



**Blackpool Teaching
Hospitals**
NHS Foundation Trust

Document Type: POLICY		Unique Identifier: CORP/POL/211
Title: Protection of Pay		Version Number: 3.1
		Status: Ratified
Target Audience: Trust Wide, excluding ex NHS Blackpool employees		Divisional and Department: Human Resources
Author / Originator and Job Title: M.Green ~ HR Business Partner		Risk Assessment: Not Applicable
Replaces: Version 3 Protection of Pay Policy CORP/POL/211	Description of amendments: Version 1 - Updated to new template with a note 'Allocated to HR team for review'. 12 month review period supplied	
Validated (Technical Approval) by: Human Resources (HR) Policy Group Joint Negotiating Consultative Committee (JNCC) Updated Review Date approved by Human Resources (HR) Policy Forum by Chairman's Action (Paula Roles, Deputy Director of Workforce and Organisational Development (OD))	Validation Date: 22/07/2010 08/10/2010 09/11/2017	Which Principles of the NHS Constitution Apply? 3
	Ratified (Management Approval) by: HR, Organisational Development (OD) and Teaching Governance Committee	
Issue Date: 09/11/2017	Review Date: 01/11/2018	Is this available on Royal Marsden? No

Review dates and version numbers may alter if any significant changes are made

Blackpool Teaching Hospitals NHS Foundation Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that they are not placed at a disadvantage over others. The Equality Impact Assessment Tool is designed to help you consider the needs and assess the impact of your policy in the final Appendix.

1 PURPOSE

This document outlines the arrangements for protecting the pay and conditions of service for employees of the Trust who are adversely affected by organisational change.

In this context organisational change means any structural or managerial change in the organisation of health service provision within the Trust. It will apply when an employee is required by management to move to a new post or to reduce hours or to accept changed working practices and there is a consequent reduction in pay or conditions of service. It will not apply when there is a voluntary move to a new post or reduction in hours or a downgrading as a result of disciplinary action.

2 TARGET AUDIENCE

This policy will apply to all substantive employees of Blackpool Teaching Hospitals NHS Foundation Trust who as a consequence of organisational change suffer a reduction in their basic hours and/or income as a result.

3 POLICY

The protection of basic salary or wage must be considered as a last resort. When protection arrangements are in place it is the responsibility of the employee to apply for suitable posts commensurate with the previous post, and the Trust's responsibility to provide retraining where new skills are required.

In situations of redundancy the application of these protection provisions will influence the suitability of any alternative employment offered.

3.1 Provision

Provision is made in this document for:-

- a) Protection of basic wage or salary
- b) Protection of other conditions of service

3.2 Definitions

3.2.1 Basic wage or salary

Means the weekly or monthly sum due in respect of basic hours worked within the standard working week on the day immediately preceding the first day of employment in the new post.

3.2.2 Marked Time

An employee will remain on their current salary and will not receive any incremental or annual cost of living rise for the duration of the period or until such time as the total level of pay in the new post exceeds the value of the protected pay, or until such time as the

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employee changes job voluntarily (whichever is sooner) at which point the new salary and terms will apply

3.2.3 Downgrading

Means when the new post, irrespective of its band or title carries an hourly rate or salary maximum point, which is lower than that applying to the previous post.

3.2.4 Reckonable Service

Means the total NHS Service (aggregated if discontinuous as outlined in the Agenda for Change Terms and Conditions of Service Handbook) but excluding service, which has been subject to a redundancy or termination payment.

3.2.5 Earnings in the new post

Means the sum of the basic wage or salary in the new post and any remuneration in respect of enhancements, shift work and other additional duties.

3.3 Protections Terms Available

The following protected terms are available

- Basic salary and hours
- Enhancements that form part of the contractual terms and conditions, excluding overtime
- Annual leave / statutory holidays (pro rata) if hours are reduced
- Periods of notice

3.4 Calculation of Protection

The amount of pay to be protected will be calculated by subtracting the pay in the new post from the pay in the old post or if the post remains the same subtracting total earnings under new working arrangements from total pay under previous working arrangements.

