Policy:

HR 019 - Recruitment and Selection

Executive Director Lead	Director of People
Policy Owner	Recruitment Lead
Policy Author	Recruitment Lead

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Summary of policy

The Recruitment and Selection process and the roles and responsibilities of those involved.

Target Audience	All managers and employees of SHSC

Keywords	Recruitment, Selection

Storage & Version Control

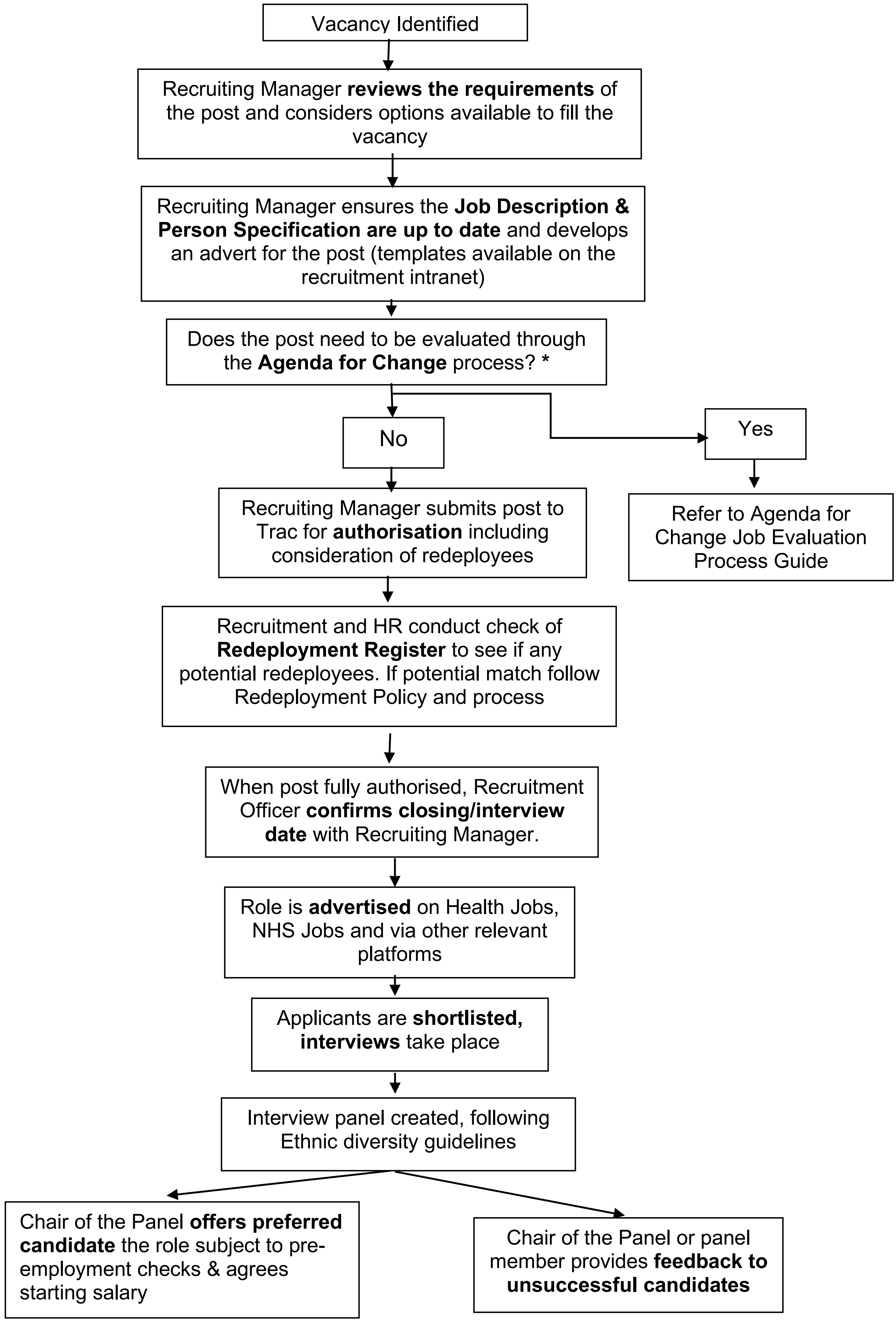
Version 6 of this policy is stored and available through the SHSC intranet/internet. This version of the policy supersedes the previous version (V5 January 2021). Any copies of the previous policy held separately should be destroyed and replaced with this version.

Version Control and Amendment Log

Version No.	Type of Change	Date	Description of change(s)
V4	New draft policy created by Louise Hall	November 2017	Policy reviewed and re-written to clarify areas of responsibilities and incorporate appendices on Employment Checks and Temporary Positions.
V5	Review of policy	January 2021	Policy reviewed to remove VCP process which no longer exists in the Trust and make minor changes.
V6	Review of policy	May 2022	Policy reviewed to reference the trust's new recruitment system and full content review and reformat. Detailed, Equality, diversity and inclusion review. Clarification on the following topics: when to use Expression of wish; pre-employment checks; guidance on shortlisting criteria.

Contents

Flowchart


Vacancy Identified
Recruiting Manager **reviews the requirements** of the post and considers options available to fill the vacancy
Recruiting Manager ensures the **Job Description & Person Specification are up to date** and develops an advert for the post (templates available on the recruitment intranet)
Does the post need to be evaluated through the **Agenda for Change** process? *
No
Yes
Recruiting Manager submits post to Trac for **authorisation** including consideration of redeployees
Refer to Agenda for Change Job Evaluation Process Guide
Recruitment and HR conduct check of **Redeployment Register** to see if any potential redeployees. If potential match follow Redeployment Policy and process
When post fully authorised, Recruitment Officer **confirms closing/interview date** with Recruiting Manager.
Role is **advertised** on Health Jobs, NHS Jobs and via other relevant platforms
Applicants are **shortlisted, interviews** take place
Interview panel created, following Ethnic diversity guidelines
Chair of the Panel **offers preferred candidate** the role subject to pre-employment checks & agrees starting salary
Chair of the Panel or panel member provides **feedback to unsuccessful candidates**

*All posts in the NHS must be Agenda for Change evaluated before advertising. This includes when small changes have been made to the job description and person specification since it was last evaluated

1 Introduction

The Trust plays a vital role in providing health and social care to the local community. To do this the Trust must have the right members of staff with the appropriate skills and experience in place to deliver service excellence and enhance the lives of our service users.

As one of the largest employers in the locality, the Trust is also central to developing the skills of local residents, particularly disadvantaged groups, bringing them into employment locally. It is essential that our workforce reflects the community we serve.

This policy and associated guidance documents are to help ensure that we make the best possible recruitment decisions, balancing the needs of the service with a diverse and culturally competent workforce. It also outlines our requirements to ensure safe and effective recruitment.

2 Scope

This policy applies to all employees with responsibility for recruitment.

3 Purpose

The purpose of this policy is to set out the general arrangements to be followed in the recruitment and selection of staff, and to ensure equality of opportunity in accordance with the Trust's Equal Opportunities and Dignity at Work Policy.

To ensure that the current and future workforce needs of the Trust are planned for and met and ensuring that recruitment is safe and that risks associated with engaging a new member of staff are minimised.

