

THE NHS STAFF COUNCIL

WORKING IN PARTNERSHIP

Maintaining round the clock services

Supporting staff who work evenings, at night, weekends and on general public holidays

1. The NHS delivers patient services around the clock. Where staff are required to work to cover services in the evening, at night, over weekends and on general public holidays the NHS Staff Council has agreed that percentage enhancements should be paid. Section 34 *Flexible Working Arrangements* and Section 35 *Balancing Work and Personal Life* set out the principles underlying this.
2. This section is effective from 1 April 2008. It replaces paragraphs 2.1 to 2.12 of the previous agreement. It applies to all staff on Agenda for Change terms and conditions of service.
3. The pay of staff working evenings, nights or weekends on or after 1 April 2008 will be worked out in line with paragraphs 4 to 30 below. The incremental dates of staff paid under these arrangements will not change.
4. In recognition of the unique arrangements that apply in the former "Early Implementer" sites these organisations will be able to continue to use the Agenda for Change prototype system (Annexes E and F) for the first 12 months of operation of the new system. This will give these organisations time to collect the data needed to make comparisons between the old and new systems. In years two and three these organisations will move to the new system using Tables 21 and 22 in Annex X or by using their own arrangements, in partnership, for transferring staff from the Agenda for Change payment system to the new system of payments, subject to this being completed by 1 April 2011.
5. This agreement will not apply to ambulance staff who are employed by ambulance organisations in England and Northern Ireland. These are staff who would have been subject to the provisions of the Ambulance Whitley Council had they been employed on Whitley contracts before Agenda for Change. They will continue to receive unsocial hours payments in accordance with Annex E and Annex F. All other staff in ambulance organisations in England and Northern Ireland will move to the system in Annexes E and F by 1 April 2011. The arrangements will be worked out in partnership in ambulance organisations.
6. The arrangements which will apply to ambulance staff in Scotland and Wales will be discussed and agreed in partnership in each country.
7. During the interim regime staff have been able to retain their existing on-call provisions (both national and local). This has been a particular

feature in NHS pathology departments. These arrangements remain unaffected by this agreement and all pathology out of hours working provisions will be regarded as included in these arrangements and the provisions outlined in paragraphs 8 to 30 below will not apply. Protection will continue for up to 4 years from the effective date of assimilation.

8. The standard hours of work are set out in Section 10, paragraph 1.
9. Staff will receive a percentage enhancement for their work in standard hours which is done at the times shown in Table 2. Annex X contains arrangements for a phased transition to these percentage enhancements for some staff. These are staff in pay bands 2, 3, 4 and 5 who are moving to lower rates of unsocial hours payments (Table 21) and other staff in pay bands 2 and 3 only who are moving to higher levels of unsocial hours payments (Table 22) under the new arrangements.
10. Staff in these categories covered by paragraph 46.2 (second bullet) who have deferred their decision to move to Agenda for Change will move to the percentage premium in Annex X applying at the time they transfer.
11. Premium payments will be worked out using basic salary. This will include any long term recruitment and retention premia. It will not include short-term recruitment and retention premiums, high cost area supplements or any other payment.
12. The basic hourly rate for staff working more or less than the standard week will be worked out using tables 8 and 9 in Section 46.
13. Any extra time worked in a week, above standard hours, will be treated as overtime and Section 3 will apply. The agreement on on-call and other extended service cover is unchanged. It is now in paragraphs 31 to 48. Staff cannot receive percentage enhancements for unsocial hours and payments for on-call and other extended service cover for the same hours of work.

Table 2

| Column 1 | Column 2 | Column 3 |
|----------|---|--|
| Pay band | Any time on Saturday (midnight to midnight) and any week day after 8 pm and before 6 am | All time on Sundays and Public Holidays (midnight to midnight) |
| 1 | Time plus 50% | Double Time |
| 2 | Time plus 44% | Time plus 88% |
| 3 | Time plus 37% | Time plus 74% |
| 4 – 9 | Time plus 30% | Time plus 60% |

14. The enhanced rates shown in table 2, column 2 will be paid for all unsocial hours worked on a Saturday (midnight to midnight) or on

weekdays between 8 pm and 6 am. The rates shown in column 3 will be paid for all hours worked on Sundays and public holidays (midnight to midnight).

15. Were a continuous night shift or evening shift on a weekday (other than a public holiday) includes hours outside the period of 8 pm to 6 am, the enhancements in column 2 should be applied to the whole shift if more than half of the time falls between 8 pm and 6 am.
16. Staff will only receive one rate of percentage enhancement for each hour worked.

Promotion

17. If on promotion, the working pattern remains substantially the same, staff will move to the first incremental point producing an increase when basic pay, any long-term recruitment and retention premium and the percentage enhancement for unsocial hours are combined. If the working pattern changes on promotion paragraph 6.33 will apply.

Occupational sick pay

18. All percentage enhancements for unsocial hours will be pensionable and will count for occupational sick pay and contractual maternity pay in line with paragraph 4 in Section 14. They will not be included in any part of the calculation of overtime payments, on-call payments nor any other payment described in this Handbook.

Protection

19. On assimilation to the new unsocial hours system the overall level of pay will be recalculated using Table 8 and paragraphs 46.18 to 46.20. If the overall level of pay falls after assimilation to the new pay system protection will apply in line with paragraphs 46.22 to 46.27. The period of protection will end on the dates in paragraph 46.25.

Annual leave

20. Pay during annual leave is set out in Section 13 paragraph 9.

Part time staff and other staff working non-standard hours

21. Part time staff working less than 37½ hours a week will be eligible for percentage enhancements for unsocial hours.
22. Staff whose basic week is more or less than 37½ hours, will be eligible for percentage enhancements for unsocial hours for all their basic hours as set out in Section 46 Tables 8 and 9.
23. Staff on annualised hours contracts will be eligible for percentage enhancements for unsocial hours on these terms.

