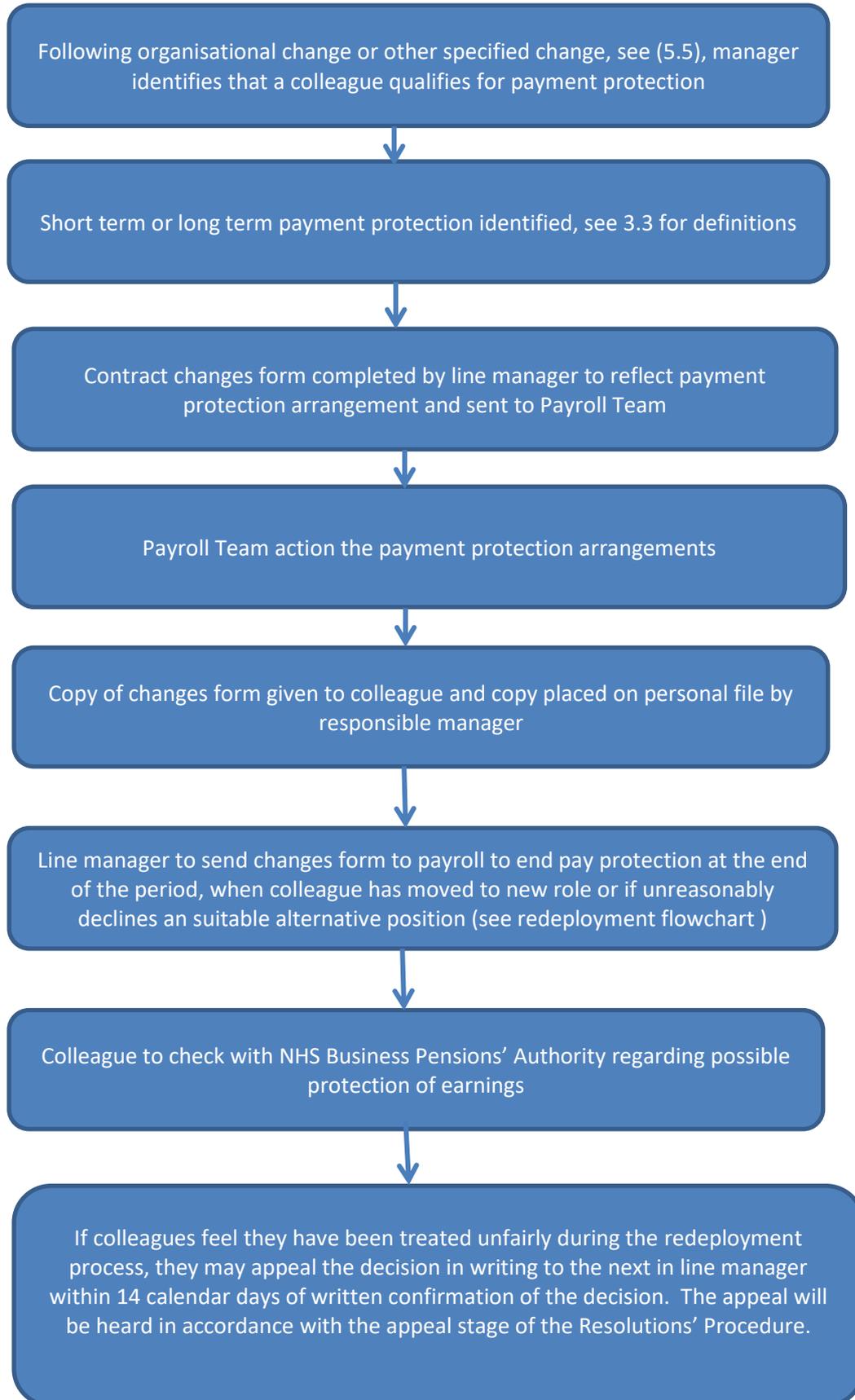
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