4 Definitions

Recruiting Manager, this is the person responsible for ensuring that the vacancy is filled and who has overall budgetary responsibility for the post.

Chair of the Panel, in some instances the Chair may be different from the Recruiting Manager. The Chair of a selection panel is the person with overall responsibility for ensuring a fair and procedurally correct process is undertaken on behalf of the Trust. The Chair must have attended the Trust Recruitment and Selection Training or be able to evidence recent equivalent training.

Interview Panel Member, this is a person who is asked by either the Recruiting Manager or Chair of Panel to be part of the interview panel. They can be asked to take part in the shortlisting process as well as the actual interview. They have responsibility for ensuring that a fair and procedurally correct process is undertaken on behalf of the Trust.

Service User/Carer, this is a member of a group of service users and carers willing to participate in recruitment who have undertaken relevant training to participate in the recruitment and selection process. They will also have in place adequate supervision arrangements with the Engagement/Volunteer Manager in line with the guidance Involving Service Users/Carers in Recruitment, available on the Recruitment pages of the HR Intranet.

5 Duties

5.1 The Recruiting Manager;

Is responsible for the vacancy planning process, a guide to vacancy planning is provided in Appendix C. The Recruiting Manager's main responsibilities are highlighted below.

1. Establishing a case of need for a new post and considering the best method of filling the vacancy.
2. Reviewing the continued need for an existing post which becomes vacant. If a post is to be disestablished please contact your HRBP and refer to the Organisational Change Policy.
3. Issuing an exit questionnaire or conducting an exit interview with a leaver or ensuring that this is done by appropriate delegation.
4. Completion of all recruitment, including authorisation, via the trusts recruitment system
5. Reviewing and approving the job description, person specification and advertisement ensuring any changes made to the job description or person specification are discussed with the Agenda for Change administrator.
6. Liaising directly with the Recruitment Team throughout the recruitment process Organising and chairing interviews.
7. Ensuring that service users or carers are involved in the recruitment process in line with the guidance available on the Recruitment pages of the HR Intranet.
8. Ensuring that the diversity of the panel is considered and for band 7 upwards the panel must consist of a minimum of one person from an ethnically diverse background.
9. Ensuring that adjustments for disabled applicants are proactively considered when planning recruitments.
10. Ensuring they have a good working knowledge of the Equal Opportunities and Dignity at Work Policy and that all applicants are asked on an individual basis if they require adjustments to the application or interview process, layout of the interview room etc.
11. Ensuring that **as a minimum** the Chair of the interview panel has attended the Trust's Recruitment and Selection training or equivalent, and where possible all members of the panel have also attended the training.
12. In partnership with the Recruitment Team, ensuring that the administration of the process runs smoothly.
13. Ensuring the shortlisting process is conducted fairly and in accordance with agreed criteria
14. Ensuring that reasons for not shortlisting candidates are recorded.
15. Ensuring that all candidates are asked if they require any adjustments to the process, layout of the room, correct remote equipment for virtual interviews etc to better support them at the interview.
16. Ensuring that the questions asked by each interviewer are in line with values based guidance and technical questions are recorded.
17. Ensuring that qualification certificates, and where appropriate professional registration details are verified for each candidate at interview.
18. Ensuring that any gaps in employment are followed up thoroughly with candidates to ensure we are meeting NHS Employment checks standards.
19. Gathering information at the interview on any criminal convictions that are disclosed by candidates and ensuring they are assessed by the relevant Executive Director in line with Trust Criminal Records (DBS) policy.
20. Ensuring that all notes taken by panel members are securely retained locally.

21. Complete the summary of selection form in full to advise the Recruitment Team of the successful candidate.
22. Examining reasons for non-selection and ensuring that these are recorded.
23. Ensuring interview outcomes are recorded in the trust's recruitment system
24. Offering the role to the successful candidate and agreeing starting salary, please speak to the Human Resources department for further guidance.
25. Confirming the outcome to the unsuccessful candidate(s) and providing feedback as requested.
26. Liaising with the Recruitment Team throughout the pre employment checks stage.
27. Being accountable for decisions made in relation to the pre employment checks in line with NHS Employment checks standards, Trust policy and in consideration of any advice from the HR team.
28. Working with the Recruitment Team to ensure that the job file is complete (which will be retained for 6 to12 months).

5.2 The Chair of the Panel;

On occasions the chairing of an interview panel maybe delegated to another person. In this instance the recruiting manger and chair of the panel should agree specific ownership of the recruitment manager responsibilities to ensure all responsibilities are actioned.

5.3 The Interview Panel Member(s) responsibilities are;

1. Ensuring that they have attended the Trust's Recruitment and Selection training or equivalent, or ensuring they have undertaking local training or mentoring to ensure they understand their role and responsibilities in the process.
2. Ensuring the shortlisting process is conducted fairly and in accordance with agreed criteria.
3. Ensuring that reasons for not shortlisting candidates are recorded.
4. Ensuring that all candidates are asked if they require any adjustments to the process, layout of the room etc to better support them at the interview.
5. Examining reasons for non-selection and ensuring that these are recorded.

5.4 The Service User/Carer(s) responsibilities are:

1. Ensuring they are a member of the 'Group' coordinated by the Engagement/Volunteer Manager to participate in the recruitment and selection process and have attended the required training as detailed in the guidance Involving Service Users/Carers in Recruitment, available on the Service User Involvement page of the Intranet.
2. When attending interviews as a panel member must ensure that they have attended the required training as detailed in the guidance Involving Service Users/Carers in Recruitment, available on the Recruitment pages of the HR Intranet.
3. Ensuring that all candidates are asked if they require any adjustments to the process, layout of the room etc to better support them at the interview.
4. Ensuring that the questions asked by each interviewer are in line with values based guidance and technical questions are recorded. Examining reasons for non-selection and ensuring that these are recorded.

5.5 The Recruitment Team;

The Recruitment Team are responsible for supporting the Recruiting Manager and for carrying out their designated administrative duties within specified timescales.

They are also responsible for the administration of pre-employment checks in line with the Employment Checks Standards as detailed on NHS Employers. These include the following 6 checks;

- Identity

- Professional registration and qualifications
- Employment history and references
- Right to work
- Criminal record
- Work health assessments.

There are guides available on NHS Employers for each of the 6 checks, further details can also be found in appendix D.

In addition, the recruitment team will comply with NHS terms and conditions of service in line with Agenda for Change handbook relating to the following checks and confirmation of:

- The use of recruitment and retention premia
- The use of career development posts with temporary and permanent banding upon qualification to follow Agenda for Change including Annex 21
- Contractual continuity of service via Inter Authority Transfer including sickness and annual leave entitlement
- Reckonable service to include employees previous continuous service in any NHS employer and any discretion to consider period(s) of employment with employers outside the NHS where these are judged to be relevant to NHS employment. These decisions should be approved by the Director of People as per Trust policy.
- Confirmation of the pay spine point of the relevant band a new starter commences on is in line with Agenda for Change T&C's with any requests outside of these T&C's to be escalated to the Recruitment Team Leader and the Director of People for approval.

The Executive Director of People will have responsibility for this policy and the Human Resources Team will provide training, advice and guidance on the operation of the policy.

