# Pay Protection Policy

*(Organisational Change)*

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### Revision History

<table>
<thead>
<tr>
<th>Date</th>
<th>Revision Description</th>
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</tbody>
</table>
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(Organisational Change)

**CONTENTS**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Introduction</td>
</tr>
<tr>
<td>2.</td>
<td>Scope</td>
</tr>
<tr>
<td>3.</td>
<td>Definitions</td>
</tr>
<tr>
<td>4.</td>
<td>Long-Term Pay Protection (employees before 1/4/07)</td>
</tr>
<tr>
<td>5.</td>
<td>Long-Term Pay Protection (employees after 1/4/07)</td>
</tr>
<tr>
<td>6.</td>
<td>Short Term Pay Protection</td>
</tr>
<tr>
<td>7.</td>
<td>Pay Progression</td>
</tr>
<tr>
<td>8.</td>
<td>Appendices</td>
</tr>
</tbody>
</table>
1. **Introduction**

1.1 With effect from 1st April 1995, Section 48 of the General Whitley Council Handbook provides for the detailed arrangements regarding protection of pay and conditions of service to be determined locally following consultation with staff and local staff representatives.

1.2 This document outlines the pay protection arrangements within North Yorkshire and York PCT as follows:

(a) Employees who transferred from one of the four former PCTs in North Yorkshire or who have commenced employment before 1 April 2007 have the option to either retain their existing protection arrangements as set out in the relevant policy that applied in the former PCT or to follow the policy as set out in Sections 4 and 6. The option to retain existing protection arrangements will apply until 30 September 2011.

(b) For employees who commenced employment with the PCT from 1 April 2007, Sections 5 and 6 will apply.

2. **Scope**

2.1 This policy will apply where organisational change results in an employee having to move to an alternative post where:

(a) Earnings are lower due to a change in band affecting basic pay i.e. the maximum of the band of the new post is less than the post held previously.

(b) Earnings are lower due to a reduction in earnings additional to basic pay (e.g. night duty, unsocial hours etc.)

Any one of these reasons (or equally a combination) may result in a loss of earnings and the application of the Pay Protection Policy.

LONG-TERM pay protection would apply in circumstances relating to (a).

SHORT-TERM pay protection would apply in circumstances (b).

Both short-term and long-term pay protection could be paid depending on the circumstances.

2.2 The pay protection policy would not apply where action has been taken as a consequence of poor performance, unacceptable conduct or where an employee has requested or taken action to make a change which affects their banding.

2.3 This policy does not apply to the national protection arrangements agreed for the implementation of Agenda for Change.
3. **Definitions**

3.1 Organisational Change

This relates to any structural or managerial change in the organisation of health-care service provision within the PCT.

3.2 Basic Pay

Basic pay or salary is the weekly or monthly sum paid in respect of basic contracted hours worked by an employee within the standard week / month. It excludes enhanced payments e.g. night / weekend enhancements.

3.3 Reckonable Service

Total NHS service (Aggregated if not continuous).

3.4 Second Gateway

This is set at a fixed point towards the top of a pay band as set out in the National Agreement. The purpose of the second gateway is to confirm that individuals are applying their knowledge and skills to consistently meet the full demands of their post as set out in the full NHS KSF outline for that post.

4. **Long-Term Pay Protection (for employees who commenced employment before 1 April 2007)**

4.1 An employee whose band is affected within the terms of 2.1(a) – see above, shall be entitled to full protection of basic pay or salary (Prior to organisational change) for a period of 2 years following the effective date of the change.

The qualifying period for an entitlement to long term pay protection is 1 year’s service with the PCT or predecessor organisations.

Following the move to the new band, an employee’s pay will be protected at the level it was immediately prior to organisational change in addition to any pay awards or increments which would have applied in the former band.

4.2 Protection of pay / salary will continue for up to 2 years unless:

(a) The employee is appointed to a post in which the basic pay / salary is equal to or exceeds their protected pay / salary.
(b) The basic pay / salary of the post gained at the point of organisational change becomes equal to or exceeds the protected basic pay / salary.

(c) The employee applies for and is successful in gaining another post with lower basic pay / salary than their existing post.

