

Livewell Southwest

Redeployment Policy

Version No 2.5

Review: September 2017

Notice to staff using a paper copy of this guidance

The policies and procedures page of Intranet holds the most recent version of this guidance. Staff must ensure they are using the most recent guidance.

Author: Human Resources

Asset Number: 445

Title	Redeployment Policy. V.2.5
Asset number	445
Rights of access	Public
Type of Formal Paper	Policy
Category	Non clinical
Document Purpose/Summary	<p>The Policy describes the circumstances in which employees must be re-deployed.</p> <p>This Policy describes circumstances in which employees may be redeployed. Some instances are subject to employment law and this policy must be applied accordingly. Redeployment in these circumstances has priority status. There are other circumstances in which the organisation considers it legitimate to redeploy staff and this policy sets out the conditions that must apply.</p>
Author	HR Manager
Ratification date and group	JTUF Chair on 11 November 2014
Publication date	24 th March 2017
Review date and frequency (one, two or three years based on risk assessment)	<p>30 April 2017</p> <p>Two years after publication, or earlier if there is a change in evidence.</p>
Disposal Date	The PRG will retain an e-signed copy for the archive in accordance with the Retention and Disposal Schedule. All copies must be destroyed when replaced by a new version or withdrawn from circulation.
Job title	Head of Human Resources
Target Audience	All staff
Circulation List	<p>Electronic: LSW intranet and website (if applicable)</p> <p>Written: Upon request to the PRG Secretary on ☎ 01752 435104.</p> <p>Please contact the author if you require this document in an alternative format.</p>
Consultation process	HR Policy Group meetings with both HR & JTUF reps, Locality Managers and Executive team
Equality analysis checklist completed	Yes
References/sources of information	None
Associated documentation	None
Supersedes Document	All Previous versions
Author contact details	HR Managers LSWCIC.employee-relations@nhs.net

Document review history

Version no.	Type of change	Date	Originator of change	Description of change
1	First full review	March 2004	Deputy Director, Human Resources	New document
1:1	Redraft	July 2004	Deputy Director, Human Resources	Updated to new format
1:2	Redraft	08/02/2006	Deputy Manager, Public Information Service	Reformatted to meet with corporate standards
1:3	Reviewed	07/06/2006	HR Policy Group	No changes made, next review set for 2 years.
1:4	Reviewed	27/01/2010	Deputy Director, Human Resources	Reviewed, no changes made
1:5	Reviewed	19/01/2012	Author	Review date extended, no other changes made.
1:6	Reviewed	23/11/2012	PRG	Review date extended, no other changes made.
1:7	Extended	April 2013	Employee Relations Coordinator	Review date extended, no other changes made.
1:8	Extended	February 2014	Author	Review date extended, no other changes made.
2	Updated	September 2014	HR Policy Group	Full Review
2.1	Updated	November 2014	HR Manager/ JTUF Chair	Minor amendment
2.2	Updated	April 2015	HR Manager	Minor amendment to reference in Appendix C
2.3	Updated	June 2016	HR	Minor change.
2:4	Extended	August 2016	HR	Review date extended, no other changes made.
2:5	Extended	March 2017	HR	Review date extended, no other changes made.

Contents		Page
1	Introduction	5
2	Priority Circumstances	5
3	Management Action	6
4	Priority	7
5	Suitable Alternative Employment	7
6	Redeployment Protection Arrangements	8
7	Communication	9
8	Monitoring Compliance and Effectiveness	10
9	Training and Information	10
Appendix A	Staff who acquire a disability whilst in employment (Protocol)	11
Appendix B	Fixed Term Contracts	14
Appendix C	Process for staff who require pay protection following organisational change	15

Redeployment Policy

1. Introduction

- 1.1 This Policy describes circumstances in which employees may be redeployed. Some instances are subject to employment law and this Policy must be applied accordingly. Redeployment in these circumstances has priority status. There are other circumstances in which Livewell Southwest (LSW) considers it legitimate to redeploy staff and this Policy sets out the conditions that must apply.
- 1.2 Livewell Southwest is committed to fairness and equity and values diversity in all aspects of its work as a provider of health and social care services and as an employer of people. We constantly strive to build a workforce that is representative of the community it serves.
- 1.3 Livewell Southwest is committed to eliminating all forms of discrimination on the grounds of age, disability, gender reassignment, marriage / civil partnership, pregnancy maternity, race, religion or belief, sex and sexual orientation in the provision of our services and in recruitment and employment. This enables an environment that is characterised by dignity and respect which is free from harassment, bullying and victimisation.
- 1.4 The Policy is not exhaustive. Redeployment should not occur outside of the areas described without the agreement of the Head of Human Resources.
- 1.5 Redeployment is a private employment matter for the individuals involved and as such is confidential. There should, however, be as much communication and information given as possible to assure interested individuals that the Policy is being complied with.