6 Procedure

6.1 Reviewing Vacancies

6.1.1 Reviewing the post

As vacancies arise the Recruiting Manager must review the needs of the team as well as the job description and the person specification to ensure they fully reflect the requirements of the post. Refer to appendix C vacancy planning The job description and person specification must be reviewed to ensure that any criteria do not directly of indirectly discriminate on the basis of any protected characteristics and are in line with current equalities legislation

Once the requirements of the team are confirmed and the job description has been updated the Recruiting Manager must review the person specification. The person specification must specify those requirements which are 'essential' and those which are 'desirable' for the post in respect of qualifications, previous experience, knowledge, skills, aptitudes, physical requirements and any special requirements (e.g. unsocial hours, travelling). Recruiting Managers must ensure that the criteria specified are justifiable and relevant to the post. Criteria can only be classed as essential where a candidate would not be considered for shortlisting if they did not meet those criteria.

The determination of hours of work should be consistent with the aims and principles of this policy e.g. consideration should be given to flexible working arrangements and job share opportunities. All job descriptions must state that flexible working can be considered from day one of employment.

Changes to the job description and person specification may result in an Agenda for Change re-evaluation and change of band. Managers should seek advice from the HR team on this to ensure they follow the correct process.

If the post is a new one, or has changed significantly, then consider if there is an existing job description or person specification in the Trust that will be appropriate for the post. Advice will be available from HR on job descriptions in use in the Trust. The post will then need to be Agenda for Change evaluated. Managers should seek advice from the HR team on this process.

If the Recruiting Manager considers that the post requires someone with a specific 'characteristic' only, for example, they want to recruit a male to the post because they believe there is a 'Genuine Occupational Requirement' (GOR), they must be confident that this decision can be justified and is proportionate and they have sufficient evidence to support this.
In such circumstances this must be discussed with the relevant Human Resources Directorate Partner or Equality and Diversity Lead.

6.1.2 Deciding how to fill the vacancy
When deciding how to fill the vacancy consideration should be given to the potential duration of the role. If this is a temporary need there are options available to act someone up to the role temporarily or offer a secondment or fixed term opportunity, for further details please see appendix E.

Where only a short-term vacancy exists the Recruiting Manager may consider the use of Bank Staff, engagement of an Agency Worker or a Self Employed contractor. Reference must be made to the Engagement and Deployment of Short term staffing Policy to ensure the correct processes are followed.

Where appointing to a vacancy of 6 month duration or less, expressions of interest process may be followed (see appendix E). If the temporary assignment is longer than 6 months then usual processes should be followed via the trust's recruitment system in line with this policy.

It may be possible to take a trainee or apprentice into the role. When recruiting a Trainee or apprentice to the post you are committing to supporting an individual to gain the required 'essential' qualification over a period of time. If recruiting a Trainee to the post, salary would be paid at a percentage of the substantive banding of the post in line with Agenda for Change appendix 21. Please speak to HR or Education Training and Development team for further information.

6.1.3 Authorising the Vacancy
After considering the above once the Recruiting Manager has established the need to recruit to the post the vacancy needs to be submitted for authorisation on the Trust's recruitment system. The designated budget managers and finance will approve vacancies prior to advertisement. Further information and support on how to use system is available on the recruitment intranet page.

As part of the authorisation process, prior to the post being advertised, the HR team will review the Trust Redeployment Register for potentially suitable candidates. If there are employees on the register who may meet the essential criteria for the post they will be offered a priority redeployment interview. The main aim of a redeployment interview is to ensure that the employee meets the essential criteria of the post's person specification, or would meet the criteria with reasonable (re)training or through other developmental opportunities, for further details please see the Redeployment Register Policy or speak to a member of the HR team.

6.2 Advertising

All job vacancies must, if released for external recruitment, be advertised via the trusts recruitment system and placed on NHS Jobs.

There should be no requirements or criteria which are unnecessary to the post and which might exclude applicants from any particular section of the population unless there are exceptional circumstances consistent with The Equality Act 2010. If a GOR is to apply then it should be identified as such within the advertisement and associated documentation.

Advertisements are distributed in accordance with the Equal Opportunities and Dignity at Work Policy. Advertisements and associated recruitment literature should give appropriate emphasis to the availability of flexible working arrangements and job share opportunities and carry relevant logos in relation to diversity and inclusion.

All vacancies will be advertised internally and, wherever possible, existing employees will be encouraged to apply unless the post is restricted to redeployees only. Where staff may be absent from work due to parental leave or for any other reason long term, managers should ensure that they are informed of vacancies.

External advertisements will normally be placed on the Health Jobs and NHS Jobs website and in other relevant publications as agreed between the Recruitment Team and Recruiting Manager.

If a candidate contacts the Trust at application stage to disclose they have a disability and require 'reasonable adjustments' to enable them to complete an application, arrangements should be made with the recruiting manager and recruitment team to enable alternative means of application. Further advice can be sought from the HR advisor team.

6.3 Shortlisting

Shortlisting is completed online using the trust's recruitment system and should be carried out by at least two people who will also be part of the interview panel, this must include the Recruiting Manager or if different, the Chair of the panel.

Information provided by applicants on the Equal Opportunities sheet with the Application Form will not be released to the Recruiting Manager but will be retained by the Human Resources Department for monitoring purposes.

All applicants will be given equal consideration for appointments and will be assessed for shortlisting for interview against the established criteria in the person specification.

Overseas qualifications, degrees and diplomas, which are comparable with UK qualifications, will be accepted as equivalents (subject to registration requirements and to any relevant issues within the local or National Terms and Conditions of Service).

The Trust shall not disqualify any applicant because he or she is unable to complete an application form unassisted, unless personal completion of the form is a valid test of the standard of literacy required for the safe and effective performance of the job.

All applicants with a disability who meet the minimum requirements for the post will be shortlisted for interview in accordance with the Trust's commitment as a Disability Confident Employer and any reasonable adjustments required for interview must be made.

The Trust will provide guidance to applicants regarding how the minimum criteria are defined in the Person Specification.

During this stage the shortlisters will be required to sift through multiple applications, assessing each applicant against the shortlist criteria. This must be done objectively at all times, without allowing other aspects of the application, or perception of the applicant, to impact on decision-making. By failing to objectively stick to the shortlist criteria, allowing other factors to influence a decision, may, albeit inadvertently, be acting in a discriminatory manner. The recommended shortlisting scoring criteria is as follows:

- **0 Weak** - little or no evidence of the criteria displayed
- **1 Development needed** - Some evidence displayed but would require development for the role
- **2 Competent** - Acceptable levels of criteria displayed for the role
- **3 Strong** - Fully competent in all aspects of the criteria and followed up with appropriate reasoning.

6.4 Interviews

6.4.1 The Interview Panel

Interview training must be arranged for all those involved in recruitment and selection. Recruiting manager/Chairs must have attended Recruitment and Selection training.

The panel must include people who have shortlisted for the post and the number of people should normally be limited to three although more may be appropriate for specialist or more senior posts in line with the requirements of professional organisations.

