# NHS Pensions - Protection of Pay and Voluntary Protection of Pay – Member Factsheet

### Introduction

If you have at least two years qualifying membership and suffer a reduction in the rate of your pensionable pay, you may be able to protect pension benefits earned in the 1995 or 2008 Sections of the Scheme.

Where protection applies, it means the 1995/2008 benefits earned prior to the reduction can continue to be based on the higher rate of pay.

There are two provisions under which you can apply to protect your pensionable pay:

* Protection of Pay (through no fault of the member) This applies to 1995 and 2008 Section membership only
* Voluntary Protection of Pay (1995 Section membership only)

Protection of Pay and Voluntary Protection of Pay are only relevant to benefits earned in the 1995/2008 Scheme, which are based upon your final salary. These protections are not relevant to benefits earned in the 2015 Scheme, because it is a Career Average Revalued Earnings (CARE) scheme where the benefits earned are based on pensionable earnings across your career.

If you have benefits in the 1995/2008 Scheme and move to the 2015 Scheme, you may retain a ‘final salary link’ for the calculation of your 1995/2008 Scheme benefits, providing that you do not have a break in membership of five years or more after your membership of the 1995/2008 Scheme ceased.

The final salary link enables the 1995/2008 Scheme benefits to be based upon your final pensionable salary up to your retirement date, provided the link continues to apply. If the final salary link is lost before retirement, the 1995/2008 Scheme benefits will be based upon your pensionable salary earned up to the date the link ceased to apply.

If you retain a final salary link to 1995/2008 benefits and your rate of pay reduces, you can request protection of pay or voluntary protection of pay, subject to meeting the eligibility criteria.

Protection of Pay and Voluntary Protection of Pay are not relevant if the higher paid employment is immediately followed by a break in membership of 12 months or more. This is because once a break in membership of 12 months has occurred, the benefits earned before the break are automatically preserved (protected), based on the level of pay prior to the break.

**Protection of Pay (due to a reduction in pay through no fault of your own)**

**Eligibility criteria**

To be eligible you must:

* have at least two years qualifying membership
* have suffered a reduction in pensionable pay through no fault of your own
* apply for protection of pay within three months of going onto reduced pay or marking time
* be a member of the 1995 or 2008 Section or have a final salary link to preserved 1995/2008 Scheme benefits when you moved over to the 2015 Scheme

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 due to re-organisation by your employer

Where pay is frozen for a specified period (known as marking-time), protection can be requested at the beginning and at the end of the mark-time period.

There is no age restriction or minimum level of pay reduction requirement and there is no limit to the number of requests you can make, if your pay reduces through no fault of your own on more than one occasion.

**Redundancy**

If you are a protected 1995/2008 Scheme member who is made redundant, we can consider protection of pay if you return to NHS employment on a lower rate of pensionable pay within 12 months of being made redundant.

If you have moved over to the 2015 Scheme with a final salary link to your 1995/2008 Scheme benefits and are then made redundant, we can also consider protection of pay if you return to NHS employment on a lower rate of pensionable pay within 12 months.

Please note that pension benefits in the 1995/2008 Scheme are automatically preserved (protected) after a break in membership of 12 months or more. The same applies for 2015 Scheme members with a final salary link.

This means you would not need to apply for protection of pay if returning to NHS employment on a lower rate of pay 12 months or more after being made redundant.

**Voluntary Protection of Pay**

If you have reached minimum pension age and choose to step down to a role where your new or remaining duties are less demanding and carry less responsibility than your previous duties, you may be able to apply for Voluntary Protection of Pay if your pay reduces by 10% or more.

Voluntary Protection of Pay was introduced from 1 April 2008 to provide more flexibility in the 1995 Section of the Scheme. The provision supports the Improving Working Lives initiatives which exist in the NHS and recognises that in the run up to retirement you may prefer, if possible, to remain in NHS employment, perhaps in a lesser capacity, while protecting your pension benefits.

