

PAY PROTECTION POLICY

April 2018

Authorship :	eMBED Health Consortium on behalf NHS Vale of York CCG
Reviewing Committee :	Social Partnership Forum
Date :	10 January 2018
Approval Body :	CCG Executive
Approved Date :	04 April 2018
Review Date :	April 2022
Equality Impact Assessment :	Attached
Sustainability Impact Assessment :	Attached
Related Policies :	<ul style="list-style-type: none"> • Change Management Policy • Redeployment Policy • Agenda for Change Terms and Conditions of Service handbook. • Grievance Policy. • Appraisals Procedure
Target Audience :	This policy will apply to all new employees with Agenda for Change terms and conditions of employment.
Policy Reference No. :	HR23
Version Number :	1.1

The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as 'uncontrolled' and as such may not necessarily contain the latest updates and amendments.

POLICY AMENDMENTS

Amendments to the policy will be issued from time to time. A new amendment history will be issued with each change.

New Version Number	Issued by	Nature of Amendment	Approved by and Date	Date on Internet
1.1	eMBED	GDPR additional paragraph	SPF 10 January 2018 CCG Executive 04 April 2018	08 May 2018

To request this document in a different language or in a different format, please contact the CCG at: valeofyork.contactus@nhs.net
Tel: 01904 555 870

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1. INTRODUCTION

- 1.1 This policy provides a pay protection framework for Vale of York Clinical commissioning group, hereafter referred to as the 'CCG'.
- 1.2 The purpose of pay protection is to provide the employee with a period of time to prepare for a reduction of earnings or secure an alternative role at the previous salary during the protected pay period due to organisational change.
- 1.3 The CCG is committed to ensuring that all personal information is managed in accordance with current data protection legislation, professional codes of practice and records management and confidentiality guidance. More detailed information can be found in the CCGs Data Protection and Confidentiality and related policies and procedures.

2 POLICY STATEMENT

- 2.1 The Vale of York Clinical Commissioning Group aspires to the highest standards of corporate behaviour and responsibility. All Vale of York Clinical Commissioning Group staff are required to comply with this policy.

3 IMPACT ANALYSES

Equality

- 3.1 In applying this policy, the CCG will have due regard to the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

In developing this policy, an Equality Impact Analysis has been undertaken and is attached at Appendix 1.

3.2 Sustainability

A Sustainability Impact Assessment has not been carried out for this policy.

4 SCOPE

- 4.1 This policy will apply to all new employees with Agenda for Change terms and conditions of employment.

For existing staff who transferred to the CCG under COSOP / Staff Transfer Order on 01.04.2013, whose sender PCT/CTP had a written Pay Protection Policy offering more beneficial terms, those staff will be able to opt for those arrangements to be used for any Pay Protection agreements entered into before or on 31.03.15 as this is the end of the Memorandum of Understanding (MoU) period. For existing staff not eligible for those pay protection terms then this policy shall apply.

5 POLICY PURPOSE / AIMS AND FAILURE TO COMPLY

- 5.1 The aim of this policy is to ensure that the arrangements for pay protection are clear and applied appropriately and fairly to staff who may require protection of their pay at some point during their employment with the CCG due to organisational change.
- 5.2 The purpose of pay protection is to provide the employee with a period of time to prepare for a reduction of earnings or secure an alternative role at the previous salary during the protected pay period.
- 5.3 The policy applies to all staff who as a consequence of organisational change (as per the policy) are required to move to a lower graded post (downgrading) or suffer a reduction in basic hours worked within the standard working week.
- 5.4 This policy also provides a short-term protection provision, whereby staff experience a reduction in their total income, as a result of loss or reduction in additional earnings.
- 5.5 These arrangements apply to staff who hold permanent or fixed term contracts of employment. This policy does not apply to temporary positions, bank contracts or where staff are redeployed as a result of disciplinary action, for capability reasons or due to health.
- 5.6 Pay Protection shall only be applied to an employee's substantive post.
- 5.7 The CCG will endeavour at all times to redeploy staff into new roles which match the levels of skills and responsibilities required in the previous pay band and to provide reasonable training to enable staff to fulfil new roles, although it is recognised that this may not always prove possible.
- 5.8 Whilst in receipt of Pay Protection the CCG will continue to seek redeployment for the member of staff into a post at the same banding as the original post. Protection of pay will cease if a member of staff unreasonably refuses any subsequent offer of another suitable post within the organisation, which attracts a basic salary or wage the same or in excess of that applying to the old post. If a staff member unreasonably refuses to accept such an offer, protection will cease with immediate effect. The employee will have the right to appeal, in accordance with Section 10 if they do not think the offer of an alternative post was reasonable.