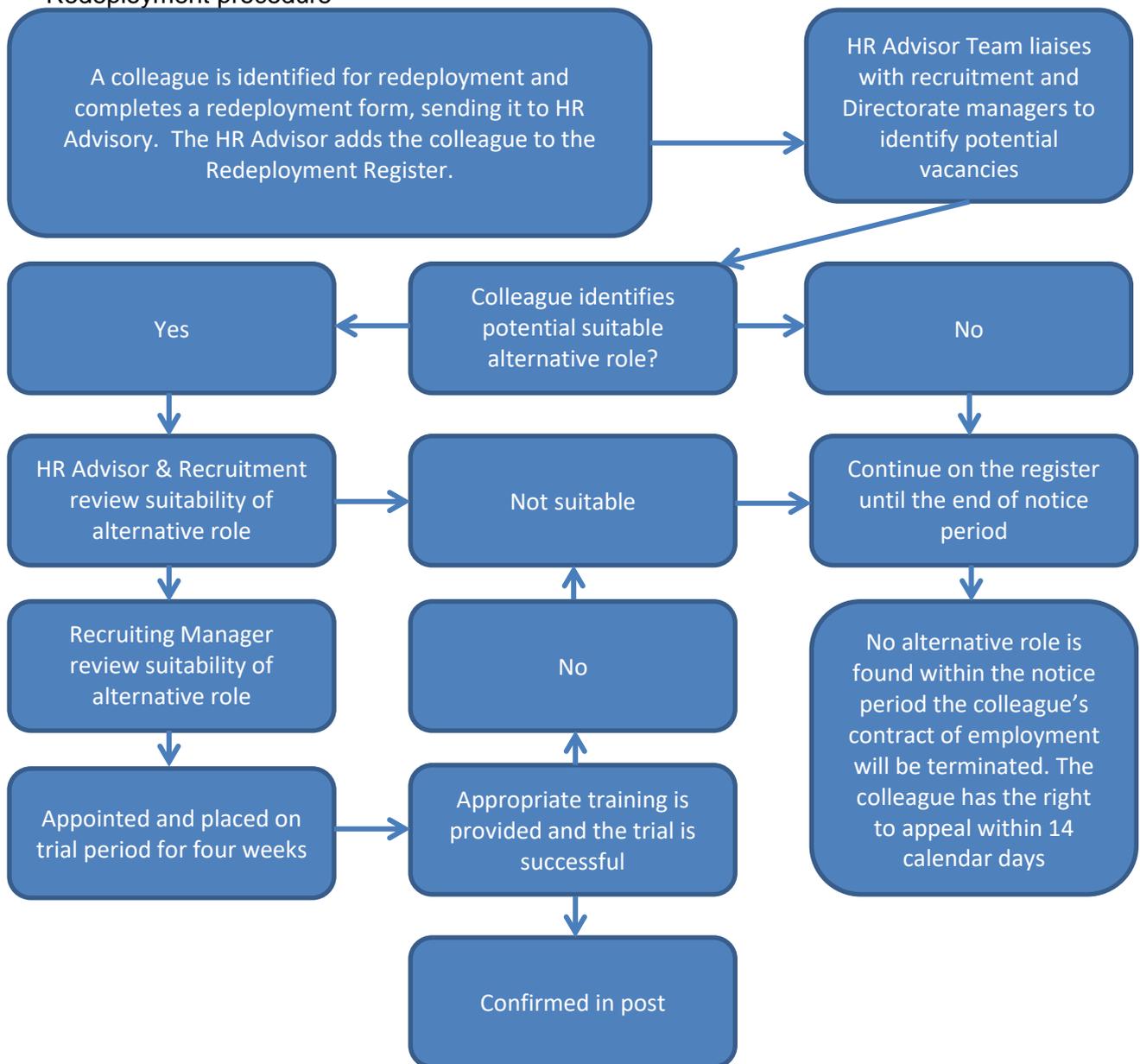
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## 1.0 FLOW DIAGRAM

