



PROTECTION OF EARNINGS POLICY AND CONDITIONS OF SERVICE POLICY

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Directorate	Corporate
Policy Owner	Director of People & Organisational Development
Policy Author	Senior HR Manager Human Resources
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Approving Body	Corporate Governance and Risk Sub-Committee 9 th May 2017
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Policy Valid to date:	31 st January 2022

‘During the COVID19 crisis, please read the policies in conjunction with any updates provided by National Guidance, which we are actively seeking to incorporate into policies through the Clinical Ethics Advisory Group and where necessary other relevant Oversight Groups’

DOCUMENT HISTORY

(Procedural document version numbering convention will follow the following format. Whole numbers for approved versions, e.g. 1.0, 2.0, 3.0 etc. With decimals being used to represent the current working draft version, e.g. 1.1, 1.2, 1.3, 1.4 etc. For example, when writing a procedural document for the first time – the initial draft will be version 0.1)

Date of Issue	Version No.	Date Approved	Director Responsible for Change	Nature of Change	Ratification / Approval
28 Feb 11	1	28 Feb 11	Human Resources	Ratified at	Executive Board
29 Mar 12	1	29 Mar 12	Human Resources	Logo and wording updated for new organisation	
16 Dec 13	2.0		Executive Director of Nursing & Workforce	Trust Policy template	
Dec 13 – Jan 14	2.0		Executive Director of Nursing & Workforce	Dec 2013 and Jan 2014	Partnership Forum including LNC membership –
18 Feb 14	3	18 Feb 14	Executive Director of Nursing & Workforce	Approved	Policy Management Group
13 Feb 17	3.1		Executive Director of Financial and Human Resources	Updated into the current Trust Template	Partnership Forum and LNC March 2017
09 May 17	4.0	9 May 17	Executive Director of Financial and Human Resources	For approval	Corporate Governance & Risk Sub-Committee
26 March 2020	4.0		Executive Director of Financial and Human Resources	Extension to review date approved until 8 th August 2020 via Chairs Action at	Policy Management Sub-Committee
27 th October 2020	4.0		Executive Director of Financial and Human Resources	Extension to review date until Jan 2021 approved by	Deputy Director of Human Resources
29th January 2021	4.0	9 th May 2017	Director of People and Organisational Development	12 month blanket policy extension due to covid 19 applied with author review date set 6 months prior to Valid to Date.	Quality & Performance Committee
20 th May 2021	4.0	9 th May 2017	Director of People and Organisational Development	Extended Policy uploaded and linked back with new cover sheet	Corporate Governance

NB This policy relates to the Isle of Wight NHS Trust hereafter referred to as the Trust

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1 Executive Summary

The Isle of Wight NHS Trust operates within a changing environment where advances in clinical practice, Government policy and many other issues will impact on the nature and scope of the services we provide.

This may well necessitate changes within the Trust to enable it to continue to provide the highest standards of healthcare within the resources available.

This policy addresses those circumstances where, through organisational change required by the Trust, individuals are required to make changes, which will affect their level of earnings, such as changes in hours of work or grade of post.

2 Introduction

This policy has been formulated to afford protection of earnings or employment conditions to any employee who:

- As a consequence of organisational change, is required to move to a new post, or make changes in the current post, which attracts a lower basic wage or salary, suffers a reduction in basic hours worked within the standard working week or suffers a reduction in total/pensionable earnings as a result of these changes.
- Is in a post, which, because of changes to required duties, attracts a lower wage/salary than previously attributable to that post.

3 Definitions

Reduction in earnings; the level of pay before and after the effective change should be calculated taking account of all elements of pay detailed below:

- Basic pay including any contractual overtime: plus
- Recruitment and retention premia: plus
- High cost area supplements: plus
- Shift allowances and other payments related to working outside normal hours: plus
- On call payments: plus
- Bonus payments.

4 Scope

The protection arrangements contained in this policy apply to all full and part time staff.

Protection of earnings or employment conditions will not be afforded to any employee required to accept a post on a lower grade and/or attracting less favourable conditions for reasons of poor performance where improvements have

not been forthcoming despite disciplinary action or where continuation in the role would be detrimental to the service.

5 Purpose

This policy addresses those circumstances where, through organisational change required by the Trust, individuals are required to make changes, which will affect their level of earnings, such as changes in hours of work or grade of post.

6 Roles and Responsibilities

6.1 Line Manager Responsibilities

Managers will ensure that this policy is applied in all cases of organisational change where individual staff suffer a detriment as a result of that change.

Managers will ensure that appropriate paperwork is completed to inform payroll of the protection arrangements for individual staff.

6.2 Human Resources Responsibilities

Human Resources staff will provide advice and guidance to line managers and employees on the application of this policy.