This provision also allows an employer to maintain the 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 also intended for lasting, rather than trivial or short term reductions in pay.

It would normally be expected that the step down would occur with the same employer. However if a suitable role to ‘step down’ to cannot be provided by one employer, but can be arranged with another, this would be acceptable. In this case both employers will have to provide information that confirms a ‘step down’ arrangement 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 without an agreement between employers.

**Eligibility criteria:**

To be eligible you must:

* be a member of the 1995 Section or have a final salary link to 1995 Section pension benefits
* have stepped down to a role where your new or remaining duties are less demanding and carry less responsibility than your previous duties (as confirmed by your employer(s))
* have a reduction in pensionable pay of 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 (as verified by your employer(s))
* not had any other reduction in pensionable pay in the 12 month period before you stepped down (as verified by your employer(s))
* have applied after 12 months, but within 15 months, of your pensionable pay being reduced
* have attained your minimum pension age in the 1995 Section at the time the reduction in pay occurs (further information about minimum pension age can be found in the Member Guide)
* have attained at least two years qualifying membership within the NHS Pension Scheme at the time you step down
* have not previously protected your pensionable pay under the Voluntary Protection of Pay arrangements

Where a change in duties following a period of ill health results in a reduction of pay, you may be able to apply for Protection of Pay (through no fault of your own), if this is more relevant to your circumstances.

As noted above, you can only ever have one accepted request for Voluntary Protection of Pay but this provision is still available if Protection of Pay (through no fault of your own) has already been accepted for an earlier period of membership.

**General information relevant to both Protection of Pay and Voluntary Protection of Pay**

**How to make an application**

You should complete the Request to protect pensionable pay (SM R9 App) form which is available on our website. Please bear in mind the time limits for your application (see eligibility criteria) and ensure you have completed all relevant details before sending to your employer (not to NHS Pensions). Your employer will provide additionally required information before sending the application to NHS Pensions.

If you have either suffered a reduction in pay between employers due to redundancy or where you have voluntary stepped down between employers, please send the form to the earlier employer. Upon receipt of your application from them NHS Pensions will then need to contact your current employer to verify that protection of pay applies.

Your employer will let you know if your application has been accepted or not, but please be aware that it can take NHS Pensions 40 working days from the receipt of your application before a response can be sent to your employer.

**You do not need to apply to protect pay if:**

You are only reducing your hours and not your hourly rate of pay. This is because we always use whole time equivalent pay when calculating retirement benefits for the 1995/2008 Scheme.

You are a Practitioner. Protection of Pay is not relevant for 1995/2008 Scheme Practitioner employment as pension benefits are based on their earnings throughout their career and revalued. This is known as a Career Average Revalued Earnings (CARE) pension which has similarities to the 2015 Scheme.

**How your pension is calculated if an application to protect pay is accepted**

**Membership in the 1995 or 2008 Sections**

When you retire, if you have protected and non-protected periods in the 1995 or 2008 Section, separate pensions will be calculated for each period. Benefits for the protected period will be calculated using your protected pay, plus cost of living increases. Benefits for non-protected periods will be based on your pay at leaving or retirement. The benefits for all periods are then added together.

For any protected period, we will check to see if calculating all your 1995/2008 Section benefits using your pay\* at retirement will result in greater benefits than calculations using your protected pay. Your benefits will be based on the method that is most beneficial for you.

**2015 Scheme members with a final salary link to their 1995/2008 Section benefits**

If pay is protected after moving to the 2015 Scheme and where a ‘final salary link’ applies, when you retire we will calculate your 1995/2008 Section benefits using the protected pay plus cost of living increases.

We will then compare this with a calculation of your 1995/2008 Section benefits, based on your pay\* at retirement (or when your final salary link ceases to apply, if earlier).

The 1995/2008 benefits you receive will be based on the calculation that is most beneficial for you.

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

\*2008 Section membership - The reckonable pay, which is an average of the best three consecutive years pensionable pay in the last 10 years.