### 1.1 Payment protection procedure



## 1.2 Redeployment procedure



If colleagues feel they have been treated unfairly during the pay protection process, they may appeal the decision in writing to the next in line manager within 14 calendar days of written confirmation of the decision. The appeal will be heard in accordance with the appeal stage of the Resolutions' Procedure.

## 2.0 INTRODUCTION

- 2.1 This policy has been produced and agreed in partnership between management and Trade Union representatives of both Taunton and Somerset NHS Foundation Trust and Somerset Partnership NHS Foundation Trust to ensure all colleagues are treated fairly.
- 2.2 Taunton and Somerset NHS Foundation Trust and Somerset Partnership NHS Foundation Trust believe that fairness and transparency are promoted by developing clear and transparent policies and procedures and ensuring all colleagues regardless of role understand their content.
- 2.3 The Trusts recognise that communicating early and working in partnership with Trade Union colleagues will ensure an open and transparent process.
- 2.4 The Trusts recognise that some sections of society experience prejudice and discrimination. The Equality Act of 2010 recognises protected characteristics and gives consideration to socio-economic factors including pregnancy/maternity and marriage/civil partnership.
- 2.5 The Trusts are committed to equality of opportunity and inclusive practices in both the provision of services and our role as an employer. All people have the right to be treated with dignity and respect and the Trusts are committed to the elimination of unfair and unlawful discriminatory practices.
- 2.6 The Trusts aim to provide secure and stable employment for all of its colleagues, as far as is reasonably practical, and is committed to attracting and retaining colleagues, valuing their experience, skills and knowledge.
- 2.7 Changing needs of the services may lead to changes being made to roles, for example, different working arrangements, changes to terms and conditions of employment or the role ending. Where a role is no longer required, the Trusts will look to avoid redundancy by redeploying colleagues elsewhere within the NHS in Somerset, wherever practicable.
- 2.8 Where these changes result in colleagues' revised terms and conditions being less favourable, a transition period for colleagues will be provided to protect the payments received previously for a set period.
- 2.9 Where redeployment is necessary and pay protection applied, the colleague will be encouraged to apply for suitable roles at their previous pay band. If a colleague unreasonably refuses an offer of suitable alternative employment at their previous pay band, the organisation may cease pay protection.
- 2.10 Whilst redeployment and pay protection is usually associated with organisational change, there may be other reasons when this policy applies, for example redeployment as a result of occupational health advice, ill health or following an investigation relating to bullying and harassment. This policy applies to all circumstances when redeployment is enacted.

2.11 This policy will apply to any successor organisation of the two Trusts. This policy may be reviewed at the request of management or trade union and will remain in force until its renewal. The Trust may also vary this procedure, including time limits, as appropriate, to support any case.

### 3.0 DEFINITIONS

- 3.1 **At risk** – A colleague whose contract of employment may end as a result of a proposed change.
- 3.2 **Continuous service** – Service within the NHS without a break of three months or more.
- 3.3 **Continuous service in Band** – Service within a specific pay band outlined by Agenda for Change which qualifies a colleague for a certain level of pay protection.
- 3.4 **Redundancy** – The ending of a colleague's contract as the Trusts' need for the work they are contracted to undertake has materially ended or significantly reduced and where the service is not being taken on by another provider.
- 3.5 **Redeployment** – the moving of colleagues to a different role or service within the NHS in Somerset. Please see the Redeployment Procedure for full details of how this applies.
- 3.6 **Short term protection** – The protection of earnings following a reduction in contract hours or changes in working arrangements with a consequent loss of additional payments, for example, enhancements and allowances as a result of organisational change. Please see section 5.6 for full details of how this is applied.
- 3.7 **Long term protection** – The protection of basic salary following redeployment to a lower banded job. Please see 5.7 for full details of how this is applied
- 3.8 **Line manager** – The person managing the colleague at risk
- 3.9 **Recruiting manager** – The manager elsewhere in the organisation with a vacancy that an at risk or redeployed colleague may have the skills, knowledge and experience to undertake
- 3.10 **Trade union representative** – Accredited member of a union recognised by the Trust who is trained to provide support and guidance to, and representation of an at risk colleague who is a union member.
- 3.11 **Organisational change** – As defined within the organisational change policy
- 3.12 **Basic pay** – The salary received by an individual for their specified contracted hours without any enhancement or allowance payments.
- 3.13 **Trial period** – a four week period of time for the recruiting manager and the individual to ensure suitability of the post for the redeployed colleague which can only be extended if there is a significant training requirement.

## 4.0 ROLES and RESPONSIBILITIES

4.1 **Managers** are responsible for:

- Identifying colleagues at risk
- Identifying circumstances when colleagues will qualify for protection
- Seeking advice from the HR Advisory team on redeployment and payment protection procedures
- providing support to colleagues subject to redeployment

4.2 **Affected colleagues** are responsible for:

- completing a redeployment form
- putting themselves forward for suitable vacancies
- considering reasonable changes in working arrangements, pay and responsibilities
- preparing for interviews and accepting offers of suitable alternative employment

4.3 **HR Advisory Team** is responsible for:

- providing advice to colleagues and managers on redeployment and payment protection procedures
- maintaining a register of colleagues subject to redeployment and pay protection
- supporting the review of redeployment candidates for specific posts
- notifying redeployment candidates of forthcoming vacancies and liaising with recruiting managers for consideration of vacant posts

4.4 **Recruiting managers** are responsible for:

- assessing redeployment candidates against the essential criteria for the post, giving prior consideration to candidates meeting the minimum requirements for the role
- arranging interviews at the earliest opportunity if more than one suitable candidate meets the criteria
- providing feedback for those who do not meet the criteria or who are not successful at interview
- supporting colleagues through the trial period.