7 Policy detail/Course of Action

7.1 Reduction in earnings

In the case of individual staff whose regular pay will be lower as a result of a change of post or change in current post as a result of organisational change, the following protection arrangements will apply:

The level of pay before and after the effective change should be calculated taking account of all elements of pay detailed below:

- Basic pay including any contractual overtime: plus
- Recruitment and retention premia: plus
- High cost area supplements: plus
- Shift allowances and other payments related to working outside normal hours: plus
- On call payments: plus
- Bonus payments.

The level of pay for the purpose of this calculation will be the average of the payments in the original post over a reference period of 12 weeks or 3 months ending at the effective change date, except:

- Where this period includes the annual pay award or an annual increment, the protected amount should be adjusted as if that award or increment had applied throughout the reference period.
- Where the shift allowance or payments for working outside normal hours vary over a rota, which is longer than 3 months, the average over the full rota should be used.
- Where bonuses are paid less frequently than monthly an average over the last 12 months should be used.
- Where the employee is on Maternity Leave, Adoption Leave or Long Term Sickness absence when the last period of full pay will be used.

Where the combined value of payments before the change remains greater than the combined value of the payments after the change, the former level of pay will be protected for a period of **eighteen months** on a mark time basis. These protection arrangements apply to the combined value of payments before and after the change, not to individual pay components.

If standard hours change during the period of protection, or if a member of staff reduces his or her hours of work or level of unsocial hours working, the protected level of pay will be recalculated.

The period of protection will end when the total level of payments under the new system exceeds the level of protected pay or when the protected person changes jobs voluntarily, or at the end of **eighteen months**, whichever is the sooner.

As soon as possible during the period of protection, the skills, knowledge and role of staff subject to protection will be reviewed to establish whether they could be re-assigned to a higher weighted job or offered development and training to fit them for a higher weighted job.

7.2 Reduction in hours

In the case of individual staff whose regular hours of work will be lower as a result of a change of post or change in current post as a result of organisational change, the original hours of work will be protected for a period of **eighteen months**.

The period of protection will end when the protected person changes jobs voluntarily, or at the end of **eighteen months**, whichever is the sooner.

As soon as possible during the period of protection, the hours of work will be reviewed to establish whether any increase in hours is possible up to the same level as the original post.

7.3 Change of Work Location

Where an employee is required to move location as a result of organisational change, travel costs to and from work, in excess of those previously incurred will be

reimbursed for up to a maximum of **eighteen months**, provided the additional journey is in excess of 3 miles each way, calculated using the most direct route.

Should the employee move home during the period of protection to a venue closer to the place of work, the claim must reflect the new position.

7.4 Car Parking Charges

Where an employee is required to move location as a result of organisational change from a work base where no parking charges apply to a base where a parking permit is required the employee will be responsible for the cost of any required permit.

7.5 Effect on Pension

If an employee's pay reduces for any of the reasons detailed in this policy and the Trust certifies that this is through no fault of their own, the period of pension membership at the higher rate of pay will be protected.

Under these circumstances, at the date of retirement the pension will be worked out in one of two ways:

1. Separately for the two periods of higher and lower pay.
2. Using pensionable pay at retirement for the whole period of membership.

The method selected will be whichever method gives the bigger pension.

More information can be found in the NHS Pension Scheme 'Guide to the Scheme' booklet or at www.pensions.nhsbsa.nhs.uk

7.6 NHS Pension - Special Class Status

Special Class status is a historical provision awarded to certain professions, which, subject to qualifying criteria being met, allows a member to retire at age 55 without a reduction to their benefits.

Advice should be sought from the Pension Team on what, if any impact there will be in relation to an employee's eligibility for special class status. Further information can be obtained from the NHS Pension Agency website <http://www.nhsbsa.nhs.uk/searchpage.aspx?terms=special+class+status>

8 Consultation

This policy will be consulted via the following routes:

- Partnership Forum including LNC members
- Policy published on the draft policy site of the intranet

- E-bulletin
- Notification to Business Unit Management teams

9 Training

This Protection of Earnings and Conditions of Service does not have a mandatory training requirement but the following non mandatory training is recommended:-
HR Building Block Session: Organisational Change

10 Monitoring Compliance and Effectiveness

It is the responsibility of all line managers to ensure that they implement this policy when managing an organisational change situation. Any issues or concerns relating to the implementation/application will be escalated through the Directorate Management Structure.

The HR Officer will provide advice and guidance on the application of the policy.

11 Links to other Organisational Documents

- Organisational Change Policy
- Redeployment Policy
- Agenda for Change Terms and Conditions Handbook
- Medical Practitioners Terms and Conditions of Employment

12 References

- <http://www.nhsbsa.nhs.uk/Pensions.aspx>

13 Appendices

Appendix A Financial and Resourcing Impact Assessment on Policy Implementation

Appendix B Equality Impact Assessment (EIA) Screening Tool

Financial and Resourcing Impact Assessment on Policy Implementation

NB this form must be completed where the introduction of this policy will have either a positive or negative impact on resources. Therefore this form should not be completed where the resources are already deployed and the introduction of this policy will have no further resourcing impact.

