



Human Resources Department

Organisational Change Policy

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V1.0	Aug 2003	David McCracken	Part of the suite of policies developed to support the move from Health Trusts to one Health Board
V2.0	May 2019	G Bouglas	Borderised Model Policy from the NHS Circular: PCS(AFC)2019/5

Review History

Review Date	Reviewer (s)	Recommendations
May 2019	G Bouglas	Combine NHS Borders existing policy (outlining process) with the above circular that provides specific detail on the aspect of organisational change pay protection

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ORGANISATIONAL CHANGE PAY PROTECTION

1 Policy statement

This policy will be applied to all changes that meet the definition of organisational change within NHS Borders.

NHS Borders recognises that a process of organisational change places additional emphasis on the requirement to keep employees informed of any proposed changes to their roles or responsibility. Where changes to the work pattern or job security of employees are considered, this will be undertaken with close involvement and consultation with staff and their representatives. NHS Borders is committed to the key principles of openness, fairness and equity.

For the purposes of pay protection, organisational change is defined as a management or organisational change which impacts on an individual's contractual earnings or where the individual is redeployed into a lower banded post. In these circumstances, organisational change protection will apply on a no detriment basis.

2 Scope

This policy applies to all staff employed on Agenda for Change Terms and Conditions and will be applied on a prospective basis.

3 Key principles

Change should take into account the strategic objectives of NHS Borders.

The principles described below apply in protection situations:

- ⊕ “No detriment” protection means that staff will be no worse off, but not any better off, and they will continue to receive the benefit of annual pay uplifts and increments
- ⊕ Managers must involve HR and the relevant Trades Unions in discussions regarding protection at an early stage
- ⊕ Managers must alert the Pay Department to the possibility of protection being required in order that they can plan for this
- ⊕ Managers should avoid making temporary changes to working hours and working patterns which, through default, become long term and therefore may result in protection of earnings e.g. overtime working which becomes the norm
- ⊕ Appropriate performance monitoring and assurance arrangements will be locally implemented with reporting through the Area Partnership Forum and nationally

via STAC. The Area Partnership Forum may also access STAC for points of clarification and interpretation if necessary

- ⊕ Protection will be applied to that component that changes as a consequence of organisational change i.e. if the change relates to shift patterns the element of pay that will be protected relates to the shift changes
- ⊕ To ensure consistency and uniformity in calculating the level of earnings to be protected a reference period of 12 months will be applied. This will be adjusted accordingly for any employee on maternity leave or long term sick leave during the 12 month period or any other exceptional individual circumstance. Employees moving into protected earnings will receive written confirmation and guidance on how protected earnings will be applied and arrangements for working up to the level of protection
- ⊕ Individuals who, having received these written confirmations, do not wish to work up to the level of protection described may forgo their right to protection of earnings
- ⊕ Employees who unreasonably refuse to work up to the previously agreed level of protection will forgo their right to protection of earnings
- ⊕ Local operational unit level and Board level monitoring of protection i.e. to review the degree to which individuals work up to the level of protection is being explored via the SSTS Team. If a solution is found, reporting on this aspect of protection will also be incorporated into the monitoring arrangements
- ⊕ For employees who require grade protection as a consequence of organisational change, employers need to redeploy into suitable alternative posts as soon as possible, ensuring that staff maintain their skills and competencies. Employees also have an obligation to maintain their skills and competencies. To ensure redeployment is maximised, and operates in line with PIN guidelines, STAC will monitor the situation on a six monthly basis
- ⊕ Employees who unreasonably refuse suitable redeployment into a post at the level of the protected grade will forgo their right to grade protection
- ⊕ If employees secure a promoted post or their post is subsequently re-graded (in the same role) they will be placed on a pay point that takes into account their protected earnings to ensure no detriment. If the protected earnings exceed the top of the new pay scale they will move to the top and the balance of protected earnings will be paid on a mark time basis.

4 Process

4.1 Consultation and staff involvement

When a need for organisational change has been identified there will be immediate Partnership involvement. The available information will be communicated to the affected staff groups or individuals as soon as is practicable.

Staff should be informed of the details of any Organisational Change at either individual or group meetings arranged by the appropriate line manager and Human Resources Department. Line managers, Human Resources professionals and staff representatives will work in partnership in developing plans and identifying staffing implications.

The process of communication, both to the affected staff and wider staff groups, will continue throughout the period of change.

