

Pay protection FAQs

Introduction

The Department of Health and Social Care (DHSC) and its arms-length bodies have produced a suite of guidance for employers on workforce issues arising from the COVID-19 pandemic which has been published and [updated centrally](#). Due to the exceptional circumstances, usual processes of co-production and consultation have not been possible, although the NHS Staff Council Executive trade unions have had input in reviewing and updating the guidance.

This document is an addition to the initial DHSC guidance and has been produced by a joint working group of the NHS Staff Council Executive.

Question 1

What should happen about pay for staff who are temporarily redeployed for short periods to help the service and meet patient needs?

Many staff will have agreed to be deployed at short notice into roles that are required because of the COVID-19 pandemic, and these staff will expect to be treated fairly and equitably. Temporary deployment is a voluntary choice, staff should not be forced to move. Organisations will have local policies in place to manage deployment into new roles within their organisation. NHS England and Improvement (NHSE/I) has also published a tool kit on [enabling staff movement](#) which advises that staff should not be at a financial disadvantage from voluntarily working at another trust. The position for staff temporarily reassigned to a different work base with regard to HCAS payments is [covered in this FAQ](#).

One of the barriers staff may face when considering temporary deployment in to a new COVID-19 role could be a loss in earnings as a result of the move, for example lower unsocial hours or overtime pay. Where appropriate, employers should consider how their established local policies, or interim COVID policies, might be used or adapted to address these concerns to help facilitate staff agreement to being the temporarily redeployed.

If the deployment arrangement is to be longer term, i.e. for months rather than days or weeks, the employer will wish to discuss the options available with the member of staff, following their usual local policies.

Question 2

What should happen about earnings for staff who need to be temporarily redeployed following a risk assessment?

In light of emerging evidence that some groups are more at risk from Covid-19 than others, employers have been tasked by NHSE/I with [completing and reporting on risk assessments for at-risk staff groups](#) and using these to put in place risk reduction measures. [Guidance on conducting risk assessments](#) has been produced to assist employers to comply with their duty of care on health and safety and to meet equality standards. At-risk groups include BAME staff, pregnant staff, disabled staff and older staff.

One of the possible outcomes of a risk assessment is that a member of staff may need to be temporarily redeployed to a lower risk area. This could be remote or home working or to another clinical or non-clinical role or setting.

In order to effectively complete risk assessment programmes as required by NHSE/I it will be important to ensure that at-risk staff are not deterred from participating because of concerns about redeployment and potential loss of earnings (for example, unsocial hours, regular overtime).

Employers also need to consider the wider equality and inclusion context for this work. Most of the staff falling into the at-risk categories will be from groups protected under the Equality Act 2010.

In the case of pregnant women, there is the additional issue that reduced earnings as a result of a redeployment will negatively affect the calculation of maternity pay.

NHSE/I has particularly stressed the need for employers and line managers to [support BAME staff during and beyond COVID-19](#) in the wider context of commitments made by the leadership of the NHS to tackle discrimination experienced by BAME staff and pursue race equality in the workplace.

Furthermore, the links between groups at higher risk from COVID-19 and the incidence of socio-economic disadvantage have been highlighted in studies including the [review conducted by Public Health England](#).

All of this means it is important to ensure that staff do not suffer discrimination (direct or indirect) or additional disadvantage as a result of being temporarily redeployed through the COVID-19 risk reduction process.

Employers should therefore ensure that their established local policies on pay protection, or interim COVID-19 policies, do not deter staff from participating in risk assessments due to concerns about loss of earnings and that these policies prevent discrimination and additional disadvantage resulting from the process.

NHS Staff Council Executive

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