6.4.2 Diversity on Interview panels

The Trust supports principles around diversity and inclusion and chairs are required to think about the diversity of the interview panel to ensure this is representative of the various groups of staff and public we support. Gender, ethnicity and disability are some examples of diversity to consider. Where recruitment is taking place for roles at Band 7 and above there should be at least one Ethnically Diverse member of staff on the panel. If there is not an Ethnically Diverse colleague available from within the recruiting team the Ethnically Diverse Staff Network Group are able to provide representatives to support the process. The inclusion of a panel member must be done at the early stages of the process so that the invited panel member is part of devising the questions and interview.

The Trust encourages and expects the involvement of service users and/or carers in the recruitment of all staff. Service Users do not have to have had direct experience of the service which they are involved in recruiting for, however efforts should be made to ensure that they have an understanding of the role and remit of the post advertised and where possible interviewers should be chosen who have transferable experience of similar service settings e.g. someone with experience of an inpatient environment in recruiting staff for a ward setting. The Recruiting manager will not determine which service users or carers are involved in the recruitment he/she is carrying out. Managers may suggest service users they would like to have involved, but this will be at the discretion of the Engagement/Volunteer manager.

The Chair will ensure that all members of the interview panel, including external assessors and external agencies or service users are aware of the Trust's Equal Opportunities and Dignity at Work Policy and of the requirements of this Policy.

The Chair must ensure that all members of the interview panel are aware of the selection criteria for the post, based on the person specification, and that these criteria are applied consistently to all candidates.

Panel members must disclose prior to interviews commencing any current or previous association with any of the candidates which would give rise to a conflict of interest (e.g. if you are related to the candidate or have a relationship with the candidate). Any such associations must not prejudice equal treatment and consideration of all candidates.

Questions must relate to the requirements of the job and must not be directly or indirectly discriminatory, for instance:
a. questions must not be asked about marital status, marriage plans or family intentions.

b. where it is necessary to assess whether a candidate can fulfil the job responsibilities (e.g. on-call or extensive travel to ensure performance of the role), this should be discussed objectively and consistently with all candidates without assumptions about marital status or carer responsibilities, disability or pregnancy for example.

c. The Chair of the Panel will ensure that no health or disability questions are asked about a shortlisted candidate's capability to carry out certain tasks unless this is intrinsic to the role.

All recruitment must follow the Trust Values Based Recruitment protocols whereby candidates are asked at interview both values based questions that have been developed in line with the Trust values as well as technical questions specifically related to the requirements of the job as detailed in the job description and person specification. Questions must not be given out to candidates prior to an interview, unless this deemed a reasonable adjustment associated with disability.

If, in the opinion of any panel member, questions are asked which are prejudicial to the interests of a fair interview, the candidate should be advised that they are not required to answer the question and the matter should be resolved by the panel.

Any tests or exercises used in the selection process must relate to the requirements of the job and not involve higher language, educational standards, or greater physical fitness than are necessary for the safe and efficient performance of the job.

Each candidate should be asked if they require any adjustments to the process, layout of the room etc to better support them at interview. This should be asked of each candidate at the start of the interview, it may be that the direction the candidate is facing means they have light coming through a window, it may be that they are too warm or cold and a window may need to be closed or opened etc.

6.4.3 Virtual Interviews

Deciding whether to hold an interview virtually or face to face is the choice of the recruiting manager. This decision should be made by considering the nature of the role, the availability of the interview panel, the location of the candidates and the format of the interview. If the interview is held remotely, prior to the interview the candidate should be briefed on the format of the virtual interview and the technology that will be required to conduct the interview e.g. if any tests or exercises are to be conducted during the interview the candidate should be made aware they will require access to a keyboard. If a candidate declares any disability particular attention should be paid to any requested reasonable adjustment and consideration should be given to the interview process to ensure it is a fair and inclusive process. For further guidance on setting up a virtual interview please refer to the recruitment page on Jarvis.

6.5 Selection

Selection decisions must be based on candidates' abilities compared against the criteria within the person specification for the job and not be influenced by actual or assumed, age, sex, gender re-assignment, religion or belief, disability and / or family, marital status or civil partnership, pregnancy or maternity, HIV status or trade union. The chair must remain mindful of and challenge potential unconscious bias which may play into decision making

There may be occasions where a selection decision is impacted on by someone having a protected characteristic, where:

- A Genuine Occupational Requirement may exist, the advert will clearly state that the Trust is actively seeking to recruit someone with a certain characteristic.

- There is evidence that supports the use of positive action in recruitment and selection under Section 159 of the Equality Act 2010. Where this is the case this action will be taken on a case by case basis and recruiters must ensure that the guidance in appendix F is followed and supporting information is recorded and legitimate. This must be discussed with the relevant HR Directorate Partner.

6.6 Pre-Employment Checks

Upon offering a candidate offer any offer made will be conditional until all pre-employment checks are completed in line with the 6 NHS employment check standards (please see Appendix D for more information):

-
- Identity
- Professional registration and qualifications
- Employment history and references
- Right to work
- Criminal record

- Work health assessments

The standards apply to all appointments in the NHS. This includes those engaged in paid work (whether on a permanent, fixed-term or zero-hours contract) and temporary workers, such as locum doctors, those working on a trust bank and workers supplied by an agency or other third-party contractor). The standards also apply to those undertaking unpaid work in the NHS such as volunteers, trainees and students. For work experience check requirement please refer to the Work Experience (Widening Participation Policy). Individuals must not be appointed until all the necessary assurances are obtained to ascertain their suitability for the role in question

If the applicant has disclosed convictions on their application form, further information should have been gathered immediately after the interview by an appointed member of the panel. This information must then be shared with a member of the Human Resources team and the Recruiting Manager is responsible for ensuring the information relating to the preferred candidate is considered and a review undertaken in line with the Trust Criminal Records (DBS) Policy.

If during the pre-employment check stage a Recruiting Manager is made aware that the preferred candidate has disclosed a disability and that they require 'reasonable adjustments' to enable them to undertake the post, these must be fully considered and explored (for more detail see the Disabled Staff Policy). Further advice should be sought from Occupational Health and the HR team. The recruiting manager is responsible for ensuring that these are considered and met as part of the recruitment and induction process, ensuring that needs are communicated.

6.7 Post Interview Feedback

All interview candidates who have not been successful will be offered post-interview feedback by an appropriate member of the Interview Panel following interview, including the reasons for them being unsuccessful, based on the selection criteria within the person specification.

Job applicants, at any stage of the Recruitment and Selection procedures, wishing to make a complaint should be referred to the Executive Director of People who will ensure that the complaint is acknowledged, investigated and a response given to the complainant.

7 Development, Consultation and Approval

This policy has been reviewed by Recruitment Team Leader, HRBP and Staff Side colleagues. Only very minor changes have been made with a short review date to allow for a full review to be submitted and wider consultation following implementation of a new recruitment system.

Legislative changes include the end to free movement of EU nationals to the UK following Brexit effective from 1st January 2020 and requirement to issue a statement of particulars to all new employees on or before their first day of employment.