2. Priority Circumstances

2.1 “At Risk” of Redundancy

- 2.1.1 No member of staff will be placed at risk without the prior agreement of the Executive Team and the Head of Human Resources.
- 2.1.2 The aim of the Policy is to avoid redundancy by means of re-deployment. Where that is not possible, other measures will be used to avoid, as far as possible, compulsory redundancies.
- 2.1.3 An employee who is “at risk” is an employee whose post, location or conditions of employment will be directly affected by changes in service or organisation. They will have priority status in respect of appropriate/relevant vacancies that occur.
- 2.1.4 LSW is committed to consulting with employees, representatives and Trade Unions as early as possible in the process with a view to reaching an agreement.

2.1.5 The process of matching “at risk” employees to suitable vacancies will be the responsibility of the HR Managers.

2.1.6 This Policy is designed to avoid compulsory redundancies. In the event that becomes necessary the procedure set out in the Redundancy Policy will apply.

2.2 Disability or Ill health

2.2.1 If an employee becomes unable to carry out their job because of a disability or ill health, LSW will, as far as possible, find suitable alternative employment.

2.2.2 This may be for a temporary period or permanently. In this situation the employee will have priority status similar to that of the “at risk” employee. The protocol for dealing with the situation where an employee becomes disabled is set out in Appendix A.

2.3 Pregnancy

2.3.1 New and expectant mothers may, for a temporary period, be unable to carry out her full duties. This will be determined in line with - LSW’s maternity guidance and risk assessment procedures (see Maternity Guidelines for further information).

2.3.2 Any changes during this time should be temporary and will be carried out without change to terms and conditions, grade or salary (see Maternity Guidelines for further information).

2.3.3 A new mother returning to work has a right to request a change to her working pattern or hours of work. LSW will try wherever possible to accommodate the request in full or part. Only exceptionally will the request be refused and this will be only on the basis of set criteria (see Maternity Guidelines for further information).

3. Management Action

3.1 Disciplinary Sanction

3.1.1 LSW’s Disciplinary Policy allows Disciplinary Panels the option of taking action short of dismissal. This can include re-deployment to another area and/or reduction in banding or hours. Protection arrangements [will only be applied in exceptional circumstances](#) and will be considered by the Disciplinary Panel.

3.2 Capability - Performance

3.2.1 LSW aims to provide employees with the support and training necessary to carry out their duties. A situation can develop where the skills and

ability of the employee no longer matches the job requirements and the provision of appropriate training is not likely to provide a remedy.

- 3.2.2 If during the Performance Management process redeployment is agreed, then protection will only be applied in exceptional circumstances in line with above.

3.3 Relationship Breakdown

3.3.1 From time-to-time working relationships break down to the extent employees cannot continue to work together. If all measures to resolve the situation are unsuccessful, it may be necessary to consider redeployment as a last resort.

3.3.2 Following consultation with the employee(s) and appropriate manager, it should be agreed by all parties which of the employees need to be moved, if at all. Protection arrangements can be discussed. If agreement cannot be reached then the Locality Manager (or equivalent) in conjunction with the Head of Human Resources will decide which of the employees will be moved.

4. Priority

- 4.1 Where more than one employee needs or is seeking to be redeployed account will be taken of Employment Law in determining whether a hierarchy should apply, e.g. Section 2 describes circumstances covered by Statute and case law.
- 4.2 Where there is more than one employee suitable for the same vacancy there will be a competitive appointment process.

5. Suitable Alternative Employment

- 5.1. There is no statutory definition of the word “suitable” and therefore it must be considered on a case-by-case basis. Factors to consider are:
- (a) Salary – any significant cut in earnings may make an offer unsuitable but this will be mitigated by the protection arrangements. Consideration will be given to bands one above and one below the existing substantive banding.
 - (b) Status – any significant reduction in status may make an offer unsuitable e.g. from Ward Manager to Staff Nurse.
 - (c) Nature of work – the work needs to be broadly of the same character and clearly within the employee’s capability.
 - (d) Working hours – a minor change will probably be acceptable. A major change such as from day to night work for a non-clinical worker would probably be unsuitable. The domestic circumstances of the employee need to be carefully considered. The working hours of the potential redeployment should be at least 15% either side of the current working hours. There is no obligation to increase an individual’s contractual hours.

- (e) Work location – to decide whether a post is suitable, consideration would need to be given to the individual circumstances of the employee as well as their current banding.

