

PROTECTION POLICY

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PROTECTION POLICY

1.0 INTRODUCTION

- 1.1 This Protection Policy applies to all Council employees whose protection commences on, or after 1 April 2017, with the exception of those on teacher's terms and conditions as separate safeguarding has been agreed nationally for this group of employees.
- 1.2 Protection is a payment made for a time limited period to employees whose contractual earnings are reduced, through no fault of their own following a restructure or redeployment. Examples include:
- Where an employee has a loss of hours e.g. from 37 to 30.
 - Where an employees' substantive post has been re-evaluated e.g. from Grade 7 to Grade 6.
 - Where an employee has a combination of hours loss and a lower grade.
 - Where an employee is redeployed to a position on a lower grade e.g. due to ill-health or as an alternative to redundancy.
- 1.3 Pay Protection will not apply to employees who are redeployed as a result of a disciplinary sanction.
- 1.4 Where it is considered necessary to vary contractual conditions or change working practices following the approval of the option appraisal report; protection will **NOT** apply either where the employee(s) agree to the requested variation and/or where the Council gives notice to terminate the contract and offers a new contract with revised terms and conditions.
- 1.5 Under the amended 2013 Collective Agreement with the Trade Unions, the right to protection in accordance with this policy is accepted to be a contractual entitlement of every employee and in the event that an employee's employment should transfer to another employer under the Transfer of Undertakings (Protection of Employment) Regulations the transferee will be advised of the contractual effect of the policy.

2.0 PROTECTION SCHEME

- 2.1 Ordinarily, protection of earnings is not applicable to employees who have voluntarily applied for a post on less earnings, however, where the employee's manager confirms that this is an alternative to a potential redundancy and there is an overall cost benefit to the service then protection will apply.
- 2.2 Where it is determined that protection is applicable it will be paid to the employee for a period of 18 months when protection commences from 1st April 2017 to 31st March 2018. From 1st April 2018 protection will be paid for 12 months.
- 2.3 The calculation to determine the amount of protection will be the whole difference between the employee's current contractual earnings and the new contractual earnings unless the protection figure is more than the employee's redundancy entitlement. If this is the case then the amount of protection will be capped at the employee's redundancy figure.
- 2.4 The Director of Human Resources, Performance and Communications and the Trade Union will jointly resolve any disputes as to whether remuneration is contractual. In the event that agreement is not reached, the Council's legal advisors will determine the matter.

Example of a protection calculation – loss of grade and enhancements

2.5

The difference between your current contractual earnings Grade 7 (£29,033) + 10% shift pay (£2,903)		£31,936
and the contractual earnings of the new post – Grade 5 (£22,434)	-	£22,434
Annual protection payment - paid for 18 months or 1 year	=	£ 9,502

2.6

Example of a protection calculation – loss of hours

The difference between your current contractual earnings Grade 7 on 37 hours		£29,033
and the contractual earnings of the new post Grade 7 on 30 hours	-	£23,540
Annual protection payment - paid for 18 months or 1 year	=	£ 5,493

2.7

Employees in receipt of protection will be required to undertake additional hours or duties commensurate with their protected earnings/hours for no additional payment, where service need dictates and where the request is reasonable to the employee e.g. this does not conflict with any other employment.

2.8

Employees in receipt of protection retain category 3 at-risk status for the duration of their protection. Where a reasonable opportunity to obtain alternative employment to return to the pre-pay protection earnings is presented an employee must apply for the position. Should the employee choose not to apply for the reasonable alternative employment then pay protection may be withdrawn.

3.0

REDUNDANCY

3.1

Should an employee in receipt of protection find themselves redundant then providing they have at least 2 years service they will still have the entitlement to receive their redundancy payment (based on their protected earnings) regardless of whether this is on a voluntary or compulsory basis.

4.0

TRIAL PERIODS

4.1

Protection will start at the commencement of the trial period, if applicable. Should the first trial subsequently fail, the protection period will be suspended and recommence at the commencement of another trial period.

4.2

If a second trial period is necessary then protection will be paid for the remainder of the pay protection period (18 months or 1 year) minus any period of protection already paid during the first trial.

5.0 **PAY AWARDS**

5.1 Although employees in receipt of protection will receive any nationally negotiated pay awards, which will effectively increase their basic salary, their protection payment will decrease by the equivalent amount so that their level of earnings remain the same.

Example

£25,694 (Grade 6) - £19,939 (Grade 4) = £5,755 Protection Earnings = £19,939 salary + £5,755 protection = £25,694
£19,939 x 1% pay award = £199 New salary with pay award = £19,939 + £199 = £20,138
£25,694 (Grade 6) - £20,138 (new Grade 4) = £5,556 revised protection Earnings = £20,138 salary + £5,556 protection = £25,694

6.0 **OVERTIME PAYMENTS**

6.1 Where an employee is in receipt of protected earnings and works overtime, this is paid at the rate for the job and not at the protection level.

7.0 **PENSIONS**

7.1 Under the Local Government Pension Scheme Regulations there is a provision which protects employee's contributions where they suffer a loss in contractual earnings.

7.2 For any further advice employees must contact South Yorkshire Pensions Authority.

8.0 **TEMPORARY SECONDMENTS**

8.1 As the purpose of protection is to ensure that employees suffer no detriment in terms of contractual pay, if during the period of protection the individual secures a temporary secondment into a post on a salary equivalent to their previous position or higher, the protection payments will cease during the secondment however the protection period will continue after the secondment has ended.

8.2 If the contractual earnings in the seconded position are lower than the employees original contractual earnings but higher than the contractual earnings in their redeployed position then protection payments will be adjusted to top up the revised earnings.

8.3 At the end of the secondment if the employee returns to their redeployed position, if protection has been paid for less than 18 months or a year then the protection payments will be revised again and continue for the remainder of the protection period.

9.0 **MATERNITY LEAVE**

9.1 Where an employee is in receipt of protection and commences maternity leave their protection will be suspended on commencement of their maternity leave and will recommence when the employee returns to work. If the employee chooses not to return to work following maternity leave they will not receive the remainder of their protection.

10.0 **EQUALITY AND DIVERSITY**

- 10.1 This policy has been impact assessed by Human Resources, if on reading this policy you feel there are any equality and diversity issues, please contact your Directorate Human Resources Business Partner who will if necessary ensure the policy is reviewed.

11.0 **INCOME TAX AND NATIONAL INSURANCE CONTRIBUTIONS**

- 11.1 Protection of earnings payments are assessable to tax under pts 2 and 8 of the Income Tax (Earning and Pensions Act 2003). Therefore payments made by the Council to its employees in respect of protection of earnings are subject to income tax and national insurance contributions in the normal manner, having regard to tax and national insurance levels and rates at the time the payment is made.

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