

## **NHS Pensions - Protection of Pay and Voluntary Protection of Pay**

### **Introduction**

If you have at least two years qualifying membership and suffer a reduction in pensionable pay, you may be able to apply to protect your pension benefits.

There are two provisions under which a member can apply to protect their pensionable pay:

- Protection of pay through no fault of the member (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 the member's 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 the member's 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.

However, should your pay reduce and mean the salary link is not more beneficial, you are able to request voluntary or involuntary protection of pensionable pay subject to the eligibility criteria. Protection of Pay and Voluntary Protection of Pay are not relevant once pension benefits have become deferred. Deferment occurs automatically to protected 1995/2008 Scheme members after a break in pensionable membership of 12 months, or after a period of five years where a salary link exists between the 2015 Scheme and 1995/2008 Scheme membership.

### **Protection of Pay (due to a reduction in pay through no fault of the member)**

#### **Eligibility criteria**

- You must have at least two years qualifying membership.
- Have suffered a reduction in pensionable pay through no fault of your own.
- You must apply for protection of pay within three months of going onto reduced pay or marking time.
- You must be a protected member of the 1995 or 2008 Section or have a salary link to 1995/2008 Scheme preserved rights where you have 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 reorganization.

Where pay is to 'mark time' for a specified period, 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 on more than one occasion.

For protected 1995/2008 Scheme members who are made redundant, we can consider protecting pension benefits when a member returns to NHS employment on a lower rate of pensionable pay within 12 months of redundancy.

As pension benefits are automatically deferred after a break of 12 months in the 1995/2008 Scheme, a member would not need to apply for protection of pay if returning to NHS pensionable employment 12 months or more after being made redundant.

If a member has moved over to the 2015 Scheme with a final salary link to 1995/2008 Scheme pension benefits and is then made redundant, we can consider protecting the pension benefits if the member returns to a lower rate of pensionable pay within five years.

As pension benefits are automatically deferred after a break of five years where the salary link would be broken, a member would not need to apply for protection.

## 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 a member may prefer, if possible, to remain in NHS employment, perhaps in a lesser capacity, while protecting their 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:**

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

You do not need to apply for Voluntary Protection of Pay where a change in duties following a period of ill health results in a reduction of pay, instead you can apply for Protection of Pay (through no fault of your own).

As noted above, you can only ever have one accepted request for Voluntary Protection of Pay but this provision is still available when 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. Ensure you have completed all relevant detail 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 voluntarily 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 several weeks before a response can be sent.

### **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 the notional 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**

If you have one period of protection when you retire, two pensions will be calculated. A pension based on your protected rate of pay\* plus cost of living increases for membership up to the date of protection, and a second pension for membership after that date which will be calculated on your pay\* at retirement.

If by retirement, the protected pay plus cost of living increases is not more beneficial to you, then the whole of your 1995/2008 Scheme pension benefits will be calculated using your pay\* at retirement.

\*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.