5.2 The employee may wish or be prepared to consider alternative employment that might not meet the definition of suitable alternative employment above. It is therefore important that all options are explored. If redeployment to such a post is agreed and the salary of the new post is at least 85% of the current post, alternative protection arrangements and travelling expenses may be agreed. If an individual wishes to consider a post at a lower band or with less hours and this means their new salary is below 85% of their previous earnings then no protection will be payable. Any alternative arrangements should be discussed with the Head of Human Resources prior to agreement.

5.3 The seeking of a suitable alternative post will not normally extend beyond a 12 week period, unless there are exceptional circumstances. At the end of this period if no suitable alternative post has been found, LSW would seek to agree a mutual termination. If this is not agreed, a Dismissal's Panel will be convened in accordance with the Dismissal's Policy.

5.4 **Trial Periods**

5.4.1 Employees transferred to a new work place or re-deployed to another post where the terms and conditions differ from the original post are entitled to a statutory four week trial period. The trial period can be extended by mutual agreement but would not be expected to exceed 8 weeks. If during this period the employee and/or Manager have concerns about the suitability of the redeployment they should discuss this with a HR Manager. The Manager and employee must meet and review the redeployment before the end of the trial period.

6. **Redeployment Protection Arrangements**

6.1 **Scope**

6.1.1 These arrangements will apply to any employee who is redeployed as a result of any circumstance described in Section 2. They are also the maximum that can be applied in relation to Section 3. See Appendix C for the process to follow for staff who require protection following organisational change.

6.2 **Salary and Allowances**

6.2.1 All staff will be pay protected on their band on a sliding scale for up to two years dependent upon their length of service*:

- Up to five years – 15 months
- Five to 10 years – 21 months
- 10+ years – 24 months

(*The date from which length of service will be measured will be the date the change takes effect).

6.2.2 Normally a minimum of one year's protection of earnings. Protectable earnings are the monthly average over four or 12 months (whichever is the more favourable) immediately preceding the first day of employment in the new post. These earnings include but are not restricted to:

- Overtime
- Unsocial hours payments
- Standby

(N.B. responsibility or Acting Up allowances that are time limited will continue to be paid for the defined period).

6.2.3 **Allowances** – Following any organisational change allowances, e.g. on-call payments, will be protected for a period of three months from date of service change.

6.3 Preservation of NHS Pension Scheme Benefits

6.3.1 Members of the NHS Pension Scheme can choose to preserve their benefits earned on the higher pay if they:

- Suffer a reduction in pay through no fault of their own
- Have at least two years qualifying service, and
- Write or contact SBS Payroll (helpdesk number 0303 123 1144)

6.4 Conditions

6.4.1 Protection of earnings is conditional on the employee undertaking any overtime, shift work or other additional duties which may be required up to the level at which earnings in the new post equal the protected earnings.

6.4.2 Protection of earnings is also conditional on the employee accepting any subsequent offer of another suitable post that attracts a basic salary in excess of the basic salary applying to the new post.

7. Communication

7.1 Responsibility for communication about redeployments lies with the managers of the services.

7.2 Whilst the communication should be clear and as detailed as possible, the major consideration should be the wishes and rights to confidentiality of the re-deployed employee(s).

8. Monitoring Compliance and Effectiveness

- 8.1 The effectiveness of this Policy will be monitored both in terms of whether the process was properly followed leading to a legal and fair outcome, and whether managers at all levels are taking the opportunity to learn from any problems and improve their overall approach to people management.

9. Training and Information

- 9.1 Training will be provided to Managers on their duties in relation to this Policy.

All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.

The Lead Director approves this document and any attached appendices. For operational policies this will be the Locality Manager.

Signed: Head of Human Resources

Date: 11 November 2014

Staff who acquire a disability whilst in employment Protocol

1. If an existing member of staff acquires a disability (or an existing disability increases in severity) the line manager must assess the situation. In the first instance advice must be taken from a HR Manager.
2. The employee must be consulted at all stages of the process as an equal partner with LSW in seeking a solution to any problems that have arisen or are expected to arise.
3. A meeting should be arranged with the employee who should be encouraged to seek representation. The meeting should be consultative and an attempt to reach an understanding of whether or not the disability is or will have an impact on the employee's ability to carry out their current post.
4. At any stage of the process it may be appropriate to take advice and assistance from the Occupational Health & Wellbeing Department, Medical Specialist, the Risk Manager and/or other agencies, e.g. Disability Services Teams.
5. The initial approach must be to consider adjustments to the existing job to allow continuation in the current post. This may involve adjustment of the duties, the working environment, hours, times of work, training, equipment or other practical measures. Where proposed adjustments will incur expenditure the Manager, with support from HR, will wherever possible seek external funding. It may be appropriate to seek assistance from the Supportive Workplace Scheme where employment in the existing post can continue but at reduced productivity. Where significant internal funding is required contact should be made with the Finance Department.
6. Where the employee accepts the need for adjustments or wishes LSW to seek alternative employment then it is expected that the employee will co-operate fully in the exercise.
7. If a period of leave is needed for the purpose of adapting the work place this should be offered as part of the strategy and will not be regarded as sick leave.
8. It may in some cases be appropriate to consider trial periods, normally four weeks pro rata, in order to assess whether the adjustments made are effective.
9. If adjustments to the current post prove not to be reasonably practical then LSW will seek redeployment to another post. The employee should be considered "at risk" due to capability and therefore will be entitled to be interviewed for suitable posts on a priority basis.

