

## Protection of Pay Guidance

There are two provisions under which a member can protect their pensionable pay.

Protection of pay through no fault of the member (both Sections of the Scheme).  
Voluntary Protection of Pay (1995 Section only).

### Protection of Pay (through no fault of the member)

A member who has at least two years qualifying service and suffers a reduction in earnings through no fault of their own, may apply to protect their pension benefits.

Examples of accepted reasons for protection of pay are:

- A change in the nature of the duties performed for example due to ill health
- A move to a lower paid post because of pending or actual redundancy.
- Being transferred to other employment with an employer.

We can consider protecting pension benefits when redundancy results in a member receiving a lower rate of pensionable pay within 12 months of redundancy. As pension benefits are automatically deferred after a break of 12 months, a member would not need to apply for protection if returning to NHS pensionable employment 12 months or more after being made redundant.

Where pay is to 'mark-time' for a specified period pensions can be protected at the beginning and the end of the mark-time period.

### Voluntary Protection of Pay (VPP)

If a member of the 1995 Section of the Scheme chooses to 'step down' to a less demanding role where their new or remaining duties are less demanding and carry less responsibility than their previous duties, they may be able to apply for voluntary pay protection.

VPP was introduced from 1 April 2008 to provide more flexibility in the 1995 Section of the Scheme. The provision supports the improving working lives (IWL) initiatives which exist in the NHS and recognises that in the run up to retirement a member may prefer, if possible, to remain in NHS employment, perhaps in a lesser capacity, whilst protecting their pension benefits.

This provision allows an employer to maintain valuable knowledge and skills of a member who may otherwise have left the NHS. Any 'step down' will therefore be agreed between the employer and the member and the employer will have to provide NHS Pensions with information that the 'step down' has been agreed.

The provision is not intended for situations where a member leaves one employer and joins another on a reduced rate of pay. The provision is intended for lasting, rather than trivial or short-term reductions in pay.

The following criteria must be met:

- A member must be in the 1995 Section of the Scheme.
- A member must have stepped down to a less demanding role where the new, or remaining duties are less demanding and carry less responsibility than the previous duties. This must be confirmed by the employer(s).
- A member's pensionable pay has reduced by at least 10 percent for a period of at least one year, beginning with the first pay day on which the reduced pensionable pay was paid, as verified by the employer(s).
- The member's pensionable pay has not been subject to any other reductions in the 12 month period before they stepped down, as verified by the employer(s).

- An application has been made after 12 months, but within 15 months, of the pensionable pay being reduced.
- The member has attained their normal minimum pension age. (Further information about minimum pension age can be found in the Scheme Guide).
- The member has attained at least 2 years qualifying membership within the NHS Pension Scheme at the time they step down.
- The member has not previously protected their pensionable pay under the Voluntarily Protected Pay provision.

### **How does a member apply?**

The member should complete form 'SMR9 App' form and send this to the employer.

On receipt of a completed 'SM R9 App' form, (or written request) from a member you should complete form SM R9 EA, ensuring that all relevant information is provided. Send the form to NHS Pensions along with the SM R9 App, (or written application) from the member.

NHS Pensions will consider the application and write to the employer with the outcome.

### **Time limits**

**Protection of Pay** through no fault of the member – requests should be made within 3 months of the member going on to reduced pay.

**Voluntary Protection of Pay** – Requests should be made after 12 months, but within 15 months of the pensionable pay being reduced.

A member does not need to apply if:

- The member is reducing their hours but not their hourly rate of pay. This is because we always use the notional whole time equivalent pay when calculating retirement benefits.
- The reduced pay is due to Agenda for Change, as the employer should have automatically requested protection of pay through the AFC flag.

### **If a member's application is accepted how will the pension be calculated?**

When a member retires, if they have one period of protection, two pensions will be calculated. A pension based on the protected rate of pay\* plus inflation increases for membership up to the date of protection and a second pension for membership after that date will be calculated using pay\* at retirement.

If by retirement the protected pay plus inflation increases is not more beneficial, then the whole of the pension benefits will be calculated using pay\* at retirement.

\*1995 Section - The best of the last three years pensionable pay

\*2008 Section - The reckonable pay, which is an average of the best three consecutive years pensionable pay in the last ten years

**Remember:** in the 2008 section, voluntary protection of pay does not apply.

NHS Pensions  
Hesketh House  
200 - 220 Broadway  
Fleetwood  
Lancashire  
FY7 8LG

Employing Authority Name and Address

EA Code:

EA Ref:

Date:

### Form SM R9 EA - Request to Protect Pensionable Pay

Member's full name:

SD Number:

NI Number:

Please tick one box for the type of protection being requested (✓)

Protection of pay (through no fault of the member)	<input type="checkbox"/>
Voluntary Protection of Pay (1995 section only)	<input type="checkbox"/>

I confirm that the member's records have been updated to the current financial year using Pensions On Line, or I have attached form SD55 as I do not have access to Pensions On Line. ✓

Are there any changes in employment since the last update? Yes  No

from	/ /	to	/ /	nature of change	
from	/ /	to	/ /	nature of change	

#### Complete if the member is contributing to the 1995 Section

Preservation date

*(provide the employer Total Pensionable Pay (TPP) in all cases)*

The 365 days TPP for the best of the last three years up to the date of reduction or mark time is:

Period used: from  to  (account for any disallowed days)

Actual TPP (in all cases)	£	Notional Whole Time TPP (if part-time)	£
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#### Complete if the member is contributing to the 2008 Section

Preservation date

*(provide the employer pensionable pay in all cases)*

The pensionable pay from the 1 April to the day before the date of reduction or mark time is:

Period used: from  to  (account for any disallowed days)

Actual pensionable pay (in all cases)	£	Notional Whole Time pensionable pay (if part-time)	£
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Hours worked during this period (if part-time)

**Protection of Pay (through no fault of the member)**

Please give details of the reason for pay protection (continue on a separate sheet if necessary and / or provide additional supporting information).	
Is the reduction in pay through no fault of the member?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Has the application been made within 3-months of the reduction in pay? If no, please provide the reason for the delay	Yes <input type="checkbox"/> No <input type="checkbox"/>

**Voluntary Protection of Pay (VPP)**

As the employer we have arranged a step down in duties for this member and can confirm the following:	
Did the member step down to a less demanding job with less responsibility? Please provide further details, for example reduction from AFC band 7 to band 6.	Yes <input type="checkbox"/> No <input type="checkbox"/>

Has the pay reduced by at least 10% for a period of at least one year, beginning with the first pay day on which the reduced pensionable pay was paid? (For example: if the member's pay reduced on the 15 <sup>th</sup> June and the pay day was the 25 <sup>th</sup> June, the member's pay would have to remain at the reduced rate until 24 <sup>th</sup> June the following year).	Yes <input type="checkbox"/> No <input type="checkbox"/>
Has the pay been subject to any other reduction in the previous 12-months?	Yes <input type="checkbox"/> No <input type="checkbox"/>

**Note:** If the member has concurrent part time employments, or has stepped down between two employers, we will need to obtain the additional pay details.

Once all information has been received, NHS Pensions will consider the application and write to you with the outcome.

**Now complete the following authorisation before returning this form to NHS Pensions and remember to attach the SM R9 App form or enquiry from the member.**

I certify that the above is correct.

Authorised Signature	<input type="text"/>
Print Name	<input type="text"/>
Official position	<input type="text"/>
Date	<input type="text"/> / <input type="text"/> / <input type="text"/> (dd/mm/yyyy)