8 Audit, Monitoring and Review

Monitoring Compliance Template						
Minimum Requirement	Process for Monitoring	Responsible Individual/ group/committee	Frequency of Monitoring	Review of Results process (e.g. who does this?)	Responsible Individual/group/ committee for action plan development	Responsible Individual/group/ committee for action plan monitoring and implementation
To be reviewed in line with changes to the legislation and practice within SHSC	Human Resources policies are subject to joint monitoring and review between management and staff sides in the Joint Consultative Forum.	Any changes will be discussed and approved by the HR Policy Group	At least every 3 years	Recruitment Team Leader	Human Resources policies are subject to joint monitoring and review between management and staff sides in the Joint Consultative Forum.	Human Resources policies are subject to joint monitoring and review between management and staff sides in the Joint Consultative Forum.

9 Implementation Plan

Action / Task	Responsible Person	Deadline	Progress update
Revised policy to be uploaded onto the Intranet and Trust website. Old policy to be removed and archived.	Head of Communications	Within 5 working days of finalisation	
A communication will be issued to all staff via the Communication Digest immediately following publication.	Head of Communications	Within 5 working days of issue	
A communication will be sent to Education, Training and Development to review training provision.	Policy Author	Within 5 working days of issue	
Brief HR team on new policy and ensure training needs analysis for staff in response to any changes in current practice	Policy Author	TBC	

10 Dissemination, Storage and Archiving (Control)

Version	Date added to intranet	Date added to internet	Date of inclusion in Connect	Any other promotion/ dissemination (include dates)
1.0	December 2016	December 2016	Policy communicated via intranet and trust website only	New policy written to incorporate changes in process, ratified and communicated
2.0	February 2017	February 2017	Policy communicated via intranet and trust website only	New policy written to incorporate changes in process, ratified and communicated
3.0	December 2018	December 2018	Policy communicated via intranet and trust website only	New policy written to incorporate changes in process, ratified and communicated
4.0	March 2019	March 2019	Policy communicated via intranet and trust website only	New policy written to incorporate changes in process, ratified and communicated
5.0	February 2021	February 2021	February 2021	New policy written to incorporate changes in process, ratified and communicated
6.0	TBC	TBC	TBC	New policy written to incorporate changes in process, ratified and communicated

11 Training and Other Resource Implications

Recruitment & Selection training is provided on a rolling basis for those involved in recruitment. The training will cover all areas of the policy including Values Based Recruitment (VBR), separate VBR training will also be provided.

Those individuals within the HR Team responsible for supporting the recruitment process will receive training on the policy as required.

12 Links to Other Policies, Standards (Associated Documents)

NHS Employers
Criminal Records Checking, Disclosure & Barring (DBS) Service Policy
Professional Registration Verification Policy
Equal Opportunities and Dignity at Work Policy
Redeployment Register Policy
Whistleblowing (Speaking Up) Policy
Involvement of Service Users/Carers in Recruitment
Guidance documents for each stage of the recruitment process are available on the Recruitment pages of the HR Intranet and Involvement of Service Users/Carers in Recruitment guidance
Vacancy Control Planning terms of reference available from the HR team
Protection of Pay and Conditions of Service Policy
Secondment Policy
Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002
Engagement and Deployment of Short Term Staffing
Disabled Staff Policy
Supporting Staff Undergoing Gender Reassignment
Engagement and Deployment of Short term staffing Policy

13 Contact Details

Title	***Name***	***Phone***	***Email***
Recruitment Team		0114 2263301	Recruitment.team@shsc.nhs.uk

Appendix A

Equality Impact Assessment Process and Record for Written Policies

Stage 1 – **Relevance** - Is the policy potentially relevant to equality i.e. will this policy potentially impact on staff, patients or the public? This should be considered as part of the Case of Need for new policies.

NO – No further action is required – please sign and date the following statement. **I confirm that this policy does not impact on staff, patients or the public.**	***I confirm that this policy does not impact on staff, patients or the public.*** Name/Date:	**YES,** Go to **Stage 2**

Stage 2 Policy Screening and Drafting Policy - Public authorities are legally required to have 'due regard' to eliminating discrimination, advancing equal opportunity and fostering good relations in relation to people who share certain 'protected characteristics' and those that do not. The following table should be used to consider this and inform changes to the policy (indicate yes/no/ don't know and note reasons). Please see the SHSC Guidance and Flow Chart.

Stage 3 – **Policy Revision** - Make amendments to the policy or identify any remedial action required and record any action planned in the policy implementation plan section

SCREENING RECORD	Does any aspect of this policy or potentially discriminate against this group?	Can equality of opportunity for this group be improved through this policy or changes to this policy?	Can this policy be amended so that it works to enhance relations between people in this group and people not in this group?
Age	**No**	**No**	**No**
Disability	**No**	**Yes for example the policy makes reference to reasonable adjustments and the disabled staff policy.**	**No**
Gender Reassignment	**No**	**Yes reference made to the Supporting Staff Undergoing Gender Reassignment policy included**	**No**
Pregnancy and Maternity	**No**	**Yes referenced the need to notify staff on parental leave of vacancies and reference made to the Parental Leave policy**	**No**

Race	**No**	**Yes changes made to promote the diversity of interview panels in support of Equal Opportunities**	**Yes**
Religion or Belief	**No**	**No**	**No**
Sex	**No**	**Yes changes made to promote the diversity of interview panels**	**No**
Sexual Orientation	**No**	**No**	**No**
Marriage or Civil Partnership	**No**		

Please delete as appropriate: - no changes made.

Impact Assessment Completed by: Georgina Hanson 01/02/2020

Appendix B

Review/New Policy Checklist

This checklist to be used as part of the development or review of a policy and presented to the Policy Governance Group (PGG) with the revised policy.

		Tick to confirm
	Engagement	
1.	Is the Executive Lead sighted on the development/review of the policy?	✓
2.	Is the local Policy Champion member sighted on the development/review of the policy?	✓
	Development and Consultation	
3.	If the policy is a new policy, has the development of the policy been approved through the Case for Need approval process?	n/a
4.	Is there evidence of consultation with all relevant services, partners and other relevant bodies?	✓
5.	Has the policy been discussed and agreed by the local governance groups?	
6.	Have any relevant recommendations from Internal Audit or other relevant bodies been taken into account in preparing the policy?	✓
	Template Compliance	
7.	Has the version control/storage section been updated?	✓
8.	Is the policy title clear and unambiguous?	✓
9.	Is the policy in Arial font 12?	✓
10.	Have page numbers been inserted?	✓
11.	Has the policy been quality checked for spelling errors, links, accuracy?	✓
	Policy Content	
12.	Is the purpose of the policy clear?	✓
13.	Does the policy comply with requirements of the CQC or other relevant bodies? (where appropriate)	✓
14.	Does the policy reflect changes as a result of lessons identified from incidents, complaints, near misses, etc.?	✓
15.	Where appropriate, does the policy contain a list of definitions of terms used?	✓
16.	Does the policy include any references to other associated policies and key documents?	✓
17.	Has the EIA Form been completed (Appendix 1)?	✓
	Dissemination, Implementation, Review and Audit Compliance	
18.	Does the dissemination plan identify how the policy will be implemented?	✓
19.	Does the dissemination plan include the necessary training/support to ensure compliance?	✓
20.	Is there a plan to i. review ii. audit compliance with the document?	✓
21.	Is the review date identified, and is it appropriate and justifiable?	Will be completed alongside recruitment system roll-out

Appendix C –
Vacancy Planning

Background:
In order to help you plan your workforce and consider new ways of working Recruiting Managers must review each vacant post in line with current workforce and future service needs.