4.5 **Trade Unions** are responsible for:

- acting as a representative/advocate to their members
- providing their members with advice and support
- representing members at informal and formal stages of the process

- ensuring that this policy is applied fairly and consistently on an individual and organisational level.

4.6 **Payroll** is responsible for:

- processing pay protection arrangements in line with manager's instructions

## 5.0 PROCESS DESCRIPTION

### 5.1 Redeployment procedure

5.1.1 The following situations may result in redeployment:

- Organisational change including resulting in redundancy ("at-risk")
- Capability arising out of ill-health
- The requirements of a colleague's role have changed by a significant amount (at least 50%) following consultation and the individual does not have the necessary skills and abilities to carry out the revised duties even with the provision of appropriate training.

5.1.2 Consideration could also be given following instances of bullying and harassment in discussion with the HR Advisory team.

5.1.3 Colleagues will complete a redeployment form (appendix A) forwarding it to the HR Advisory Team who will maintain a register of colleagues "at risk". The HR Advisory team will liaise with recruitment and directorate managers to identify potential matches with vacant posts. Colleagues who are deemed suitable for a post will be assessed by the recruiting manager via the redeployment form.

The redeployment register will hold the following information:

- Details of their current post (band, hours, job title, location)
- Current line manager
- Date entering and leaving redeployment
- General knowledge/skills/experience
- Type of posts sought
- Any restrictions
- Details of any trials
- Pay protection information if appropriate

Any known reasonable adjustments

5.1.4 The focus of redeployment is to find suitable alternative roles for colleagues at risk to avoid the termination of their employment. The following are the key criteria to be applied to identify at risk colleagues and their suitability for a role:

- Experience and knowledge

- Skill and aptitude
- Professional qualification
- A reasonable period of training required to undertake the role
- Current pay band and hours
- Location, giving consideration to the individual's circumstance and the needs of the organisation

- 5.1.5 The recruiting manager must consider reasonable adjustments (in line with the Equality Act 2010), to support the redeployment process.
- 5.1.6 If a suitable alternative is found, colleagues will be placed on a four week trial period for both the individual and the manager to see if it is an appropriate and suitable appointment. This can be extended if there is a training requirement.
- 5.1.7 Once an individual is identified by their line manager, supported by an HR Advisor, as meeting the criteria for redeployment, the following process will occur.
- 5.1.8 Colleagues can remain on the redeployment register for a period equivalent to their entitlement to notice from the Trust up to a maximum of 12 weeks. If a suitable position is not identified by the end of that period, notice will be served in line with the colleague's contractual notice/statutory (whichever is the greater).
- 5.1.9 Colleagues who do not accept a role identified as a suitable alternative or cannot reasonably demonstrate that a role is not a suitable alternative for them will not be entitled to redundancy pay.
- 5.1.10 The terms and conditions of employment will be appropriate to the new post, although pay protection may apply, please see section 5.5 for further information.
- 5.1.11 In some other exceptional circumstances or substantial reason, for example ill-health resulting in an individual not being able to carry out their current role, the redeployment process may be applied in conjunction with the Supporting Attendance Policy and/or Capability Policy. In these circumstances pay protection will not apply.
- 5.1.12 A colleague may also be redeployed following the issuing of a formal outcome given to them as a result of a disciplinary, grievance or harassment case. In these circumstances, pay protection will not apply.

## 5.2 **Consideration of an individual's suitability for a post and selection processes**

At risk candidates who meet the essential minimum criteria must be considered and appointed if suitable ahead of candidates who are not at risk.

## 5.3 **Being redeployed into a new role**

- 5.3.1 If a colleague is successful for a redeployment opportunity, there will be a four week trial period. In most cases this period will begin the day the redeployment starts.
- 5.3.2 Where a colleague is being redeployed due to their original role being made redundant, the trial period will usually start from the last day of service proposed in the outcome paper (following consultation). If all parties agree, the trial can commence at an earlier date.