10. Suitable posts are those for which the employee can meet the essential criteria of the person specification after reasonable adjustments have been made. Reasonable adjustments will include skills training relevant to the role but not professional training.
11. LSW will, in conjunction with the employee, seek to identify suitable employment. Consideration should be given to as wide a range of jobs and occupations as possible.
12. The interview panel will include a representative from HR. In some circumstances it may be appropriate to arrange a trial period. If the appointing manager has any reservations about the appointment they must discuss these with the Head of Human Resources. The decision of the Head of Human Resources is final.
13. Where suitable alternative employment is offered it is expected that the employee will accept the offer (subject to 16 below).
14. An appointment can be made subject to reasonable adjustments being made; where it is expected that such adjustments are reasonably practical.
15. Where a period of training is necessary the employee will receive the salary for the new post and be provided with training and time off as reasonable in the circumstances.
16. Where the new appointment attracts earnings less than the original post then protection of earnings will be agreed, see Section 6.
17. An employee who is a member of the NHS Pension Scheme can apply for early payment of pension on the grounds of ill health. The decision to grant the application (or not) lies with the NHS Pension Scheme and not LSW. LSW will support and facilitate the application as appropriate. A successful application does not preclude re-employment with LSW.
18. If the disability is primarily attributable to employment within LSW the employee may be entitled to Injury Allowance (IA) if off sick suffering financial loss and still in employment. In these circumstances Point 16 will only apply where the benefit exceeds IA.
19. In the event that no suitable employment can be found the matter should be reviewed with the Manager and HR Manager dealing with the case, to check that all reasonable alternatives have been explored. Where the Manager/HR Manager agree there is no suitable alternative then the following options should be explored:
 - Ill health retirement
 - Mutual termination
 - Referral to a Capability Panel
20. If the outcome of the Capability Panel is dismissal then the employee is entitled to appeal (see Dismissal Policy for further information).

21. Records must be kept of all documents associated with each case:
 - Notes of every meeting with the employee
 - Notes of any other meetings relating to the case
 - Workplace assessments
 - Costings of modifications
 - Any correspondence with the employee and others involved
 - Job applications and interview notes
 - Contacts and advice from outside sources e.g. Disability Service Teams
 - Occupational Health & Wellbeing and HR advice
 - Medical Specialist reports
22. This process should be seen as ongoing and reactivated as and when the need arises.
23. The measures above are additional to the rights of employees set out in the Equality Act 2010.

Fixed Term Contracts

1. LSW will only use Fixed-Term Contracts (or temporary contracts) in genuine and specific circumstances, e.g. where a piece of work will last for a known and fixed period or where the funding is time limited. Temporary or fixed term contracts can be used to cover planned absences, e.g. Maternity Leave.
2. Where a post is offered on a fixed-term basis and the tenure is extended so that the length of employment exceeds four years, the contract will be regarded as permanent. However, if subsequently the post becomes redundant because of a withdrawal of funding by external sources the redundancy will be restricted to those posts directly affected (see Redundancy Policy).

Process for staff who require pay protection following Organisational Change

1. Staff will meet with their Manager and HR Manager in line with the Organisational Change Protocol.
2. If a post cannot be identified at the staff member's current band, a suitable alternative will be sought.
3. Consideration will be given to bands one above and one below the existing substantive banding when reviewing suitable alternative employment. This review will be undertaken by the HR Manager and Trade Union representative. At this meeting discussions will take place regarding:
 - Potential effect on pension
 - The process for finding an alternative post
 - Any health concerns
 - Any training needs
 - Review process
 - Confirmation that if a post becomes available at their existing band and they refuse to take it they forfeit their pay protection with immediate effect
 - Any other concerns they may have
4. If the suitable is one band lower, pay protection will be commenced (see Section 6.2.2).

All of the above will be documented and the staff member will receive a letter setting out what was discussed.

Meetings will take place three months before the pay protection ends and at the point the pay protection ends.

The list of staff that are pay protected will be reviewed by the Executive Team in conjunction with the Vacancy Review Panel and at the Locality Manager's monthly meetings.