Preparing to Recruit
<u>Reviewing the Vacancy</u>
When preparing to recruit it is good practice to review the requirements of the role, team, directorate and Trust. For support with this process please contact a member of the People Business Partner team.

<u>Evaluation of the Post</u>
Once you have developed the job description and person specification, if the decisions you have made result in a "new" post with a new or significantly altered job description and/or person specification, the post will need to be evaluated via the Agenda for Change process to determine the banding.

<u>Authorisation to Recruit</u>
Once the outcome of the evaluation has been confirmed and in order to commence recruitment you should check that you have adequate funding for the post and submit the post for authorisation via the trust's recruitment system. Recruitment cannot start without this authorisation. As a minimum, in line with audit requirements, all posts should be authorised by:

1) Director budget holder
2) Finance Team
3) Workforce
4) HR Advisors

Appendix D –
NHS Employment Checks Standards

Pre-employment checking seeks to verify that an individual meets the preconditions of the role they are applying for. There are six NHS Employment Check Standards that outline the type and level of checks employers must carry out before recruiting staff into NHS positions.

Any individual who is engaged by Sheffield Health and Social Care Trust, will be expected to complete the required NHS Employment Checks. The responsibility for completing the checks will sit with different organisations or the individuals themselves, depending on how that individual is engaged.

The Trust will undertake checks for all applicants and any employee with permanent, temporary, fixed term or bank contracts, including those with honorary contracts and individuals working as volunteers for the Trust.

Agency workers are subject to the checks and it is the responsibility of the agency who have engaged the agency worker to carry out the relevant checks. The agency must provide SHSC with evidence of checks upon request. Where individuals are engaged by SHSC directly on a 'direct engagement' model, responsibility for employment checks remains with the agency providing the individual. It is the responsibility of the engaging manager at SHSC to satisfy themselves that all relevant checks have been completed by the agency.

Employment checks for seconded Employees, including anyone who is employed by another employer who undertakes duties for the Trust under a secondment agreement, will remain the responsibility of the sending organisation. Upon request the sending organisation must provide SHSC with evidence of checks.

Where an individual is engaged on a self employed basis, they must provide evidence of checks in line with the requirements of the Engagement and Deployment of Short Term Staffing Policy.

1) Identity Checks

This check is to verify the identity of all prospective employees in the NHS. Checking a candidate's identity is the most fundamental of all the pre-employment requirements, as it forms the basis of all other checks.

Prospective employees are invited to a pre-employment meeting with a member of the HR team at which they must provide original documents which are acceptable to the Trust containing their photograph, such as a passport or driving licence, and acceptable documents providing their current address. The Human Resources Department will record on ESR that identity has been verified and the date that this took place. Copies will be retained on the employee's personal file.

If identity checks return contradictory information this should be raised directly with the candidate in a sensitive manner to enable them to offer an explanation. In exceptional circumstances, where checks reveal substantial misdirection, the Local Counter Fraud Specialist should be contacted for advice.

2) Professional Qualification and Registration Checks
Qualification checks verify the information about educational or professional qualifications that a prospective employee provides on their application form.

Where a qualification is essential for the position, the Chair of the Panel must check original certificates at the interview stage of the recruitment process and take copies of these certificates to be retained on the employee's personal file.

If there is any indication that qualifications are not genuine the Recruiting Manager will contact the awarding body directly, where possible, to confirm the applicant's attendance, course details and grade awarded. If there is any doubt that qualifications are not genuine, Human Resources will contact the National Academic Recognition Centre and advise the Trust's Local Counter Fraud Specialist.

Professional registration is intended to protect the public, making sure those who practise a health profession are doing so safely. Where a professional qualification is essential to the post it will be a contractual requirement that the employee has registration throughout their employment.

Where registration is a requirement of the post this will be checked by a member of the Recruitment team following confirmation of short listing being received and prior to the interview. All relevant applicants are asked to bring to interview evidence of current registration with a professional body. This will be shown to the Chair of the Panel at interview.

Details of the registration number, expiry date and awarding body will be entered onto the summary of selection form by the Chair of the Panel. The Recruitment Team will recheck the details for the preferred candidate prior to making a conditional offer of employment.

The Human Resources Department will record on ESR as part of the new starter process.

Line Managers will be expected to check re- registration throughout the period of employment following notification from Human Resources of expiry of current registration. For more information please see the Clinical Professional Registration Policy.

3) Employment History and Reference Checks
Employment history and reference checks refer to the process used to verify information provided by applicants on their application form. By conducting these checks we gain a better picture about the applicants previous employment, training and/or other activities which will help confirm a recruitment decision.

Previous employment history must be checked at the interview by the Chair of the Panel, and any gaps in employment be fully discussed so as to assure the panel of the reason for the gaps and the details of the candidates activities during such time.

References allow organisations to check the accuracy of prospective employee's previous employment and training history. They can also provide assurance of an individuals qualifications, integrity and employment record.

References MUST validate a minimum period of **3 consecutive years** of continuous employment and/or training. This should include references from the two most recent employers. If an individual has been with one employer for five years or more, one reference may be sufficient. Where the successful candidate has been in full time education during this period, the reference should be obtained from the relevant academic institution.

The Recruitment Team will send for references via NHS Jobs for the prospective employee once a provisional offer has been made. References and application forms should be cross-checked as part of the pre employment checks to ensure that the required references have been provided. References may provide information that contradicts the details provided by the applicant, or may provide information that requires a discussion with the candidate. In these circumstances concerns should be raised with the prospective employee in a sensitive manner.

For internal appointments the Trust requires a reference from the employee’s current manager only, the NHS standard reference template should be used.

For recruitment to some senior positions additional referencing may be required in line with the Fit and Proper Persons Requirements, further details can be found in the Fit and Proper Persons Policy. The Recruitment Team and Board Secretary will request and record the required information.

If it is decided to withdraw an offer of employment because of information provided on references, advice should be sought from the Recruitment Team Leader or Human Resources team.

The Human Resources Department will record on ESR as part of new starter process.

4) Right to Work Checks
A right to work check determines whether an individual has the legal right and permission to work in the UK. Employers are at risk of facing a civil penalty if they are found to be employing an illegal worker and they haven’t carried out correct right to work checks. A civil penalty can be anything up to £20,000 per illegal worker.

There are steps an employer must take to confirm an individual has the right to work in the UK.

- Obtain a persons original documents, a full list of acceptable documents is available via the NHS Employers website and may be updated from time to time
- Check all documents with the holder to ensure they are genuine, the individual is the lawful owner and they are permitted to do the type of work being offered
- Make a clear certified copy of the document, record this on ESR and retain it securely

The above checks are undertaken by a member of the HR department at the pre employment check meeting. Members of the HR team receive Documentation Verification Training to support them to undertake these checks.

From 1st January 2021, nationals from EEA countries and their immediate family members who do not already reside in the UK can no longer enter and work freely in the UK without any restrictions. They must evidence their right to work in the UK by producing the correct documentation. Further details can be found at https://www.gov.uk/settled-status-eu-citizens-families

Where recruitment takes place and successful candidates reside outside of the UK, sponsorship licenses and certificates of sponsorship under the points-based system are required and SHSC has in place a sponsorship license.