DEFINITIONS

- 5.9 **AFC**
Agenda for Change Terms and Conditions of Employment
- 6.0 **Basic Salary or Wage**
This is the weekly or monthly sum due in respect of basic contractual hours worked by the member of staff concerned within the standard working week. It excludes any payments made in respect of acting up (or additional responsibilities), overtime, working outside normal hours payments, AfC recruitment and retention premia, standby or on call duty.

6.1 **COSOP**

This means Cabinet Office Statement of Practice. It is a code of practice, developed by Cabinet Office to support employees when work is being transferred between departments within the Civil Service or across the wider Public Sector.

6.2 **Downgrading**

Where a new post, irrespective of its banding, carries an hourly rate lower than that for the previous post. Furthermore, a salary scale with a maximum point lower than the maximum point for the previous post, or lower than that of the grade held in the previous post.

6.3 **Marked Time**

Pay and pay related conditions are frozen and remain unchanged by inflationary pay awards, incremental or other progression.

6.4 **MOU Period**

Memorandum of Understanding agreed nationally between NHS employers and Staff Side representatives regarding the major NHS reorganisation implemented on 01 April 2013. This document protects terms and conditions of service between 01.04.2013 to 31.03.2015.

6.5 **Organisational Change**

Any NHS or management initiated change in the organisation of the healthcare provision or commissioning arrangements, including both structural and managerial alterations.

6.6 **Provisions**

Protection Provisions

Where an employee is downgraded as a result of Organisational Change they may be eligible for Short Term Protection and/ or Long term Protection of their earnings.

In order to receive either category of Pay Protection the employee must have been employed continuously by the organisation (the CCG), or its predecessors for 12 months.

The period of pay protection will take effect from the date the change takes place.

6.7 **Short Term Pay Protection**

Short Term Protection provides protection of an employee’s additional earnings (i.e. other than basic salary) where employee’s total income is reduced as a result of changes to their post, such as; hours, contractual overtime, additional duties that attract a payment, unsocial hours, on call, high cost area supplement etc. Short term pay protection does not include pay relating to additional hours, additional responsibilities, voluntary overtime.

A member of staff whom this agreement applies to is entitled to have certain elements of their pay in their former post in accordance with the following table:

Length of Time in Receipt of the Pay Element	Period of Pay Protection
Less than 12 months	None

More than 1 year and less than 3 years	6 months
More than 3 years	12 months

Please note that travel and subsistence expenses are not included in the calculation of earnings for this purpose.

During the period of protection, the rates used when calculating earnings in the new post will be those applicable to the new post, for example any unsociable hours worked as a requirement of the new role, shall be paid at the same rate as the new role.

Earnings in the new post will be offset against protected earnings. If for any particular pay period the earnings in the new post exceed the protected earnings, Pay Protection will not apply for that pay period only and earnings in the new post are paid in full for that particular pay period. The period of the Pay Protection will not be extended.

6.8 Long Term Pay Protection

Long Term Pay Protection provides protection of basic salary on a marked time basis. This applies where a member of staff is downgraded as a result of organisational change and will be implemented from the effective date of the change. The employee will be entitled to Long Term Protection for 18 months or until one of the following occurs :

- The employee accepts a suitable post in which the normal basic wage or salary is equal to or exceeds the protected wage or salary; or
- The employee moves of his/her own accord to a position with a basic wage or salary which is equal to or lower than that of the existing post; or
- The employee retires or otherwise leaves the organisation; or
- They unreasonably refuse the offer of a suitable alternative post (ref. para 5.8); or
- The basic salary for the job is above their protected pay.

The salary that will be protected will be the basic salary the employee was receiving immediately prior to the Organisational Change for all staff except those in receipt of annually earned increments as defined in Agenda For Change Terms and Conditions of Employment and the CCG's Objective Setting and Review Policy and Procedure. For staff in receipt of annually earned increments the level of protection applied will be the highest increment in their existing pay band that is not classed as 'annually earned'.

When calculating earnings in the new post, the rates used for calculating payments in respect of overtime, work outside normal hours and other additional duties shall be those applicable to the new post.

Upon the expiry of the time-scales outlined above, the salary/earnings of the member of staff concerned will revert to that of the new post.

A Variation form should be completed and submitted to payroll to notify payroll that Pay Protection should be applied.