Any national or local pay increases agreed during the reference period used to calculate earning for protection will be applied to earnings in the new and previous post for the purposes of calculation. Protection will be recalculated and any arrears due paid, if a retrospective pay award is agreed.

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3.5 Periods of Protection

An employee, whose basic wage or salary reduces, normally as a result of downgrading, will retain the previous basic wage or salary for the following period:-

Reckonable Service	Protection Period
up to 2 years	1 months
more than 2 years and less than 4 years	3 months
more than 4 years and less than 7 years	6 months
more than 7 years and less than 10 years	9 months
More than 10 years	1 year

Payment will be protected on a marked time basis, based on the average pay during a reference period of 3 months immediately prior to the change becoming effective.

3.6 Exclusions and Exceptions

The following circumstances are excluded from being considered under these protection provisions or will result in the protection period coming to an end:

- When an employee moves of his/her own volition to a new post, including a lower banded post;
- When an employee is appointed to a post which attracts an equal or higher basic salary;
- The basic salary of the new post exceeds the protected basic salary;
- When an employee is subject to a sanction that requires them to move to a lower banded post under the Trust's Disciplinary or Performance Management Policy (see section 7);
- Due to ill health, where it is determined medical redeployment is appropriate and a suitable post is available. With the prior agreement of the Director of Human Resources (HR) certain exceptional circumstances maybe considered for protection; or,
- Where the employee leave the Trust or retires

3.7 Conditions of Protection of Basic Salary / Wage

Protection arrangements will continue until the end of the relevant protection period, where the employee will receive the salary / wage attached to the new post and incremental progression where appropriate.

Any additional earning from work in the new post will be remunerated at the rates attached to the new post.

Employees must be prepared to move into another post commensurate with protected wage or salary. Should an employee decline to apply or accept a post commensurate with the protected wage or salary the protection will cease immediately.

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Where there is a reduction in hours in the new post, the employee will be expected to work any available hours in the new role that fall within the former working arrangements up to the level of hours previously worked. Payment for such additional hours will be offset against any protected pay. Failure to work such additional hours may result in the cessation of protection.

3.8 Protection of Other Conditions of Service

3.8.1 Period of Notice

Employees required to move to a new post are entitled to protection of the period of notice appropriate to the former post, except the period of notice may not be less than that provided for under employment law.

3.8.2 Hours and Annual Leave

Employees required to move to a new post will acquire the hours appropriate to the new post. Annual leave will be protected but the annual leave entitlement will be pro rata to reflect the hours associated with the new post, in line with the Trust's Annual Leave Policy.

3.8.3 Subsequent Changes of Post

Each subsequent change of post due to an organisational change covered by this agreement shall attract protection in its own right.

3.9 Obligations on the Employee

An employee in receipt of protected pay may be required to undertake any overtime, shift work or other additional duties up to the level that earning in the new post are equal to earnings in the old post.

An employee maybe required to move to a more senior post during the protection period

It is the responsibility of the employee to apply for suitable posts that arise. The Trust will provide reasonable support where retaining is required to develop new skills. Failure of the employee to apply for posts commensurate with the previous post may result in the withdrawal of protection arrangements.

4 ATTACHMENTS	
Appendix Number	Title
Appendix 1	Equality Impact Assessment Form

5 PROCEDURAL DOCUMENT STORAGE (HARD AND ELECTRONIC COPIES)	
Electronic Database for Procedural Documents	
Held by Procedural Document and Leaflet Coordinator	

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6 LOCATIONS THIS DOCUMENT ISSUED TO		
Copy No	Location	Date Issued
1	Intranet	09/11/2017
2	Wards, Departments and Services	09/11/2017