4.2 Identification of affected staff

Through the processes of restructuring it will be possible to identify posts that will be affected by Organisational Change. Such posts will fall into two main categories:

Those which will not be required in the new organisation; or

Those which will remain, but will be subject to a substantial degree of adjustment such as different duties, different pattern of working hours or change in behaviours/competencies required

Where posts either disappear or are substantially changed, a procedure will be established to ensure that the right people are appointed to, or otherwise accommodated, in the right jobs. Staff whose posts are substantially affected by the organisational change will be included in a “ring-fencing” process to safeguard initial limited internal competition for available posts in the new organisation. Agreed systematic approaches, appropriate to the nature and level of the posts concerned, will be followed in the process of appointing people to available positions within the new structure and will comprise the following core stages:

4.3 Selection process

Staff within the ring-fence will be given details of all posts within the new service. Each person may then express up to 3 preferences for posts or groups of similar posts, in priority order. This choice will normally to be limited to their current/protected grade or one below.

Alignment between preferences expressed and posts available will then to be undertaken for the complete service, involving the line manager, HR representative and Staff Side representative.

If there is more than one applicant for a post, then a competitive selection process will be used, commencing with most senior level post.

If there is only one applicant he/she will be appointed subject to his/her ability to fulfil the person specification with a development programme if required.

4.4 Displaced staff

Any member of staff who is not appointed to a post in the new structure, will be categorised as “displaced” and will be provided with support to help identify alternative opportunities, retraining needs etc.

Displaced staff will be given preferential consideration for all vacancies within NHS Borders for which they express an interest and meet the person specification.

Members of staff can remain displaced for up to 6 months and during this period all remaining alternatives are discussed on a partnership basis.

Where displaced staff will be based, who they report to and confirmation that they will retain full pay and entitlements will be managed by HR.

The processes adopted will be fair, just and open to scrutiny. Detailed job descriptions and competency frameworks will be drawn up for each post and graded through the appropriate job evaluation arrangement.

4.5 Steering group

For each major area of change a Functional/Service Steering Group, led by the lead post, will be established consisting of functional managers, Staff Side representative(s) and stakeholders of the service supported by HR and Finance.

The Group will:

- ⊕ Develop and implement new service specifications, structures and organisational management reporting arrangements
- ⊕ Identify the professional/technical expertise required for new service
- ⊕ Ensure effective communication and involvement processes
- ⊕ Develop new roles, job descriptions and competencies
- ⊕ Identify all staff affected by the change and place them in an appropriate ring-fenced group. Individuals can request to be moved to more than one ring-fenced group, where their current post has responsibilities in more than one area

If the job content of a post remains substantially unaltered the current post holder will be excluded from the ring-fence and confirmed in post, provided that there are no other posts of a similar nature within the ring-fence.

5 Written confirmation of protection arrangements

In order to process protection calculations and confirm these in a timely manner to employees it is proposed that the 12 month reference period should commence 15 months before the change is enacted, e.g. If the change is effective from 1 July 2019, the 12 month reference period would be the period 1 April 2018 to 31 March 2019.

6 Offsetting and working up

Offsetting will still apply but has to be a payment connected to the reason for the change. Overtime and excess hours will not be offset unless the protection is related to contractual overtime or excess hours

If an employee is on protection, they can be asked to undertake additional duties connected with the reasons for their original protection up to the level of their protected salary. The following principles will apply:

6.1 Staff protected for on-call payments (including availability supplements and call outs)

- ⊕ If the employee works on-call and the frequency of on-call reduces the employee is protected at the higher frequency of on-call. However the employee can be asked to work up to that higher level if there are gaps to be filled due to increased demand or staff absences. This can be at their own site or another site
- ⊕ If the employee is no longer required to work on-call they will be protected for on-call, however they may be required to work on-call at another site due to staff absences or increased demand
- ⊕ In accordance with Annex A of NHS Circular PCS(AFC)2015/3, paragraph 8.1, staff will be paid according to the duration of call-out including actual travel time, rounded up to the nearest 15 minutes. The call-out time will be calculated from when the member of staff leaves home (or other agreed base) to when they return home (or other agreed base). In addition paragraph 8.3 also states that “Work undertaken from home, either by telephone or online, will attract payment for work done according to the actual duration of the period of work”

6.2 Shift pattern changes and change in hours

- ⊕ If the employee works on a shift pattern that changes as a consequence of organisational change and their shift payments are reduced, the employee can be asked to work up to their level of earnings if there are any gaps in the shift due to increased demand or staff absences. Staff would not be expected to work beyond their contracted hours but may be required to work a higher level of unsocial hours (as per their protected salary). However, if staff agree to work beyond their contracted hours they would be paid as per Agenda for Change Terms and Conditions

- ⊕ In situations where there are significant changes to rota, NHS Boards should try to redeploy staff into posts which reduce the reliance on protection in order to stabilise the employees' working pattern
- ⊕ If an employee's contractual hours of work are reduced they will be entitled to organisational change protection. However, the employee can be asked to work up to their contractual hours if there is increased demand or staff absences
- ⊕ If an employee has their contractual overtime stopped or reduced they will be entitled to organisational change protection. However, the employee can be asked to work up to their level of contracted overtime.