- 5.3.3 The trial period is for both the new manager and the individual to test the suitability of the role, any concerns that are raised by either party during this time should be discussed with the support of the HR Advisor team. Colleagues who do not accept a role identified as a suitable alternative or cannot reasonably demonstrate that a role is not a suitable alternative for them will not be entitled to redundancy pay.
- 5.3.4 Where a colleague feels a role is a suitable alternative and the recruiting manager disagrees, this will be referred to the HR Advisory team to advise on the appropriate action.
- 5.3.5 There are no limits to the number of trial periods a colleague can have other than what is dictated by the relevant notice period. Trial periods can be extended if there is significant mitigation or a training requirement.
- 5.3.6 The new role will be offered at the salary and terms and conditions that apply to the new post. Please see the pay protection procedure for circumstances where pay protection may apply if the role is at a lower band or reduced contracted hours of work.
- 5.3.7 At all stages, colleagues can seek advice, support and guidance from their Trade union representatives or the HR Advisory team.

#### 5.4 **Termination of service**

- 5.4.1 If suitable alternative employment cannot be found within the relevant notice period, the colleague's contract of employment will be terminated.

#### 5.4.2 **Appeal process**

If colleagues feel they have been treated unfairly during the redeployment process, they may appeal the decision in writing to the next in line manager within 14 calendar days of written confirmation of the decision. The appeal will be heard in accordance with the appeal stage of the Resolutions' Procedure.

During the appeal process, the colleague's employment status will continue as scheduled and will be terminated if the date is reached. If the grounds for appeal are upheld, their employment may be reinstated dependent on any agreements made by the panel.

#### 5.5 **Pay protection procedure**

- 5.5.1 The situations where pay protection may apply:

- a colleague has been redeployed to a suitable alternative role following an organisational change resulting in a reduction in basic salary or a loss of enhancements, allowances etc. For pay protection to apply, this will apply up to one band lower.
- the working arrangements of a colleague's role have changed following organisational change resulting in a loss of enhancements, allowances etc.
- at the request of a colleague who is the victim of bullying and harassment in situations where the Trust has upheld the allegation following an investigation

- 5.5.2 The situations where pay protection does not apply:

- a colleague is redeployed due to performance issues in line with the capability policy
- a colleague is redeployed due to ill-health
- a colleague is redeployed following the issuing of a formal outcome given to them as a result of a disciplinary or harassment case
- where a colleague voluntarily applies and accepts a post that is more than one band lower than their substantive role.

## 5.6 Short Term Protection

5.6.1 Short term protection is the protection of earnings lost following a change of contract or changes in working arrangements above basic salary payments in any of the circumstances listed in section 5.5.1 above. These earnings may be made up of one or more pay elements, pay elements included as short term protection are:

- enhancements and regular overtime payments
- allowances
- premiums

5.6.2 Colleagues receiving payments listed above will have these earnings protected based on the below continuous service:

Continuous service	Protection period
Up to 12 months	3 months
Over 12 months – 24 months	6 months
Over 24 months – 36 months	9 months
37 months and above	12 months

5.6.3 The protected amount will be calculated based on a 4 month average prior to the change taking place and is designed to ensure colleagues are not financially disadvantaged by the change.

5.6.4 For the purpose of calculating earnings in the new post in respect of over-time, shift work or other additional duties will be calculated based on those rates applicable in the new post.

5.6.5 If during the above periods, an individual's pay in one month exceeds their total protected pay, the protection will not apply for that month. In subsequent months when pay does not exceed the protected amount, pay protection will continue to apply. If a colleague is subject to further changes where short term protection would apply, the original protection period will continue to apply for the pre-defined period already in place. At the end of that period, the short term pay protection will drop to the new lower level of protection that applies, and will be for the maximum duration detailed in the table above regardless of continuous service, with an effective date of the day the second change actually became effective.

- 5.6.6 The Trust, at its discretion, may offer a lump sum payment to a colleague in lieu of short term protection, the amount to be paid will be agreed mutually between the Trust and the individual. The colleague is under no obligation to accept any offer.
- 5.6.7 If a colleague voluntarily applies for, is offered and accepts any other role within the Trust, short term pay protection will cease the day before they start in the new role.
- 5.6.7 Short term protection does not cover protection of payment for a voluntary reduction in hours.

