

PAY PROTECTION POLICY

Approved by: **Trust Executive Committee**

On: **26 September 2017**

Review Date: **March 2020**

**Extension agreed due to
COVID, April 2022**

Corporate / Directorate **Corporate**

Clinical / Non Clinical **Non Clinical**

Department Responsible
for Review: **Human Resources**

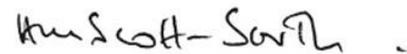
Distribution:

- Essential Reading for: **All Staff**
- Information for: **All Staff**

Policy Number: **149**

Version Number: **4**

Signature:



Chief Executive

Date: **26 September 2017**

Burton Hospitals NHS Foundation Trust
POLICY INDEX SHEET

| | |
|--------------------------------------|--|
| Title: | Pay Protection Policy |
| Original Issue Date: | November 2009 |
| Date of Last Review: | September 2017 |
| Reason for amendment: | Updating |
| Responsibility: | Human Resources |
| Stored: | Intranet site |
| Linked Trust Policies: | Disciplinary Policy Redundancy Policy Sickness Absence Policy |
| E & D Impact Assessed | EIA 201 |
| Responsible Committee / Group | Board of Directors |
| Consulted | All Managers All Staff through Staff Side |

REVIEW AND AMENDMENT LOG

| Version | Type of change | Date | Description of Change |
|----------------|-----------------------|----------------|------------------------------|
| 3 | Update | October 2014 | Routine review and update |
| 4 | Update | September 2017 | Routine review and update |
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PAY PROTECTION POLICY

CONTENTS

| Paragraph Number | Subject | Page Number |
|-------------------------|---|--------------------|
| 1 | Scope of the Policy | 1 |
| 2 | Aim of the Policy | 1 |
| 3 | Pay Protection Definition | 1 - 2 |
| 4 | Situations Where a Change in Remuneration May Occur | 2 - 3 |
| 5 | Adjustments to Salary | 3 |
| 6 | Buy Out Option | 4 |
| 7 | Pension Scheme | 4 |
| 8 | Pay Protection Periods | 4 |
| 9 | Review of Policy | 4 |

Burton Hospitals NHS Foundation Trust

PAY PROTECTION POLICY

1. SCOPE OF THE POLICY

This Policy defines the pay protection that will apply to all staff on Agenda for Change Terms and Conditions of service whose pay and conditions of service are affected by organisational change. The Policy also incorporates a range of other circumstances where pay protection may apply.

From the date of agreement of this Policy it will supersede the pay protection elements incorporated in all other policies within the Trust. In all future cases involving pay protection this Policy will be the prime reference document. It is recognised that new situations may occur that are not specifically covered by this Policy but the expectations are that the key principles set out below will be followed. Where material deviances exist these should be subject to further negotiation between management and Staff Side.

2. AIM OF THE POLICY

The aim of this Policy is to have an unambiguous set of principles that have been agreed between management and Trade Unions whenever an issue around pay protection arises. The Policy will be available to all employees through the Trusts intranet site.

3. PAY PROTECTION DEFINITION

Employees eligible for pay protection will have their remuneration protected at the existing level until either the period of pay protection expires or the highest point on the lower grade scale exceeds the current level of protected pay.

Additionally if an employee eligible for pay protection voluntarily moves to an alternative role within the Trust pay protection will cease and they will revert to the appropriate level of pay for the new post.

Protection will be without the benefit of any subsequent pay awards or increments applying to the pay scales.

3.1 Calculation of Protectable Earnings

Pay protection will apply to earnings of the individual employee based on an average of the previous three months immediately prior to the change to the new situation. Where an employee has more than one position the protected earnings will be based on the post they are being displaced from.

If an individual has been on maternity or long-term sick leave, the most recent four-month period of normal pay will be used.

For the purposes of calculating protectable earnings pay will be defined as:

- Basic pay (protected under long term protection)
 - Salary for basic hours worked under their substantive contract
 - Long term recruitment and retention premia
 - Regular **contracted** overtime/extra hours to contract
- Other earnings (protected under short term protection)
 - Shift allowances
 - On call/ standby earnings
 - Short term recruitment and retention premia

Only payments earned during regular job requirements will be considered. One off payments (for example back pay) will be excluded.

3.2 Applicable Service for the Purposes of Protection

When calculating the period of pay protection only continuous NHS service will be used to establish the time for which an employee's pay will receive protection. The only exceptions to this will be for employees who have joined the Trust via a TUPE transfer in which case their service with their last host organisation and Burton Hospitals NHS Foundation Trust combined will be used.

4. SITUATIONS WHERE A CHANGE IN REMUNERATION OCCUR

There are a range of situations where the remuneration level of an employee may occur. Not all of these situations will require pay protection to be paid. Set out below are the most common circumstances that are seen within the Trust.

a) Organisational Change – not involving Redundancy

It includes situations when staff are required or requested by management to move to a lower graded post in order to keep their skills within the Trust. In these circumstances pay protection in accordance with the table later in this document will apply.

b) Redundancy

If a situation occurs where a member of staff wishes to accept a lower band post as an alternative option to redundancy then pay protection will be paid.

c) Sickness

An employee who wishes to take up a post at a lower grade or reduce their working hours due to their own illness will not normally be eligible for pay protection. If a trial period is agreed pay protection may apply up to a maximum period of 3 months. If the employee ultimately accepts the lower

grade post or reduces their working hours an adjustment to salary will be made in accordance with section 5 below.

d) Employee Choice

Employees wishing to move to a lower grade post at their own choice will not be eligible for pay protection.

e) Disciplinary

An employee who is downgraded following the outcome from disciplinary proceedings will not be eligible for pay protection.

f) Performance in Role

An employee who is offered a role at a lower grade due to their poor performance in their existing role will not be eligible for pay protection.

g) Changes to other earnings

Changes to the requirement, or payments levels, for pay defined as other earnings in 3.1 initiated by local management or national directives will receive pay protection under the short term periods defined in section 8. This will exclude reductions in on call payments where the employee has been asked to increase the frequency of on call availability due to sickness of a colleague, vacancies in the department etc for a period of less than 9 months and that frequency has now reduced.

5. ADJUSTMENTS TO SALARY

Employees who move to a lower grade post will have their salaries adjusted either immediately or at the end of an agreed period of pay protection. Their new salary will be assessed by calculating which point on the lower pay scale the individual would have reached had they been a new employee or never been promoted to the higher grade in the first place.

An exception to this may be within disciplinary or performance management procedures whereby an individual is placed on a specific point within a lower pay scale.

6. BUY OUT OPTION

With the agreement of both sides, a one-off payment may be made by the Trust to “buy out” ongoing protection rights in respect of a specific situation. Agreement by both parties is required and must be confirmed in writing.

7. PENSION SCHEME

Employees who suffer a reduction in salary and are members of the NHS Pension Scheme may choose to preserve their existing benefits based on their higher

earnings. Employees are strongly advised to contact the Trusts Payroll Provider for advice in such circumstances.

8. PAY PROTECTION PERIODS

| Years of Continuous NHS Service | Long Term Protection Period | Short Term Protection Period |
|--|------------------------------------|-------------------------------------|
| Less than 2 years | 0 | 0 |
| 2 but less than 5 | 9 months | 4 months |
| 5 but less than 10 | 18 months | 6 months |
| 10 but less than 25 | 24 months | 8 months |
| 25 years + | 36 months | 12 months |

9. REVIEW OF POLICY

This Policy will be reviewed in March 2020 (extended until December 2020) or earlier should circumstances dictate. The Policy will remain in force until renewed or cancelled.