6.3 Working on different sites

- ⊕ Employees on protection can be asked to work at different sites within reason and with reasonable notice
- ⊕ For staff required to work at another site other than their home base, line managers must ensure that the individuals are competent to work on the different site and have received appropriate induction/orientation training. Staff will be entitled to travel costs as per Agenda for Change terms and conditions

7 Financial governance

It is proposed that payroll departments conduct an annual audit and review of protection payments to ensure proper financial governance of this process and all payments associated with protection. Boards should ensure the annual review process is conducted, and take appropriate management action to ensure financial governance standards are maintained.

8 Issues of concern or grievance

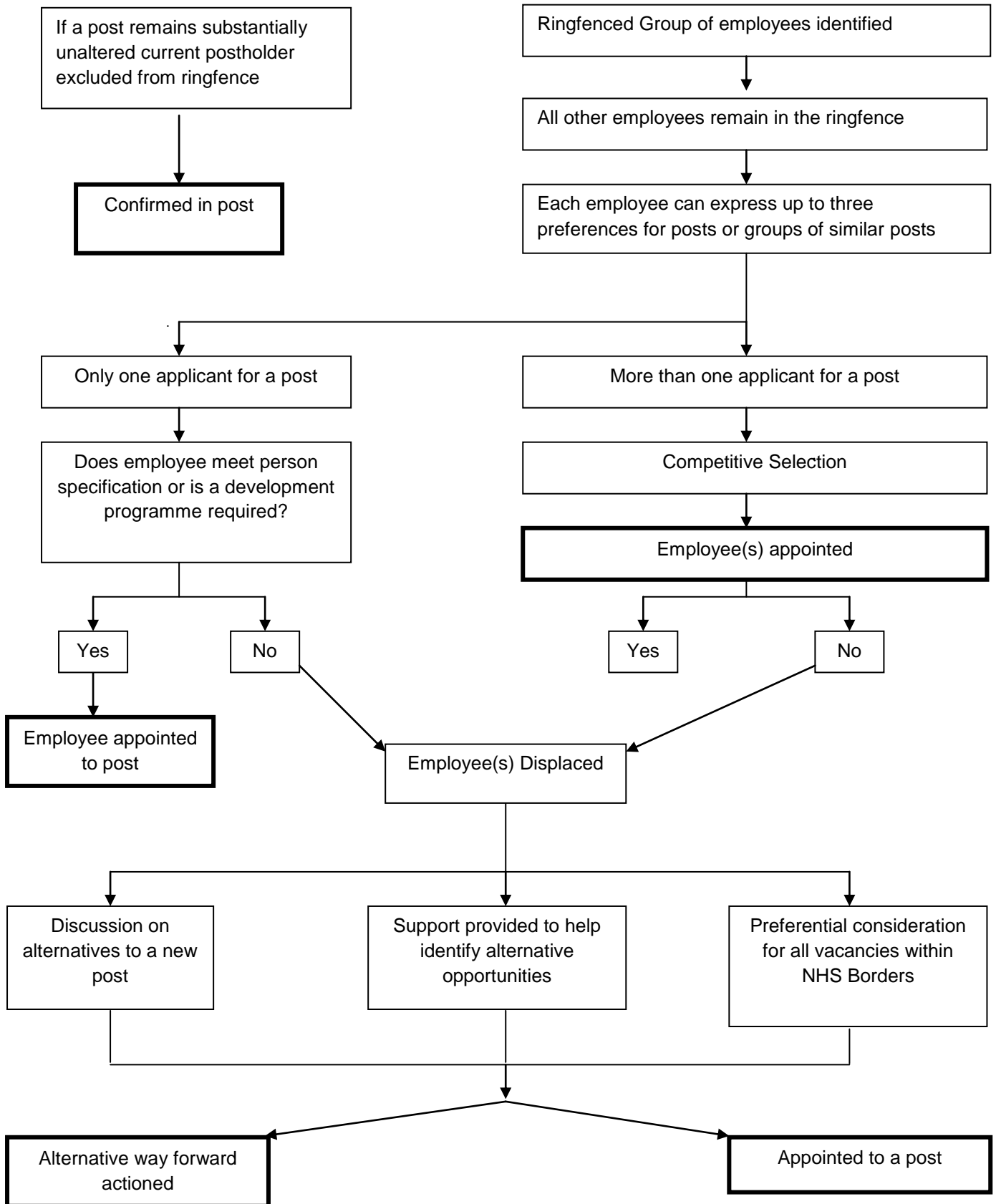
Employees may appeal if they feel disadvantaged or are likely to be disadvantaged on the application of the policy. The procedure to be followed is through the normal process as outlined in the NHS Borders' Grievance Policy.