7 OTHER RELEVANT / ASSOCIATED DOCUMENTS	
Unique Identifier	Title and web links from the document library
CORP/GUID/433	Redeployment Guidelines for Health and Organisational Change reasons http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-GUID-433.docx
CORP/POL/219	Annual Leave http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-POL-219.docx
CORP/POL/517	Performance Management http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-POL-517.docx
CORP/POL/525	Disciplinary Policy http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-POL-525.docx
CORP/PROC/636	Disciplinary and Appeal Procedure http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-PROC-636.docx

8 SUPPORTING REFERENCES / EVIDENCE BASED DOCUMENTS
References In Full

9 CONSULTATION / ACKNOWLEDGEMENTS WITH STAFF, PEERS, PATIENTS AND THE PUBLIC		
Name	Designation	Date Response Received
	Human Resources (HR) Policy Group	22/07/2010
	Joint Negotiating Consultative Committee (JNCC)	08/10/2010
	HR, Organisational Development (OD) and Teaching Governance Committee	29/10/2010

10 DEFINITIONS / GLOSSARY OF TERMS	
HR	Human Resources

11 AUTHOR / DIVISIONAL / DIRECTORATE MANAGER APPROVAL			
Issued By	Eleanor Palmer-Rigby	Checked By	Paula Roles
Job Title	HR Business Partner	Job Title	Deputy Director of Workforce and Organisational Development (OD)
Date	09/11/2017	Date	09/11/2017

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APPENDIX 3: EQUALITY IMPACT ASSESSMENT FORM				
Department	HR	Service or Policy	CORP/POL/211	Date Completed:
GROUPS TO BE CONSIDERED Deprived communities, homeless, substance misusers, people who have a disability, learning disability, older people, children and families, young people, Lesbian Gay Bi-sexual or Transgender, minority ethnic communities, Gypsy/Roma/Travellers, women/men, parents, carers, staff, wider community, offenders.				
EQUALITY PROTECTED CHARACTERISTICS TO BE CONSIDERED Age, gender, disability, race, sexual orientation, gender identity (or reassignment), religion and belief, carers, Human Rights and social economic / deprivation.				
QUESTION	RESPONSE		IMPACT	
	Issue	Action	Positive	Negative
What is the service, leaflet or policy development? What are its aims, who are the target audience?	See 'Purpose'			
Does the service, leaflet or policy/ development impact on community safety • Crime • Community cohesion	No			
Is there any evidence that groups who should benefit do not? i.e. equal opportunity monitoring of service users and/or staff. If none/insufficient local or national data available consider what information you need.	No			
Does the service, leaflet or development/ policy have a negative impact on any geographical or sub group of the population?	No			
How does the service, leaflet or policy/ development promote equality and diversity?	No			
Does the service, leaflet or policy/ development explicitly include a commitment to equality and diversity and meeting needs? How does it demonstrate its impact?	No			
Does the Organisation or service workforce reflect the local population? Do we employ people from disadvantaged groups	No			
Will the service, leaflet or policy/ development i. Improve economic social conditions in deprived areas ii. Use brown field sites iii. Improve public spaces including creation of green spaces?	No			
Does the service, leaflet or policy/ development promote equity of lifelong learning?	No			
Does the service, leaflet or policy/ development encourage healthy lifestyles and reduce risks to health?	No			
Does the service, leaflet or policy/ development impact on transport? What are the implications of this?	No			
Does the service, leaflet or policy/development impact on housing, housing needs, homelessness, or a person's ability to remain at home?	No			
Are there any groups for whom this policy/ service/leaflet would have an impact? Is it an adverse/negative impact? Does it or could it (or is the perception that it could exclude disadvantaged or marginalised groups?	No			
Does the policy/development promote access to services and facilities for any group in particular?	No			

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Does the service, leaflet or policy/development impact on the environment	No			
<ul style="list-style-type: none"> • During development • At implementation? 				
ACTION:				
Please identify if you are now required to carry out a Full Equality Analysis	Yes	No	(Please delete as appropriate)	
Name of Author: Signature of Author:		Date Signed:		
Name of Lead Person: Signature of Lead Person:		Date Signed:		
Name of Manager: Signature of Manager		Date Signed:		

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