(d) The employee leaves the employment of the PCT or retires.

4.3 Where none of these circumstances arise and pay protection continues to be paid 2 years following the date of organisational change, an employee will be paid on a “Mark time” basis from this point onwards for a further period of 2 years.

“Mark time” salary is the salary which the employee is receiving at the 2 year point, following organisational change, which would include any pay awards or increments which would have applied in the old band. They will continue to receive this salary for a period of 2 years until one of the 4 scenarios detailed in paragraph 4.2 occurs. No increments or pay awards will be paid in addition to the “Mark time” salary. At the end of the “Mark time” protection period the salary of the new post will apply which will be the top of the new pay scale.

4.4 Protection may be terminated if an employee unreasonably refuses a subsequent offer of suitable alternative employment in a comparable post at the previous band or a post where the earnings are comparable to the earnings in the previous post.

5. **Long-Term Pay Protection (for employees who commenced employment from 1 April 2007)**

5.1 An employee whose band is affected within the terms of 2.1(a) – see above, shall be entitled to protection of basic pay or salary (Prior to organisational change) for a period of 4 years on a mark time basis following the effective date of the change.

The qualifying period for an entitlement to long term pay protection is 1 year’s service with the PCT or predecessor organisations.

Following the move to the new band, an employee’s pay will be protected at the level it was immediately prior to organisational change.

5.2 Protection of pay / salary will continue for up to 4 years unless:

(a) The employee is appointed to a post in which the basic pay / salary is equal to or exceeds their protected pay / salary.

(b) The basic pay / salary of the post gained at the point of organisational change becomes equal to or exceeds the protected basic pay / salary.
(c) The employee applies for and is successful in gaining another post with lower basic pay / salary than their existing post.

(d) The employee leaves the employment of the PCT or retires.

5.3 “Mark time” salary is the salary which the employee is receiving immediately prior to the change in pay banding. No increments or pay awards will be paid in addition to the “Mark time” salary. At the end of the "Mark time" protection period the salary of the new post will apply which will be the top of the new pay scale.

5.4 Protection may be terminated if an employee unreasonably refuses a subsequent offer of suitable alternative employment in a comparable post at the previous band or a post where the earnings are comparable to the earnings in the previous post.

6. Short Term Pay Protection

6.1 An employee whose earnings are affected within the terms of 2.1 (b) (see above), shall be entitled to short-term pay protection.

The intention of short-term pay protection is to offset the immediate impact of a reduction in total earnings.

Where this applies, earnings additional to basic pay (Listed at Appendix A. – this does not include temporary additional hours worked by part-time staff or overtime unless a contractual requirement), will be protected for a period of up to 12 months at the level immediately prior to organisational change.

6.2 The continued payment of short-term protection is conditional on the employee undertaking if required, additional hours, overtime, night duty, unsocial hours etc. up to the level undertaken before organisational change.

The level of protection should be calculated by comparing the last 13 wks earnings in the old post with the anticipated 13 wks earnings in new post.

Where an employee has been absent from work due to illness or injury within the calculation period, an amount equivalent to their loss of earnings should be added back in.

Short-term pay protection and long-term pay protection can run concurrently.

6.3 Duration of Short-Term Pay Protection

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<thead>
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<th>Length of Reckonable Service</th>
<th>Period of Protection</th>
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<tr>
<td>1 – 2 years</td>
<td>3 months</td>
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<tr>
<td>2 – 3 years</td>
<td>6 months</td>
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<td>3 – 5 years</td>
<td>9 months</td>
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7. **Pay Progression – Second Gateway**

7.1 As a result of organisational change individuals should not be penalised unfairly and should proceed as normal through the second gateway during the pay protection period, unless concerns have been raised about significant weakness in the past.
8. **APPENDICES**

Appendix A

Payments Eligible for Protection

- Incentive bonus payments (Incl. lead-in payments and bonus allowance)
- Special Duty Payments
- Special clinic payments
- Domiciliary fee income
- Enhanced payments for weekend/night duty
- Shift duty
- Unsocial hours allowances
- Standby and on-call allowances
- Basic contracted hours