Throughout formal or informal stages of any procedure, the employee(s) has (have) the right to be represented by a trade union/professional organisation representative or a colleague.

Appendix 1

Organisational change process flowchart

Organisational change process flowchart



Appendix 2

Q&A on new arrangements for the protection of earnings

Q&A on new arrangements for the protection of earnings

Q1: Who do these new arrangements apply to?

A1: They apply to any employee that requires organisational change pay protection from 1st April 2019. This may be as a consequence of a management or organisational change which has impacted on an individual's contractual earnings, or where they are redeployed into a lower banded post. There is no retrospective change to the organisational change protection arrangements that were in place for protected employees prior to 1st April 2019

Q2: What am I entitled to?

A2: If an employee requires pay protection they will be entitled to retain the same level of contracted earnings including annual pay uplifts and increments to ensure they suffer no detriment

Q3: What happens if I am redeployed into a lower banded post?

A3: If you are redeployed into a lower banded post you will still continue to receive your higher banded salary including pay uplifts and increments. However the organisation will continue to seek opportunities to redeploy you into a suitable alternative post at the higher band. Your local human resources team will support you through this process. Staff are also entitled to seek representation and guidance from their Staff Side representative

Q4: How do I maintain my skills, competencies and professional accreditation if I am redeployed into a different post?

A4: Your new manager will ensure that you are provided with the opportunities to allow you to maintain your skills, competencies and professional/clinical accreditation

Q5: What happens if I refuse a post on redeployment?

A5: The aim is to redeploy employees into a suitable alternative post. However, if you unreasonably refuse suitable redeployment into a post at the band you are protected on, then you will forgo your right to protection

Q6: What happens if my shift patterns / hours of work / on-call rota changes?

A6: Protection will be applied to that component that changes as a consequence of organisational change e.g. if you are no longer required to undertake on-call, you will continue to receive on-call payments or if you move from nightshift to day shift you will continue to receive your night shift allowance or if your contracted hours of work reduce you will continue to be paid your contracted hours

Q7: Can I be asked to work up to my level of protected earnings?

A7: Yes, you can be asked to work up to your level of protection in additional duties connected with the reasons for the change. This will be off set against protection payment. However you will not be expected to work more than your contracted hours

Q8: How will I know what my protected earnings are?

A8: You will receive written confirmation and guidance on how your protected earnings will be applied and arrangements for working up to your level of protection. The payroll department will use a reference period of twelve months to calculate your protection

Q9: What happens if I want to apply for a promoted post?

A9: If you secure a promoted post or your redeployed post is subsequently regraded, you will be placed on a pay point that takes into account your protected earnings to ensure no detriment. If the protected earnings exceed the top of the new pay scale you will move to the top and the balance of your protected earnings will be paid on a mark time basis

Q10: I have submitted a request to have my previous post re-evaluated prior to being redeployed will that affect my level of protection if the re-evaluation results in my grade increasing?

A10: Yes your protection will need to be recalculated to take into account your change in grade

Q11: What does 'mark time' mean?

A11: Mark time means that element of your pay that is still subject to protection following promotion to a higher level post will not attract any future cost of living increases

Q12: Can I be asked to work on a different site?

A12: Yes, you can be asked to work at a different site within reason and with reasonable notice. For employees required to work at a different site other than their home base, line managers must ensure that the individuals are competent to work on the different site and have received appropriate training. Employees will be entitled to travel costs as per Agenda for Change terms and conditions. In regard to travel time, if the employee is asked to work at a different site which results in a significantly longer journey time, the employee will be allowed to claim for the additional travel time

Q13: What arrangements are in place to ensure protection is paid fairly and consistently?

A13: To ensure that all employees are treated fairly and consistently, Area Partnership Forums will be asked to monitor protection arrangements and they will be required to provide reports to STAC. Staff who feel they have not been treated fairly can seek support and advice from their Human Resources team or their staff representative