6.9 Protection of Other Terms and Conditions

Pension arrangements

Under the provisions of the NHS Pensions Scheme, staff may apply to preserve their pension benefits, based on the previous level of pay, where, through no fault of their own they are downgraded (subject to the relevant qualifying membership of the NHS Pensions Scheme). Should any individual require further Pensions Advice, please contact the NHS Pension Scheme Advisors directly or the Pensions Officer within the Payroll Team.

All such applications must be made within three months of the member going on to reduced pay for which the pensionable salary is to be reduced. Please see Appendix 1 or access the following link for additional information:

[http://www.nhsbsa.nhs.uk/Documents/Pensions/SM_R9_App_members_\(V1\)_11.2_011.pdf](http://www.nhsbsa.nhs.uk/Documents/Pensions/SM_R9_App_members_(V1)_11.2_011.pdf)

It is advised that all CCG staff to whom this may apply take their own advice on how their pension may be affected and seek clarity from the NHS Pensions Agency on the protection available to them, and any potential limits to this.

Recruitment and Retention Premia

Recruitment and retention premia are applied to a post, not an individual, and do not transfer with the individual if they change post. However, where an individual changes post for reasons that mean they are eligible for protection of salary, and they were previously in a post that received recruitment or retention premia the following rules will apply:

- Long-term recruitment and retention premia will be protected until the agreed review period and for no longer than 12 months;
- Short-term recruitment and retention premia will be protected until the agreed review period and for no longer than 6 months;
- The recruitment and retention premia will be protected at the level paid at the time the employee left their previous post;
- If a recruitment and retention premia applies in the new post the individual will receive that which is most beneficial for the period of protection.

7.0 APPEAL PROCESS

7.1 Any grievances or appeals arising out of the operation of this policy may be raised in accordance with the CCG's Grievance Policy.

8.0 PRINCIPAL LEGISLATION AND COMPLIANCE WITH STANDARDS Statutory Instrument

8.1 Bribery Act 2010

The Bribery Act 2010 makes it a criminal offence to bribe or be bribed by another person by offering or requesting a financial or other advantage as a reward or incentive to perform a relevant function or activity improperly performed.

The penalties for any breaches of the Act are potentially severe. There is no upper limit on the level of fines that can be imposed and an individual convicted of an offence can face a prison sentence of up to 10 years.

The Bribery Act applies to this policy.

9.0 ROLES / RESPONSIBILITIES / DUTIES

9.1 Employees are responsible for the following :

- Initiating and completing where appropriate any paperwork in relation to protecting pension entitlements;
- Accurate completion of paperwork in relation to this policy;
- Checking their pay and reporting any apparent inaccuracies.

9.2 Line Managers are responsible for the following:

- Applying this policy in a fair and consistent manner;
- Accurate completion of paperwork in relation to this policy;
- Seeking advice, where necessary, from the Workforce Team on the application of this policy.
- Advising employees to seek advice in relation to pension arrangements.

9.3 The Senior Management Team are responsible for the following:

- Ensuring this policy is applied in a fair and consistent manner;
- Monitoring the application of this policy in conjunction with the eMBED Workforce Team;
- Reviewing the continuous application of this policy and redeploying staff in receipt of protection where opportunities arise.

9.4 It is the responsibility of everyone covered by the scope of this policy to ensure they comply with this policy.

10. POLICY IMPLEMENTATION

10.1 Following approval by the Senior Management Team the policy will be sent to:

- The Communications Manager who will disseminate to all staff via the team newsletter process
- The Chairs of the Governing Body, the Council of Members and all other committees and sub committees for dissemination to members and attendees.
- The Practice Managers of all member practices for information, (if appropriate).

11.0 TRAINING AND AWARENESS

- 11.1 This policy will be published on the CCG's website and will be available to staff on the organisation's intranet.
- 11.2 The policy will be brought to the attention of all new employees as part of the induction process. Further advice and guidance is available from the Financial Accountant.

12.0 MONITORING AND AUDIT

- 12.1 This policy is intended to be non-discriminatory, promote fairness and equity in the treatment of individuals and good employee relations. Use and compliance of this policy will therefore be monitored by the HR Department, the Social Partnership Forum and reported to the Senior Management Team. Annual workforce monitoring reports to the Executive Team will include reporting on all incidences of use of this policy and procedure, any redundancies and the selection criteria used. Reporting of redundancies and down-gradings will be against all equality strands.
- 12.2 The policy and procedure will be reviewed periodically by Human Resources in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.
- 12.3 The implementation of this policy will be audited on an annual basis by CCG Senior Management Team.

13 POLICY REVIEW

- 13.1 This policy will be reviewed after 4 years. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation/guidance.

