# Pay Protection Policy

## Consultation

|                        | 1<sup>st</sup> Staff Forum May 2014  
|------------------------|--------------------------------------
| 2<sup>nd</sup> Staff Forum January 2015 |

## Union Agreement

|                        | Alan Turrell, Head of Contracting & Procurement |

## Organisational Development and Remuneration Committee Ratification

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## Date

|                        | 30<sup>th</sup> January 2015 |

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Pay Protection Policy

The Organisational Development Committee approved this document on:

Date: 30.01.2015

Signed: Chair of the committee
Signed: Designated Senior Officer

Please note that the Intranet version of this document is the only version that is maintained. Any printed versions should therefore be viewed as ‘uncontrolled’ and may not be the most up-to-date.

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<tr>
<td>CCG Lead</td>
<td>Yvette Sheward Strategic Lead for Integrated Governance and Organisational Development</td>
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<tr>
<td>Senior Officer responsible</td>
<td>Yvette Sheward Strategic Lead for Integrated Governance and Organisational Development</td>
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<td>Ratified by:</td>
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<td>30 January 2015</td>
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<td>Date of ratification</td>
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<td>Review date:</td>
<td>30 October 2017</td>
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<td>30 January 2018</td>
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## CONTRIBUTION LIST

### Key individuals involved in developing the document

<table>
<thead>
<tr>
<th>Name</th>
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<tr>
<td>HR – CSU West Midlands</td>
<td>Union Representatives</td>
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<td>Staff Council</td>
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<td>Yvette Sheward</td>
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### Circulated to the following for consultation

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<td>Organisational Development</td>
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PAY PROTECTION POLICY

Implementation Date: January 2015

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## POLICY OVERVIEW

### Pay Protection Policy

#### Purpose
The CCG is committed to having arrangements for safeguarding the pay and conditions of service of employees whose hours of work or income may be adversely affected by organisational change.

#### Who this Policy applies to
The policy applies to all staff that are employees of the organisation in a permanent post.

Application is regardless of their gender, disability, marital status, creed, colour, race, ethnic or national origin, sexual orientation, age, social status, their trade union activities or religion and will not be disadvantaged by conditions or requirements which cannot be shown to be justifiable.

#### Key Principles
The aim of the policy is to support general good employment practices and future employment, training and development planning initiatives by helping to minimise employees personal and career implications, whilst jointly planning for the longer term future of the CCG.

It is designed to contribute to the stability of employment whilst at the same time recognising that a key feature of the CCGs success in the future will be its ability to identify the need for organisational change and to manage that change.

#### Legal Considerations
Agenda for Change Terms and Conditions Handbook (section 12, 16 & 17)
SUPPORTING PRINCIPLES
Pay Protection Policy

- Employers and employees should act consistently.

- The policy defines the principles which will apply to staff whose pay and conditions of service are affected by change, including where such staff accept a move to a lower graded post as a result of organisational change, whereby redundancy is the only other option.

- These arrangements apply only to staff who hold permanent contracts of employment. These do not apply to those on fixed term, temporary, agency or ‘as and when’ contracts.

- These arrangements also do not apply to staff who move posts out of choice i.e. staff who choose to move to a lower graded post or choose to reduce their hours etc.

- Changes brought about as a result of the capability procedure within a particular job, or as a result of the sickness absence policy, disciplinary action, or because of personal or other circumstances are not covered by these arrangements. This may not apply where the redeployment to a lower band post is as a result of industrial injury, further advice from HR should be sought on this matter.
THE POLICY
Pay Protection Policy

Definitions

Organisational Change: any structural or managerial change in the CCG

Basic salary: monthly sum due in respect of basic hours worked by the individual within the standard working week.

Total Pay: Basic salary plus leads/allowances that form part of the contractual terms and conditions.

Protected Pay: The difference between total pay in the former post and total pay in the new post.

Mark 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 of protection of until such a time as the total level of pay in the new post exceeds the value of the protected pay, or until such a time as the employee changes jobs voluntarily (whichever is the sooner) at which point the new salary and terms will apply.

Reckonable service: is total NHS service (aggregated if discontinuous in line with the provision of the NHS Terms and Conditions of Service handbook) but excluding service that has already been the subject of a redundancy payment or where superannuation benefit has been taken. It is the responsibility of the employee to provide evidence of previous NHS service.

