

## SCOTTISH TERMS AND CONDITIONS COMMITTEE

### REVIEW OF AGENDA FOR CHANGE BAND 1 POSTS

The following Q&A covers pay protection for staff moving from Band 1 to Band 2 as part of the Review. It supplements the more general Q&A published earlier this year. All guidance and Q&A documents are available on the STAC website - [www.stac.scot.nhs.uk](http://www.stac.scot.nhs.uk).

#### **Q1 What does mark time protection mean?**

A Total earnings as outlined in the “Assimilation and Protection” section of the Agenda for Change Terms and Conditions<sup>1</sup> will be calculated over a 12 week reference period. Total earnings consist of basic pay, any contractual overtime, other payments related to working outside normal hours as per Section 2/Annex Q (i.e. unsocial hours) and on call payments. If your earnings under your old payment arrangements i.e. Band 1, are more than provided under these new arrangements i.e. Band 2, then your total earnings will be protected. That level of earnings, known as Target Earnings, will continue to be paid on a mark time basis i.e. no increments or cost of living increases, until they are overtaken by the Band 2 level of earnings.

#### **Q2 How is the need for mark time protection assessed?**

A Staff who have unsocial hours payments in their Band 1 role that would have taken them to a pay point higher than Spine Point 4 as at 1 October 2016 had paragraph 2.13 or paragraph 6.35 of the Agenda for Change Terms and Conditions been applied, will receive mark time protection of earnings at the point of transfer.

Mark time protection will be determined by using the Band 1 level of earnings received over a 12 week reference period and calculating an average amount per pay period. This level of protected earnings, known as Target Earnings, will be paid if Band 2 earnings are less than this level.

For example, if your total earnings over the 12 week reference period prior to 1 October 2016, amount to £2400, the average will be £200. This figure of £200 will be the mark time protected Target Earnings figure. Your Band 2 earnings will be assessed each pay period. If your Band 2 earnings for a pay period are less than £200 e.g. £190, then a protection payment of £10 is due for that pay period. If your Band 2 earnings are greater than £200 then no protection payment is due.

---

<sup>1</sup> As Section 46 covering Assimilation and Protection was deleted from the Handbook following completion of the assimilation process, the relevant table is included at the end of this Q&A, for ease of reference.

**Q3 If mark time protection is required, what reference period will be used to calculate pay protection?**

A The effective date of implementation of the Band 1 Review is 1 October 2016. The reference period will be a 12 week period immediately prior to 1 October 2016.

Boards may elect to use a different reference period if agreed locally in partnership by local management, HR and staff organisations.

**Q4 When does my mark time protection end?**

A The pay arrangements outlined in PCS(AFC)2016/3 were such that the normal rules covering pay on promotion as outlined in paragraphs 2.13 and 6.35 of the Agenda for Change Terms and Conditions were set aside. As per Q2, mark time protection applies if your move to Band 2 would have taken you to a pay point higher than Spine Point 4 as at 1 October 2016, had paragraph 2.13 or paragraph 6.35 of the Agenda for Change Terms and Conditions been applied. Mark time protection will cease when you reach the Spine Point you would have reached had paragraph 2.13 or paragraph 6.35 been applied.

For example you are placed on Spine Point 4 of Band 2 as at 1 October 2016 and your incremental date is 1 October 2017. If at 1 October 2016 you would have been appointed to Spine Point 5 of Band 2 had paragraph 2.13 or paragraph 6.35 been applied, then your mark time protection will cease at the date you reach Spine Point 5. In this example your mark time protection will cease on 1 October 2017.

Mark time protection will also cease if you choose to change jobs or if you leave the NHS.

**Q5 What happens if I'm worse off being paid as a Band 2 from 1 October 2016?**

A You will not be worse off being paid as a Band 2. Any member of staff who finds that the Band 2 arrangements provide a lower earnings will have their earnings protected in line with "mark time". This protection is not time limited and will continue on a "mark time" basis until such time as earnings for the Band 2 role overtake the level of Target Earnings on an on-going basis. Protection is therefore in place for as long as it is required.

**Q6 Unsocial hours for Band 1 are paid at a higher level than Band 2, what will I be paid?**

A On transfer to Band 2 you will be paid unsocial hour payments i.e. Saturday, Sunday, Night, Unsocial and Public Holiday hours) at 44% and 88% in line with Band 2 rates in Agenda for Change. Increments and pay awards for your Band 2 salary will be applied as normal.

**Q7 What happens if I have mark time protection and I then work additional hours and/or overtime?**

A Any additional hours and/or overtime over and above contracted hours will not be offset against the mark time protected Target Earnings. This means that your earnings, excluding additional hours and/or overtime, will be assessed against your Target Earnings figure and protection paid if required. Your additional hours and/or overtime will then be paid.

**Q8 How will I be paid any protection due?**

A If your earnings, excluding any additional hours and/or overtime, are less than your mark time protection Target Earnings then you are entitled to a protection payment to bring your earnings up to the level of your Target Earnings. Your earnings will be paid as normal at Band 2 rates and any protection payment due will be shown separately on your payslip.

**Q9 What happens to my mark time protection if I reduce or increase my hours?**

If you reduce your contracted hours the mark time protection Target Earnings will be re-calculated on a pro rata basis. If you increase your contracted hours the mark time protection Target Earnings will not be increased on a pro rata basis.

**Q9 Are bank staff entitled to protection of earnings?**

A No, bank staff are excluded from protection arrangements as they do not have a set working pattern.

**Table to be used for calculating protection**

Payment before assimilation	Payment after assimilation
<p>Basic pay, including any contractual overtime: <b>plus</b></p> <p>Leads and allowances measured in the Job Evaluation Scheme, or taken into account in any recruitment and retention premia (see Annex Q): <b>plus</b></p> <p>London weighting, fringe allowances and cost of living supplements: <b>plus</b></p> <p>Shift allowances and other payments related to unsocial hours (see Annex Q): <b>plus</b></p> <p>On-call payments (unless special transitional arrangements are in force – see paragraph 2.48) (That is where it is agreed locally to retain existing on-call arrangements for a transitional period from the effective date of assimilation. In such cases, on-call payments should be excluded from the calculation): <b>plus</b></p> <p>Bonus payments from schemes discontinued following implementation of the new pay system: <b>plus</b></p> <p>Other leads and allowances paid as part of regular pay which will cease on assimilation (see paragraph 46.40 below).</p>	<p>Basic pay, including any contractual overtime: <b>plus</b></p> <p>Recruitment and retention premia: <b>plus</b></p> <p>High cost area supplements: <b>plus</b></p> <p>Shift allowances and other payments related to working outside normal hours (see Section 2 and Annex Q): <b>plus</b></p> <p>On-call payments (unless special transitional arrangements are in force – see paragraph 2.48): <b>plus</b></p> <p>Any new bonus schemes authorised under the new system.</p>
Total	Total