**5.7 Long term protection**

- 5.7.1 Long term payment protection is the protection of earnings classed as Basic Pay where a colleague is affected in any of the circumstances listed in section 5.16 above. Long term protection of basic pay includes any subsequent improvements or increments that would have been received during the long term protection period.
- 5.7.2 Colleagues subject to a change as detailed in 5.16 will have their basic pay protected based on their continuous service:

Continuous service	Protection period
Up to 12 months	6 months
Over 12 months – 24 months	12 months
Over 24 months – 36 months	24 months
37 months and above	36 months

- 5.7.3 During the long term pay protection period, colleagues will continue to be made aware of suitable alternative roles paid at their previous Band. A 4 week trial or upskilling period may be appropriate to enable the colleague to return to their previous level of expertise. Pay protected candidates who meet the essential minimum criteria for a vacancy must be considered and appointed if suitable ahead of candidates who are not at risk. Where a suitable alternative role is offered and not accepted without adequate justification that it is not suitable, the long term pay protection will cease with immediate effect of that date. If a colleague voluntarily applies for, is offered and accepts any other role within the Trust, long term pay protection will cease the day before they start in the new post.
- 5.7.4 Any additional earnings in the new role above Basic Pay will be calculated and paid at the appropriate rate for the new post.
- 5.7.5 If a colleague is subject to further changes where long term protection would apply, the original protection period will continue to apply for the pre-defined period already in place. At the end of that original protection period, the long term pay protection will drop to the new lower level of protection that applies in line with service. Both pay protection periods would run concurrently
- 5.7.6 Long term protection does not cover protection of payment for a reduction in hours.

- 5.7.7 In respect of either short term or long term protection, the manager must complete a changes form, giving a copy to the colleague, placing one on file and sending a copy to payroll for action.
- 5.7.8 At the end of either the short or long term protection period or if the colleague moves to a new role before the end of the protection period, the line manager must send a changes form to payroll ending the pay protection.

## 5.8 Payment protection in relation to Pension

The NHS Pension Scheme allows colleagues with at least two years' service to protect their benefits accrued if they suffer a reduction in their pensionable pay as a result of imposed organisational changes, further details are contained on the NHS Business Service Authority Pensions' website.

## 5.9 Appeal process

If colleagues feel they have been treated unfairly during the pay protection process, they may appeal the decision in writing to the next in line manager within 14 calendar days of written confirmation of the decision. The appeal will be heard in accordance with the appeal stage of the Resolutions' Procedure.

## 6.0 TRAINING/COMPETENCE REQUIREMENTS

- 6.1 There are no specific or mandatory training requirements for this policy.

## 7.0 MONITORING

Element of policy for monitoring	Section	Monitoring method - Information source (eg audit)/ Measure / performance standard	Item Lead	Monitoring frequency / reporting frequency and route	Arrangements for responding to shortcomings and tracking delivery of planned actions
<i>Redeployment</i>	5.2	All formal redeployments will be recorded in the Employee Relations Case Management System by the relevant HR Advisor. On an annual basis an audit will be carried out of a sample of formal redeployments to consider the appropriateness of the method and any associated learning opportunities.	HR Advisory Team	Annually to People Governance Committee	If the People Governance Committee identifies a concern they will oversee the development plan or escalate as appropriate to Director of People and Organisational Development.

## 8.0 REFERENCES

To be read in conjunction with:

- Equality Act 2010
- Organisational Change Policy
- Dignity at Work Policy
- Supporting Attendance Policy
- Capability Policy
- Resolution Policy
- Agenda for Change Terms and Conditions.

## 9.0 DOCUMENT CONTROL

<b>Document Author</b>	Elaine Edwards, HR Specialist		
<b>Lead Owner</b>	Director of People and Organisational Development		
<b>This Version</b>	1	<b>Status</b>	Final
<b>Replaces</b>	All previous TST and Sompar Redeployment and Pay Protection Policies		
<b>Approval Date</b>	23 October 2019 16 March 2020	<b>Where</b>	Policy Lockdown Group Somerset Operational Partnership
<b>Ratification Date</b>	29 January 2020	<b>Where</b>	Joint Policy Review Group
<b>Date of issue</b>	19 March 2020	<b>Review due</b>	19 March 2023
<b>Applies to</b>	All colleagues covered by Agenda for Change Terms and Conditions	<b>Exclusions</b>	Doctors, Dentists and any other colleagues not covered by Agenda for Change Terms and Conditions

DETAILS OF MEMBER OF STAFF SEEKING REDEPLOYMENT

PERSONAL DETAILS
<b>Name:</b>
<b>Current Post:</b>
<b>Current Band and Salary:</b>
<b>Qualifications/Experience:</b>
<b>Skills:</b>

## DETAILS OF SUITABLE ALTERNATIVES

Hours and days able to work:

Locations considered:

Any restrictions:

Preferences – (1<sup>st</sup>/2<sup>nd</sup>/3<sup>rd</sup> choice)

Posts sought:

Training Required/identified:

Any additional comments/interests:

Colleague's signature:

Human Resources Advisor:

Date of Redeployment discussion:

**Colleague should complete and forward to their HR Advisor**