Continuous service: Employment with an NHS employer without a break in service of three months or less. (see NHS Terms and Conditions of Service Handbook).

Redeployment to one band below: occurs when the new post, irrespective of its title carries a salary band lower than that applying to the post previously held.

A more senior post: is a post which carries a salary banding higher than that applying to the new post or any subsequent post to which an employee may be moved.

Payments Eligible for Protection

The following payments should be included in the calculation of the basic salary only if they are a regular requirement of the job:

- Overtime
- Shift allowance
Night allowance
Unsocial hours allowance
On call allowance

Protection of Additional Earnings

This protection will be payable where an individual will receive a reduced level of regular enhanced payments/allowances or additional earnings as a result of some form of organisational change.

Short term protection will be based on the period of time that the member of staff has received the higher level of earnings/enhanced payments.

Table 1 – Short term protection

<table>
<thead>
<tr>
<th>Period in which member of staff has received the higher level of earnings/enhanced payments</th>
<th>Protected Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 1 year</td>
<td>1 month</td>
</tr>
<tr>
<td>1-2 years</td>
<td>3 months</td>
</tr>
<tr>
<td>2-3 years</td>
<td>6 months</td>
</tr>
<tr>
<td>3-4 years</td>
<td>9 months</td>
</tr>
<tr>
<td>4+ years service</td>
<td>12 months</td>
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</table>

When calculating eligible protected earnings the calculation will be based on basic salary plus the monthly average of the additional earnings. The calculation will be based on an average taken of the 3 months worked prior to the date that the organisational change took effect.

Where an individual’s earnings in the new post are higher or equal to his/her protected earnings, the higher earnings will be paid.

At the end of the protection period the earnings of the new post will apply.

Short term protection of earnings is conditional on the employee undertaking any overtime, shift work or additional duties which may be required up to the level at which earnings in the new post equal the protected earnings.

Protection of Basic Annual Pay

Long term protection will be payable on redeployment as a result of a change in duties necessitating downgrading, or where an employee is offered a lower graded post considered to be a suitable alternative to their current post.
The following tables detail the length of protection based on length of NHS service.

For all new employees to the CCG the pay protection arrangements are as per table 2:

**Table 2 – Financial Year 2015 onwards**

<table>
<thead>
<tr>
<th>Length of NHS Continuous Service</th>
<th>Period of Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 1 year service</td>
<td>1 month protection</td>
</tr>
<tr>
<td>1 – 2 years service</td>
<td>6 months protection</td>
</tr>
<tr>
<td>2 - 3 years service</td>
<td>1 years protection</td>
</tr>
<tr>
<td>3 – 4 years service</td>
<td>18 months protection</td>
</tr>
<tr>
<td>4+ years service</td>
<td>2 years protection</td>
</tr>
</tbody>
</table>

For existing staff pay protection will apply on a staggered basis as follows in the tables below:

**Table 3 - Financial Year 2015-2016**

<table>
<thead>
<tr>
<th>Length of NHS Continuous Service</th>
<th>Period of Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 1 year service</td>
<td>1 month protection</td>
</tr>
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</tr>
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<td>1 years protection</td>
</tr>
<tr>
<td>3 – 4 years service</td>
<td>18 months protection</td>
</tr>
<tr>
<td>4 – 5 years service</td>
<td>2 years protection</td>
</tr>
<tr>
<td>5+ years service</td>
<td>3 years protection</td>
</tr>
</tbody>
</table>

**Table 4 - Financial Year 2016-2017**

<table>
<thead>
<tr>
<th>Length of NHS Continuous Service</th>
<th>Period of Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 1 year service</td>
<td>1 month protection</td>
</tr>
</tbody>
</table>
### Conditions of Pay Protection

The employee is entitled to protection of total salary, as detailed above, until:

- The period specified expires, or
- The employee is appointed to a post in which the annual basic salary is equal to or higher than the protected basic salary, or
- The employee moves to another post of their choosing, this includes if the total salary is equal to that of the existing post, or
- The employee leaves the CCG or retires, or
- The total salary of the post is equal to or exceeds the protected salary

Following the expiry of any protection period, the employee will receive the salary appropriate to the banding of the new post and incremental progression, where appropriate. The incremental date may be changed depending on the individual circumstances.

