

**CITY OF YORK COUNCIL**

**SUPPORTING TRANSFORMATION  
(Management of Change)  
GUIDELINES**

**PAY PROTECTION**

**OVERVIEW**

The document supplements the Council's Supporting Transformation (Management of Change) procedures and provides guidance on the pay protection arrangements available to employees who are adversely affected by organisational change.

## **SUPPORTING TRANSFORMATION (Management of Change) - GUIDELINES REORGANISATION AND REDUNDANCIES - PAY PROTECTION**

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### **1.0 INTRODUCTION**

- 1.1 It is recognised that in any change exercise employees may be redeployed into a lower graded post, or their terms and conditions may be legitimately reduced. It is City of York Council policy that in such circumstances employees will be entitled to pay protection in order to allow those employees sufficient time to adjust to their changed circumstances and to retain valuable staff who otherwise may be lost.
- 1.2 The aim of the Council's pay protection provisions is to progressively move employees closer to their substantive pay level in order that they can plan and manage the change. The provisions are designed to mitigate the employee's loss as soon as possible and also to help and assist employees mitigate their own losses, whilst recognising that all pay protection arrangements must be affordable within the context of the Council's finite budgetary provisions.

### **2.0 PRINCIPLES OF PAY PROTECTION**

- 2.1 The Council's Pay Protection scheme is based on the following principles:
- i. To compensate employees when their contractual earnings are reduced by the Council;
  - ii. To cushion the impact of a reduction in contractual earnings, (subject to a limit), including any reduction in earnings arising from a reduction in hours, to allow those employees sufficient time to adjust to their changed circumstances and to retain valuable staff who otherwise may leave the Council;
  - iii. Employees must not make a net gain in contractual earnings as a result of pay protection;
  - iv. To ensure that all pay protection arrangements fulfil the Council's obligations in respect of its public sector equalities duties and to avoid any form of unlawful discrimination.

### **3.0 DEFINITION OF TERMS**

- 3.1 The following terms will apply throughout the pay protection scheme:

'Date of Protection' is the date that the agreed contractual changes start.

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‘Old Basic Pay’ is the contracted basic pay for the job held by the employee prior to the change or the contracted basic pay including any existing pay protection arrangements.

‘Old Contractual Allowances’ is the contractual allowances that may be reduced as a result of the changes including any existing pay protection arrangements.

‘Old Contractual Earnings’ is ‘Old Basic Pay’ plus ‘Old Agreed Contractual Allowances’.

‘New Basic Pay’ is the new basic pay applicable to the grade of the new job.

‘New Contractual Allowances’ is any contractual allowances applicable to the new job.

‘New Contractual Earnings’ is the new basic pay plus the new contractual allowances.

‘Pay Protection’ is the amount payable as a result of the Pay Protection Calculation.

‘Protected Pay Limit’ is the calculated maximum amount of contractual earnings that can be protected where there is a loss of more than 15%’

### **4.0 ELIGIBILITY**

4.1 Employees who are redeployed to a lower graded post will be entitled to pay protection in accordance with the following scheme. Employees whose terms and conditions are altered and their pay is subsequently reduced will also be entitled to pay protection in accordance with the following scheme.

4.2 In addition to employees who are redeployed to a lower graded post, employees who have their terms and conditions amended due to organisational change and consequently suffer a detriment, will also be entitled to pay protection.

4.3 Every effort will be made to offer a redeployee a post with hours comparable to their former post. Where this is not possible and the employee’s hours of work are reduced, pay protection will be given where the employee’s overall earnings drop as a result.

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- 4.4 Pay protection arrangements will not apply to pay items where the contract contains a clause which allows notice to be given to vary specific terms of that contract and the pay element to be stopped. Likewise, protection will not be afforded to employees where an organisational change or a change to working practices reduces access to payments made as a result of voluntary arrangements, for instance ad hoc overtime.
- 4.5 For some employees their annual leave entitlement is related to the grade of their post. Where redeployment to a lower graded post results in a lower annual leave entitlement, the lower entitlement will apply from the commencement of the next leave year.
- 4.6 Employees who opt to voluntarily apply for lower graded posts, not those posts that are offered as a redeployment opportunity, will not be eligible for pay protection. Likewise, employees who revert back to a substantive post or a post they previously filled from a temporary arrangement i.e. a secondment, acting up arrangement, or the undertaking of temporary additional duties, will not be eligible for pay protection unless the grade of the post they revert back to has been altered in the meantime.
- 4.7 The Council's established pay protection scheme will apply as described. Managers do not have the discretion or delegated authority to agree alternative arrangements.