If during the recruitment process it is established that the applicant is not permitted to work in the UK, then the individual will not be allowed to commence employment and a final offer of employment will not be made.

In some circumstances, individuals may be able to obtain sponsorship to undertake posts within the Trust. The Trust will need to demonstrate that they were unable to recruit a resident worker before recruiting an individual from overseas. A resident worker is a person who has settled status in the UK within the meaning of the Immigration Act 1971, as amended by the Immigration and Asylum Act 1999, and the Nationality, Immigration and Asylum Act 2002.

Sponsorship (Tier 2) can be given permission to stay for up to 5 years. After a continuous period of 5 years, migrants can apply for Indefinite Leave to Remain (ILR). They will not be able to apply for permanent residence until they have lived in the UK for at least six years (or 10 years in some cases). Limited leave to remain is the permission an individual needs to stay in the UK and is granted in line with the duration of an individual’s Immigration Employment Document (IED).

Individuals who are sponsored by the Trust and are granted leave to remain will be offered employment on a fixed term contract up to the expiry date of the Sponsorship.

Individuals cannot commence employment until Sponsorship has been obtained by the Recruitment Team and Leave to Remain (ILR) has been obtained by the migrant worker and a sponsorship certificate issued by the UK Border Agency and checked by the Recruitment Team. Sponsorship information will be recorded on ESR.

Employees who require sponsorship for their employment with the Trust will be monitored regularly to ensure their circumstances have not changed.

The Recruitment Team / Bank Staffing Manager will write to the employee every 12 months requesting that they bring their migration documentation into the Human Resources Department / Bank Staffing Manager to ensure their circumstances have not changed in line with guidance from the UK Border and Immigration Agency.

The Recruitment Team/ Bank Staffing Manager will write to employees 3 months before their sponsorship expires to establish how they want to proceed. If employees want to apply and/be eligible for Unlimited Leave to Remain/Permanent Residency/Citizenship, this will be taken forward by the individual.

Further advice on sponsorship can be obtained from the NHS Employers immigration rules: points-based system or the Recruitment Team.

5) Criminal Record Check
A criminal record check relates to the data held about a persons’ criminal history. The information included in a criminal record can vary between countries and even between jurisdictions within the same country.

Carrying out checks for prospective employee’s who will work in a role that qualifies for a check helps to ensure safer recruitment practice within the NHS.

The Trust meets the requirements under Section 2 of the Rehabilitation of Offenders Act 1974, to ask exempted questions as we are a provider of care to vulnerable adults. Where a job role meets the requirements for a criminal record check this will be carried out in line with the Trust Criminal Records Checking, Disclosure and Barring (DBS) Policy and the legal framework at the appropriate level.

Preferred candidates are invited to a pre-employment meeting where a member of the recruitment team will ask them to complete a self declaration in line with the NHS Employment Check standards, where appropriate they will then complete an on-line DBS check. Alternatively, if the individual is registered with the DBS Update Service their last check can be verified on-line, please see the Trust DBS Policy for further details. Copies of the original DBS certificate will need to be verified if candidates are on the DBS Update Service to confirm the level of DBS check is in line with the requirements of the new post.

The Human Resources Department will record on ESR as part of new starter process.

6) Work Health Assessments
A work health assessment refers to a variety of processes undertaken by employers to health screen staff in order to assess whether they are capable and fit to undertake a particular role. Its primary purpose is to help prevent work-related illnesses, injuries and the spread of disease or infection.

The Trust has a duty of care to all our employees to ensure that they, and their work places, are safe and healthy in line with health and safety obligations and equality law.

In line with the Equality Act at the pre employment meeting and prior to the commencement of employment, preferred candidates complete an online pre employment health questionnaire which is screened by the Trust Occupational Health provider**.** In some circumstances individuals may be asked to attend an Occupational Health appointment so that they can undergo an assessment.

Occupational Health will process the information and update the online systems with clearance information to confirm:

- The individual can start work
- The individual can start work with reasonable adjustments being made – this will also include recommendations outlining which adjustments may need to be considered
- Any immunisations and/or EPP clearance where applicable to the role

The Human Resources Department will record on ESR as part of new starter process.

For further details or guidance on any of the checks please speak to a member of the Recruitment team or refer to NHS Employers – Employment Check Standards

Appendix E
Temporary Options

Where a Recruiting Manager has reviewed the needs of the team and found that there is a temporary need only then consideration should be given to the best way to meet this need. There are various options to consider when appointing to temporary positions within the Trust.

Acting-up

Acting-up is when individuals are temporarily moved into a higher banded role. The option of Acting -up should be used only in situations when it is only necessary to fill the role on a short term temporary basis. Normal vacancy approval processes apply when seeking authority to 'Act-Up' an employee. In these short-term circumstances, where posts are for 6 months or less the Authorisation and Notification of Change Form

Acting-up can potentially apply in the following circumstances:

- When a vacancy is unfilled pending appointment
- To cover for a temporary period of absence, when the post is to be held open for someone who is due to return
    - For example:
        - long term sick
        - maternity leave
        - extended training where the permanent member of staff is seconded to another post
        - adoption leave
        - parental leave
        - substantial periods of unpaid leave e.g. to care for ill relatives

Duration of Acting-up period

Acting-up will ***normally only be used for 6 months (normal vacancy approval processes apply)***. The period will be specified in writing at the time of appointment. In exceptional circumstances the period may be extended for a maximum of a further 3 months (e.g. someone due to return from maternity leave who is off sick at the date they are due to return).

Recruitment Process

In most cases 'expressions of interest' should be sought in order to identify the best candidate for the temporary acting up role. When seeking expressions of interest consideration must be given to ensuring all staff who may have the required qualification, skills and knowledge are made aware of the opportunity.

In exceptional circumstances e.g. where a Deputy is already in post or there is only one individual with the required skills, knowledge and experience, it may not be necessary to follow the 'expressions of interest' process, advice should be sought from Human Resources.

Ending the Acting-up period

The end date should be agreed at the start of the acting-up period with any subsequent changes or extensions being agreed between the line manager and the individual and approved in the normal way. Any extension to the original acting up term should be made in line with the maximum timescales detailed above.

Organisation Change

During any process of Organisation Change the individual who is acting-up would be consulted with as though they were undertaking their substantive role.

Making Posts Permanent

If the post needs to be filled on a permanent basis a full recruitment process will need to take place. The employee who has been acting-up will not automatically be appointed.

Pay Arrangements for Acting-up

Pay should be set either at the minimum of the new pay band. If the acting up arrangements do not cover the full duties of the post, then a full job evaluation process may be necessary, please speak to a member of the HR team for further advice.

Where temporary movement into a higher pay band results in only one extra pay point the incremental date stays the same. Where temporary movement results in *more* than one extra pay point the incremental date for the temporary movement becomes the date the acting up begins.

Where the employee's salary is greater than the top of the pay band the employee will retain their existing salary.

Pay Protection

Where the acting-up exceeds 12 months then the individual who has acted-up may have the right to a period of pay protection. Further details on pay protection can be found in the Protection of Pay and Conditions of Service policy.