14 REFERENCES

N/A

15 ASSOCIATED POLICIES

- Change Management Policy
- Redeployment Policy
- Agenda for Change Terms and Conditions of Service handbook.
- Grievance Policy.
- Appraisals Procedure

16 CONTACT DETAILS

Governance Team

Telephone : 01904 555 870

Email : valeofyork.contactus@nhs.net

Address : NHS Vale of York Clinical Commissioning Group
West Offices, Station Rise, York. Y01 6GA

17 APPENDIX 1 : EQUALITY IMPACT ANALYSIS FORM

1.	Title of policy/ programme/ service being analysed
	Pay Protection Policy
2.	Please state the aims and objectives of this work.
	This policy provides a Pay Protection framework for the CCG
3.	Who is likely to be affected? (e.g. staff, patients, service users)
	Employees
4.	What sources of equality information have you used to inform your piece of work?
	Staff data
5.	What steps have been taken ensure that the organisation has paid <u>due regard</u> to the need to eliminate discrimination, advance equal opportunities and foster good relations between people with protected characteristics
	The analysis of equalities is embedded within the CCG's Committee Terms of Reference and project management framework.
6.	Who have you involved in the development of this piece of work?
	<p>Internal involvement: Senior Management team</p> <p>Stakeholder involvement: Consultation with Senior Managers</p> <p>Patient / carer / public involvement: This is an Internal policy aimed at staff employed by the CCG and contractors working for the CCG. The focus is on compliance with statutory duties and NHS mandated principles and practice. There are no particular equality implications.</p>

7. What evidence do you have of any potential adverse or positive impact on groups with protected characteristics? Do you have any gaps in information? Include any supporting evidence e.g. research, data or feedback from engagement activities	
Disability People who are learning disabled, physically disabled, people with mental illness, sensory loss and long term chronic conditions such as diabetes, HIV)	This has been considered and has a neutral impact. The policy applies equally to all staff regardless of disability.
Sex Men and Women	This has been considered and has a neutral impact. The policy applies equally to all staff regardless of gender.
Race or nationality People of different ethnic backgrounds, including Roma Gypsies and Travellers	As the policy is written in English there is a potential impact on employees whose first language is not English and therefore my struggle reading the policy. However this potential impact is minimised due to the availability of translations on request.
Age This applies to all age groups. This can include safeguarding, consent and child welfare	The policy (in terms of short term protection) might adversely affect younger staff who are likely to have less service but this can be objectively justified within the Equality Act.
Trans People who have undergone gender reassignment (sex change) and those who identify as trans	This has been considered and has a neutral impact. The policy applies equally to all staff.

<p>Sexual orientation This will include lesbian, gay and bi-sexual people as well as heterosexual people.</p>	<p>This has been considered and has a neutral impact. The policy applies equally to all staff regardless of sexual orientation.</p>
<p>Religion or belief Includes religions, beliefs or no religion or belief</p>	<p>This has been considered and has a neutral impact. The policy applies equally to all staff regardless of religion or belief.</p>
<p>Marriage and Civil Partnership Refers to legally recognised partnerships (employment policies only)</p>	<p>This has been considered and has a neutral impact. The policy applies equally to all staff regardless of marital status.</p>
<p>Pregnancy and maternity Refers to the pregnancy period and the first year after birth</p>	<p>This has been considered and has a neutral impact. The policy applies equally to all staff.</p>
<p>Carers This relates to general caring responsibilities for someone of any age.</p>	<p>Consider impact on part-time working, shift-patterns, options for flexi working etc.</p>
<p>N/A</p>	
<p>Other disadvantaged groups This relates to groups experiencing health inequalities such as people living in deprived areas, new migrants, people who are homeless, ex-offenders, people with HIV.</p>	<p>Consider ease of access, location of service, historic take-up of service etc.</p>
<p>N/A</p>	

8.	<p>Action planning for improvement</p> <p>Please outline what mitigating actions have been considered to eliminate any adverse impact?</p> <ul style="list-style-type: none"> • Impacts related to age- specifically in reference to pensions - Information is provided to mitigate any negative impacts and the policy specifies it is the employee's responsibility to complete required actions. This is due to Pension Agency requirements • As the policy is written in English there is a potential impact on employees whose first language is not English and therefore may struggle reading the policy. Translations are available on request. <p>Please state if there are any opportunities to advance equality of opportunity and/ foster good relationships between different groups of people?</p> <p>N/A</p>
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Sign off
Name and signature of person / team who carried out this analysis
Date analysis completed
Name and signature of responsible Director
Date analysis was approved by responsible Director

18 APPENDIX 2 : SUSTAINABILITY IMPACT ASSESSMENT

Staff preparing a policy, Governing Body (or Sub-Committee) report, service development plan or project are required to complete a Sustainability Impact Assessment (SIA). The purpose of this SIA is to record any positive or negative impacts that this is likely to have on sustainability.