Pay in the new post will be offset against the protectable total pay. If for any particular pay period the earnings in the new post exceed the protectable total pay, protection of pay is extinguished and earnings in the new post are paid in full for that particular pay period.

Any additional earnings derived from work in the new post will be remunerated at the rate appropriate to the new post.

Where there is a reduction in hours in the new post, the employee may be asked to work additional available hours in the new role. Payment for such additional hours worked will be offset against the protected pay.

Protection of total pay is conditional on the employee undertaking any overtime, shift work or other additional duties which may be required up to the level at which earnings in the new post equal the protected earnings.

It is a shared responsibility of both the employee to apply for any suitable posts that arise mirroring more closely the terms and conditions of his/her previous post, and that of the manager to bring any suitable posts to the attention of the employee. Consideration of suitability will be based on the requirements of the person specification. Reasonable assistance will be given by the CCG to provide re-training where new skills are required. Failure on the part of the employee to

### Table

<table>
<thead>
<tr>
<th>Service</th>
<th>Protection Period</th>
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<tbody>
<tr>
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<td>6 months protection</td>
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<td>2 - 3 years service</td>
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<td>4+ years service</td>
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</table>
apply for any alternative posts commensurate with the previous post may bring the protection arrangements to an end.

Any subsequent changes in post due to organisational change shall attract protection in its own right.

Protection arrangements will cease if the employee is required to move to a new post which is of a lower grade as a consequence of disciplinary action or is downgraded within the CCG’s Capability Policy.

If the period of full protection specified above expires then an employee would mark time until one of the above criteria is met.

Long term protection of basic salary is transferable between NHS organisations and again entitlement will remain until one of the above criteria has been met.

Basic pay will be protected for the periods identified above. Total pay will be protected for the periods of time identified under the short term arrangements.

**Protection of other terms and conditions**

Employees required to move to a new post are entitled to have their contractual period of notice that the CCG is required to give them protected indefinitely. The period of notice may not be less than that provided for under statutory provisions.

Employees required to move to a new post will acquire the new hours appropriate to the new post. However, any protection of hours as a result of Agenda for Change harmonisation of hours will continue as it would have in the former post.

Employees who are required to change their base as a consequence of organisational change may be reimbursed excess daily travelling expenses for a maximum period of 4 years from the date of the transfer depending on their length of service. The reimbursement of expenses will only be paid where there is an additional 8 miles to the individuals return trip i.e. 4 extra miles to the new base. The travel expenses will be paid at the reserve rate as detailed in Agenda for Change Terms and Conditions of Service (section 17) which is currently 33p per mile.

Where there is a compulsory change of base, either permanent or temporary, resulting in extra public transport costs for the employee, these extra costs will be reimbursed, as per the table below

<table>
<thead>
<tr>
<th>Length of NHS Continuous Service</th>
<th>Period of Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 1 year service</td>
<td>1 month protection</td>
</tr>
</tbody>
</table>
Where a change in base results in staff requiring to pay for parking at the new location this will not be re-imbursed by the CCG. Free parking is not a contractual benefit and therefore will not be provided if the new premises does not allow this.

**Preservation of Pension Benefits**

Members of staff who belong to the NHS Pension Scheme whose pay is reduced when the protection arrangements cease can choose to preserve their benefits earned on the higher pay if they suffer a reduction in pay through no fault of their own and have at least two years qualifying service.

Staff considering this option must obtain advice from the Pensions Officer through the payroll provider.

**Other Provisions**

Whilst this document deals with the protection of pay and conditions of service, the CCG recognises the importance of supporting and encouraging any member of staff who has been downgraded through no fault of their own. Support may take the form of the development of a personal development plan agreed between the individual and their line manager, designed to assist them to gain a post rewarded at a similar level to that enjoyed prior to the downgrading.

Staff with existing individual protection arrangements may, upon moving to a new role to which this policy will apply, either choose to continue the existing protection, or accept this protection arrangement. When the relevant agreement expires, the individual will move to the normal contractual terms and conditions.

**Right of Appeal**

Any grievance arising out of the operation of these arrangements may be raised under the CCG’s Grievance Procedure.