Document title	Protection of Earnings and Conditions of Service Policy
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Totals	WTE	Recurring £	Non Recurring £
Manpower Costs	0	0	0
Training Staff	0	0	0
Equipment & Provision of resources	0	0	0

Summary of Impact:

Risk Management Issues:

Benefits / Savings to the organisation:

Equality Impact Assessment

- Has this been appropriately carried out? YES/NO
- Are there any reported equality issues? YES/NO

If "YES" please specify:

Use additional sheets if necessary.

Please include all associated costs where an impact on implementing this policy has been considered. A checklist is included for guidance but is not comprehensive so please ensure you have thought through the impact on staffing, training and equipment carefully and that ALL aspects are covered.

Manpower	WTE	Recurring £	Non-Recurring £
Operational running costs	0	0	0
Totals:	0	0	0

Staff Training Impact	Recurring £	Non-Recurring £
	0	0
Totals:	0	0

Equipment and Provision of Resources	Recurring £ *	Non-Recurring £ *
Accommodation / facilities needed	0	0
Building alterations (extensions/new)	0	0
IT Hardware / software / licences	0	0
Medical equipment	0	0
Stationery / publicity	0	0
Travel costs	0	0
Utilities e.g. telephones	0	0
Process change	0	0
Rolling replacement of equipment	0	0
Equipment maintenance	0	0
Marketing – booklets/posters/handouts, etc	0	0
Totals:	0	0

- Capital implications £5,000 with life expectancy of more than one year.

Funding /costs checked & agreed by finance:	0
Signature & date of financial accountant:	0
Funding / costs have been agreed and are in place:	0
Signature of appropriate Executive or Associate Director:	0



Equality Impact Assessment (EIA) Screening Tool

Document Title:	Protection of Earnings and Conditions of Service Policy
Purpose of document	This policy addresses those circumstances where, through organisational change required by the Trust, individuals are required to make changes, which will affect their level of earnings, such as changes in hours of work or grade of post
Target Audience	Line managers and employees
Person or Committee undertaken the Equality Impact Assessment	Senior HR Manager

1. To be completed and attached to all procedural/policy documents created within individual services.
2. Does the document have, or have the potential to deliver differential outcomes or affect in an adverse way any of the groups listed below?

If no confirm underneath in relevant section the data and/or research which provides evidence e.g. JSNA, Workforce Profile, Quality Improvement Framework, Commissioning Intentions, etc.

If yes please detail underneath in relevant section and provide priority rating and determine if full EIA is required.

		Positive Impact	Negative Impact	Reasons
Gender	Men	✓		To provide fair and consistent management in circumstances where employees earnings are reduced as a consequence of organisational change
	Women	✓		As above
Race	Asian or Asian British People	✓		As above
	Black or Black British People	✓		As above
	Chinese people	✓		As above

	People of Mixed Race	✓		As above
	White people (including Irish people)	✓		As above
	People with Physical Disabilities, Learning Disabilities or Mental Health Issues	✓		As above
Sexual Orientation	Transgender	✓		As above
	Lesbian, Gay men and bisexual	✓		As above
Age	Children	<i>Not applicable</i>		
	Older People (60+)	✓		As above
	Younger People (17 to 25 yrs)	✓		As above
Faith Group		✓		As above
Pregnancy & Maternity		✓		As above
Equal Opportunities and/or improved relations		✓		As above

Notes:

Faith groups cover a wide range of groupings, the most common of which are Buddhist, Christian, Hindus, Jews, Muslims and Sikhs. Consider faith categories individually and collectively when considering positive and negative impacts.

The categories used in the race section refer to those used in the 2001 Census. Consideration should be given to the specific communities within the broad categories such as Bangladeshi people and the needs of other communities that do not appear as separate categories in the Census, for example, Polish.

3. Level of Impact

If you have indicated that there is a negative impact, is that impact:			
		YES	NO
Legal (it is not discriminatory under anti-discriminatory law)			
Intended			

If the negative impact is possibly discriminatory and not intended and/or of high impact then please complete a thorough assessment after completing the rest of this form.

3.1 Could you minimise or remove any negative impact that is of low significance? Explain how below:
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3.2 Could you improve the strategy, function or policy positive impact? Explain how below:	
3.3 If there is no evidence that this strategy, function or policy promotes equality of opportunity or improves relations – could it be adapted so it does? How? If not why not?	
Scheduled for Full Impact Assessment	Date:
Name of persons/group completing the full assessment.	
Date Initial Screening completed	13 February 2017

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