Title of the document	Pay Protection Policy
What is the main purpose of the document	To provide employees affected by a reduction in earnings with time to prepare for such reduction
Date completed	April 2018
Completed by	

Domain	Objectives	Impact of activity Negative = -1 Neutral = 0 Positive = 1 Unknown = ? Not applicable = N/A	Brief description of impact	If negative, how can it be mitigated? If positive, how can it be enhanced?
Travel	Will it provide / improve / promote alternatives to car based transport?	N/A		
	Will it support more efficient use of cars (car sharing, low emission vehicles, environmentally friendly fuels and technologies)?	N/A		
	Will it reduce 'care miles' (telecare, care closer) to home?	N/A		
	Will it promote active travel (cycling, walking)?	N/A		
	Will it improve access to opportunities and facilities for all groups?	N/A		
	Will it specify social, economic and environmental outcomes to be accounted for in procurement and delivery?	N/A		

Domain	Objectives	Impact of activity Negative = -1 Neutral = 0 Positive = 1 Unknown = ? Not applicable = N/A	Brief description of impact	If negative, how can it be mitigated? If positive, how can it be enhanced?
Procurement	Will it stimulate innovation among providers of services related to the delivery of the organisations' social, economic and environmental objectives?	N/A		
	Will it promote ethical purchasing of goods or services?	N/A		
Procurement	Will it promote greater efficiency of resource use?	N/A		
	Will it obtain maximum value from pharmaceuticals and technologies (medicines management, prescribing, and supply chain)?	N/A		
	Will it support local or regional supply chains?	N/A		
	Will it promote access to local services (care closer to home)?	N/A		
	Will it make current activities more efficient or alter service delivery models	N/A		
Facilities Management	Will it reduce the amount of waste produced or increase the amount of waste recycled?	N/A		
	Will it reduce water consumption?			
Workforce	Will it provide employment opportunities for local people?	N/A		
	Will it promote or support equal employment opportunities?	N/A		

Domain	Objectives	Impact of activity Negative = -1 Neutral = 0 Positive = 1 Unknown = ? Not applicable = N/A	Brief description of impact	If negative, how can it be mitigated? If positive, how can it be enhanced?
	Will it promote healthy working lives (including health and safety at work, work-life/home-life balance and family friendly policies)?	N/A		
	Will it offer employment opportunities to disadvantaged groups?	N/A		
Community Engagement	Will it promote health and sustainable development?	0		
	Have you sought the views of our communities in relation to the impact on sustainable development for this activity?	N/A		
Buildings	Will it improve the resource efficiency of new or refurbished buildings (water, energy, density, use of existing buildings, designing for a longer lifespan)?	N/A		
	Will it increase safety and security in new buildings and developments?	N/A		
	Will it reduce greenhouse gas emissions from transport (choice of mode of transport, reducing need to travel)?	N/A		
	Will it provide sympathetic and appropriate landscaping around new development?	N/A		
	Will it improve access to the built environment?	N/A		

Domain	Objectives	Impact of activity Negative = -1 Neutral = 0 Positive = 1 Unknown = ? Not applicable = N/A	Brief description of impact	If negative, how can it be mitigated? If positive, how can it be enhanced?
Adaptation to Climate Change	Will it support the plan for the likely effects of climate change (e.g. identifying vulnerable groups; contingency planning for flood, heat wave and other weather extremes)?	N/A		
Models of Care	Will it minimise 'care miles' making better use of new technologies such as telecare and telehealth, delivering care in settings closer to people's homes?	N/A		
	Will it promote prevention and self-management?	N/A		
	Will it provide evidence-based, personalised care that achieves the best possible outcomes with the resources available?	N/A		
	Will it deliver integrated care, that co-ordinate different elements of care more effectively and remove duplication and redundancy from care pathways?	N/A		

19 APPENDIX 3: PROTECTION OF PENSIONABLE PAY FOR MEMBER OF THE NHS PENSION SCHEME

There are two provisions under which a member can protect their pensionable pay :

Protection of pay through no fault of the member (both Sections of the Scheme).

Voluntary Protection of Pay (1995 Section only).

Further information, including the process and relevant time limits is available from [NHS pensions](#) online.