### **5.0 EMPLOYEE SUPPORT ARRANGEMENTS**

- 5.1 In addition to pay protection payments, those employees in receipt of pay protection will be eligible for secondary redeployment status. [Go to redeployment guidelines here for further information](#)

### **6.0 EMPLOYEE'S OBLIGATIONS**

- 6.1 All employees in receipt of pay protection have an obligation to mitigate their own loss. All employees in receipt of pay protection payments are therefore required to co-operate with the Council's redeployment process and also to proactively seek suitable alternative employment outside of the formal redeployment process.
- 6.2 In accordance with the Council's redeployment procedure, should an employee be considered not be co-operating with the redeployment

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process or should the employee not be taking reasonable steps to mitigate their own loss, they will forfeit their right to pay protection.

### **7.0 PAY PROTECTION SCHEME**

#### **7.1 Limit to pay protection**

7.1.1 The amount of pay protection will be limited. Pay can be protected from the actual contracted earnings to a level equating to a loss of up to but not exceeding 15% of contractual earnings. This will be known as the protected pay limit.

7.1.2 To determine if a limit needs to be applied the following calculation will take place. For ease of illustration the word 'salary' is used below. This intends to cover situations where there is basic pay only or basic pay and contractual allowances:

7.1.2.1 Calculate the percentage difference between the old salary and the proposed new salary. Any percentage in excess of 15% will not be protected, so where a loss of 18% is calculated, 3% of salary will not be protected.

7.1.2.2 Where there is a loss of more than 15%, any excess of salary over 15% is deducted from the old salary at the effective date of change. This then becomes the 'protected pay limit.'

7.1.2.3 The payroll calculation for the establishing the protected pay limit will be:

$$(\text{Old salary} \times 0.15) + \text{proposed new salary} = \text{protected pay limit}$$

#### **7.2 Pay Protection Calculation – Year 1**

During the first 12 months from the Date of Protection the amount of Protected Pay will be equivalent to 100% of the pay protection calculation or the protected pay limit

#### **7.3 Pay Protection Calculation – Year 2 onwards**

In subsequent years, the Pay Protection Calculation will be recalculated every year as follows:

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The Old Contractual Earnings, or the protected pay limit figure will be reduced by 5% per year to produce a revised Old Contractual Earnings figure. In addition, every year, annual pay awards, any basic pay increments and any flow through of annual pay awards to New Contractual Allowance rates will be added to New Contractual Earnings to produce a revised New Contractual Earnings figure.

Pay protection will cease at the date when the amount of revised New Contractual Earnings equals or exceeds the revised Old Contractual Earnings and the result of the Pay Protection Calculation is nil.

### **7.4 Operation of Pay Protection**

Pay protection will only be paid where the Pay Protection calculation shows a net loss.

The full Pay Protection Calculation must be considered i.e. agreed contractual allowances must be added into both sides of the equation.

Pay protection will be paid if the new contractual earnings figure is higher than Old Basic Pay, but losing the 'Old Agreed Contractual Allowances' leaves the employee's New Contractual Earnings less than before.

No pay protection will be paid even if the New Basic Pay is lower than Old Basic Pay, if adding the New Contractual Allowances mean the employee earns the same or more New Contractual Earnings than before.

The new protection arrangements will be effective from the date of the contractual change. Staff will receive their new salary from that date with pay protection paid in addition as a supplement, as calculated under the terms of this agreement.

### **7.5 Variable Basic Pay**

Where basic pay differs from pay period to pay period, the amount of Pay Protected Calculation will be based on an average of Old Basic Pay over the twelve weeks prior to the Date of Protection.

### **7.6 Holiday Pay for leavers during Pay Protection period**

If an employee leaves the Council while on Pay Protection, the outstanding holiday pay owed or owing will be calculated as follows:

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If the employee has taken more holiday than they have accrued and owes the Council holiday pay then the New Contractual Earnings figure will be used for the calculation of the amount of holiday pay to reclaim. (i.e. not including the protected element).

However, if the employee has accrued more holiday entitlement than they have taken and is owed holiday pay by the Council then the relevant element of Protected Pay will be added to the New Contractual Earnings figure for the calculation of holiday pay.

### **7.7 Redundancy during Pay Protection period**

Should an employee be made redundant while in receipt of Pay Protection, then the relevant element of Protected Pay will be included with the salary figure to be used for the calculation of redundancy pay.

### **8.0 PENSION PROTECTION**

8.1. Employees who are members of the Local Government Pension Scheme (LGPS) and who have an immediate loss of pensionable pay will receive Protection of Pension Benefit, in accordance with the rules of the LGPS.

### **9.0 COST**

9.1 The cost of pay protection will be borne by the department from which the employee is being initially redeployed or which is undertaking the change.

### **10.0 DISPUTES**

10.1 It is expected that disputes concerning an employee's eligibility for pay protection and those items that are eligible to be included will be resolved between the manager and the employee after seeking advice from HR. However if agreement can not be reached, the employee can request that the decision is reviewed by the Head of Human Resources and Organisational Development, or nominated substitute whose decision will be final. No further right of appeal exists after this.

[Go back to reorganisation and redundancy page on colin here](#)