Secondments

A secondment is where a permanent employee with a substantive post transfers temporarily to another post either within the Trust or to an external organisation.

Secondments will be for a specified length of time according to the particular requirements. They will generally be advertised unless there are exceptional circumstances, which may include; an urgent requirement to transfer someone of an equivalent band / grade to cover for sickness absence or to provide specialist expertise.

Secondments must be appointed to through the Trusts normal recruitment process, and employees wishing to apply for secondments should seek the support of their line manager before applying.

Once a person has been appointed a secondment agreement is drafted and agreed between all parties, see the Trust Secondment Policy for further details.

Fixed Term Contracts

A fixed term contract is one which specifies both when the post will commence and when it will end. A fixed term contract may be used for posts where there is funding for a certain period of time to undertake specific pieces of work, or, where there is a temporary need for cover for the post for example: Long term sick, maternity leave, adoption leave, parental leave, substantial periods of unpaid leave e.g. career break or where the substantive post holder is on secondment.

Fixed term contracts are covered by the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002. These regulations are designed to prevent less favourable treatment of fixed-term employees in comparison with permanent employees. Employees on fixed-term contracts are entitled to the same terms and conditions of employment. The regulations also prevent the successive use of fixed-term contracts where a permanent contract or other options should be considered.

Duration of Fixed Term Contracts

The duration of a fixed term contract should reflect the reason for the post and should generally be for short periods. However any temporary employee, who has completed four years continuous service under one or more successive fixed term contracts, may automatically be considered a permanent employee under the Fixed Term Employees Regulations 2002 even if there were short breaks between each fixed-term contract. These breaks could be considered periods of lay off that do not break continuity of service.

There is an exception for employees on a training / work-experience scheme arranged by the government or funded by the European Community.

The successive use of fixed term contracts should be avoided for the above reasons and where possible consideration should be given to other options. A full review of business needs should take place including discussing any concerns with a member of the HR team.

Ending a Fixed Term contract

Fixed term contracts lasting up to 24 months can be ended when the agreed end date is reached by providing the required notice, usually 1 month.

Where the contract has lasted for more than 24 months, or where the employee has previous service with SHSC that brings their total service to more than 24 months, a fair dismissal process under the Redeployment Policy must be followed. The decision to end the contract should be heard by an authorised manager on behalf of the Trust and the Line Manager ending the contract must provide details of the case to end the contract to all parties prior the meeting. The employee will have the right to be accompanied to the meeting by either a work colleague or a Trade Union representative; advice should be sought from the HR team. In some circumstances a redundancy payment may be due to the employee on the termination of the contract.

Organisational Change

During any process of Organisation Change staff on fixed term contracts should be involved in the same consultation process as other staff members.

Making Posts Permanent

If the post needs to be filled on a permanent basis a full recruitment process will need to take place. This means that the employee who has been on the fixed term contract will not automatically be appointed.

Pay Arrangements for Fixed Term Contracts

Post holders will be appointed to the appropriate pay banding for the post. This should usually be at the minimum point of the pay band, however previous service and experience can be taken into account. Please speak to the HR team for further advice.

Options

Employee Status	
Acting-up	Does not have to follow the standard recruitment process, expressions of interest can be requested Should only be agreed for up to a maximum of 6 months, there is an option for a further 3 month extension in exceptional circumstances If the arrangement came to an end within 12 months pay protection would not apply Reverts to substantive role for purposes of consultation during organisational change.
Secondments	The Trust’s standard recruitment process should apply except in exceptional circumstances Should have appropriate timescale and review periods agreed at the start of the secondment and a secondment agreement agreed and issued to all parties. Reverts to substantive role for purpose of consultation during organisational change.
Fixed Term contract	The Trust’s standard recruitment process should apply. Up to 24 months service a Fixed term contract can be ended on the agreed end date with the required contractual notice. Where an individual has more than 24 months service with the Trust a Fixed Term contract can only be terminated by following a fair dismissal process. Employees on Fixed Term Contracts should not be treated any less favourably due to the nature of their contract.

Appendix F –
Using Positive Action under S. 159 of the Equality Act 2010

The following form should be completed by the Chair of the panel in instances where positive action is considered during a recruitment process, advice must be sought from the HR Directorate Partner. This form is provided as an example and has been completed based on recruitment to a Board level position.

Section 159 'Positive action: recruitment and promotion' in the Equality Act 2010, permits an employer to take a 'protected characteristic' into consideration when making decisions about recruitment or promotion, when people who have the 'protected characteristic' are at a disadvantage or are under-represented.

Protected Characteristics are: Age, Disability, Gender Reassignment, Sex, Sexual Orientation, Race, Religion or Belief, Pregnancy and maternity, Marriage and Civil Partnership.

Using Positive Action

- This can only be done where the candidates are ***as appointable*** as each other. This is not a matter of academic qualification, but a judgement based on the criteria the employer uses to establish who is best for the job, this could include matters such as experience, training and performance at any relevant selection exercises.
- It is not lawful to have a general policy or practice of automatically treating people who share a protected characteristic more favourably than those who do not have it. If positive action is used it must be on a case by case basis considering the merits each time.
- Any action taken must be a ***proportionate means of addressing*** disadvantage or under-representation.

Steps to follow:

1. Has a disadvantage or under – representation of people who share a particular protected characteristic been identified that is relevant to the position being considered?

   Is there evidence to support this i.e. for the organisation to 'reasonably think' that this disadvantage or under – representation exists, if so then positive action can be taken if a tie break situation occurs during the selection process:

2. 'tie break'
   - **a.** After carefully and objectively taking account of the criteria agreed for establishing who is most suitable for the job are there two (or more) applicants that are considered as 'appointable' as each other?
   - **b.** If yes, does one or more of the applicants share the protected characteristic identified in step 1?

c. If yes then the candidate sharing the characteristic may be appointed in preference to other candidates.

It is not lawful to recruit or shortlist only on the basis that the applicant has the protected characteristic. Positive action must only be used in a 'tie break' situation i.e. when candidates are 'as appointable' as each other against the selection criteria. Candidates must meet the requirements of the post and be in an equal position to another candidate and not be recruited only because they share the characteristic, or in preference to a candidate that meets the criteria and has performed better.

Positive Action Pro Forma

This form must be completed when considering the use of positive action and must be kept with the recruitment records.

1. **Which Protected Characteristic is disadvantaged or under – represented?**

Age / Disability / Gender Reassignment / Sex / Sexual Orientation / Race / Religion or Belief / Pregnancy and maternity / Marriage and Civil Partnership

2. **What evidence is being relied on?**

Has a disadvantage or under – representation of people who share a particular protected characteristic been identified that is relevant to the position being recruited to? List the evidence here. NOTE - *This should be the current position at the time the recruitment is taking place; evidence used in previous recruitments must not be relied on without being rechecked. Include details of where this evidence can be found and or person providing the evidence.*

3. **Recruitment or Promotion Positive Action is being applied to?**

TITLE OF POST BEING RECRUITED TO

4. **Date of completion of pro forma: DATED**

5. **Person Completing (name and designation): NAME AND ROLE TITLE**

6. **Any other relevant information?**

(Optional)