Staff working overtime

24. Staff working shifts which include overtime will be entitled to percentage enhancements for their work in standard hours. Their overtime will be paid in line with Section 3.

Self-rostering schemes

25. Where teams of staff agree rosters among themselves, including who covers unsocial hours shifts, it will be for the team to decide how these shifts are allocated, provided the team continue to provide satisfactory levels of service cover.

Prospective Application

26. This agreement may be used retrospectively or prospectively. It will be for local partnerships to decide which option best meets local operational needs.
27. If this agreement is used prospectively it must comply with the principle of equal pay for work of equal value. It must produce broadly the same level of payments as a retrospective system, including for part-time staff. Local partnerships will need to agree a reference period that can be used to calculate the appropriate level of prospective payment.
28. Prospective systems are more likely to be satisfactory where work patterns are predictable. If rotas vary so much that it is not possible to predict working patterns accurately this is likely to be a good reason to choose to use the system retrospectively.
29. If operating the prospective system there will need to be periodic checks on the level of payments produced. These will need to be compared with the level of payments produced by the system in its retrospective form to ensure that the levels are broadly similar. This will allow early action to be taken in partnership if it does not.
30. Where the system is used prospectively an unforeseen change payment of £15 will be available. This will be used where it is necessary for employers to ask staff to change their shift within 24 hours of the scheduled work period. The payment is not applicable to shifts that staff agree to work as overtime, or that they swap with other staff members. It is not available in any circumstances in the retrospective system.

Annex X: Working or providing emergency cover outside normal hours

1. During the first three years of the new system of payments transitional rates will apply to some staff in pay bands 2, 3, 4 and 5. The percentage enhancements applicable to these staff will change in the second and third year of operation of the new system. From 1 April 2011 the percentage enhancements for these staff will be the same as those for all other staff, as set out in Table 2 in Section 2.
2. Table 21 below shows the transitional rates for staff in pay bands 2, 3, 4 and 5. who were previously in the remit of the Ancillary Staffs Whitley Council (ASC), staff previously in the remit of the Maintenance Staffs Advisory Panel (MAP) and those previously in the Administrative and Clerical Staffs Council who are moving to lower levels of unsocial hours payments.

Table 21
Ancillary staff, healthcare maintenance staff and administrative and clerical staff in pay bands 2, 3, 4 and 5

| Column 1 | Column 2 | Column 3 | Column 4 |
|-------------------------------|------------------|---|--|
| Year | Pay band(s) | Any time on Saturday (midnight to midnight) and any week day after 8 pm and before 6 am | All time on Sundays and Public Holidays (midnight to midnight) |
| 1 April 2008 to 31 March 2009 | 2 to 5 inclusive | Time plus 50% | Double Time |
| 1 April 2009 to 31 March 2010 | 2 | Time plus 48% | Time plus 96% |
| | 3 | Time plus 46% | Time plus 92% |
| | 4 and 5 | Time plus 44% | Time plus 88% |
| 1 April 2010 to 31 March 2011 | 2 | Time plus 46% | Time plus 92% |
| | 3 | Time plus 42% | Time plus 84% |
| | 4 and 5 | Time plus 37% | Time plus 74% |

3. Support staff in pay bands 2 and 3 transferring from the nurses' and midwives' Whitley system of unsocial hours payments will move to the new payment system in accordance with Table 22 below.

Table 22
Support Staff in pay bands 2 and 3 transferring from the nurses' and midwives' Whitley system of unsocial hours payments

| Column 1 | Column 2 | Column 3 | Column 4 |
|-------------------------------|----------|---|--|
| Year | Pay band | Any time on Saturday (midnight to midnight) and any week day after 8 pm and before 6 am | All time on Sundays and Public Holidays (midnight to midnight) |
| 1 April 2008 to 31 March 2009 | 2 | Time plus 39% | Time plus 78% |
| | 3 | Time plus 35% | Time plus 70% |
| 1 April 2009 to 31 March 2010 | 2 | Time plus 42% | Time plus 84% |
| | 3 | Time plus 36% | Time plus 72% |
| 1 April 2010 to 31 March 2011 | 2 | Time plus 43% | Time plus 86% |
| | 3 | Time plus 37% | Time plus 74% |

4. In the interim regime staff who were previously employed on Whitley terms and conditions, without provision for unsocial hours payments, normally received entitlements according to the rules applicable to nurses and midwives. Exceptionally, some staff remained on local arrangements. In these cases local partnerships will need to decide if these staff should move to the new system of payments or retain their existing entitlements pending full implementation of paragraphs 2.31 to 2.48 of the Terms and Conditions of Service Handbook. If it is decided to transfer these staff to the new system this may be by moving them immediately to the new levels of payments in Table 2 in Section 2 on the effective date. Alternatively, local partnerships may decide to use tables 21 and 22 in this Annex or design their own arrangements for transferring these staff from their existing entitlements to the new system of payments. This should be completed by 1 April 2011.
5. The shift allowances paid to Ancillary (ASC) staff, health service maintenance staff previously in the remit of the Maintenance Staff's Advisory Panel (MAP) and Administrative and Clerical (A&C) Staff during the "*interim regime*" have been replaced by the allowances in Table 2 in Section 2.
6. Ancillary (ASC) Staff working alternating shifts as defined in paragraph 168 (a) of the Ancillary Staffs Whitley Council Handbook who were regularly receiving the annual alternating shift allowance of £581 during

the six months ending on 31 December 2007 and who are still employed on 1 April 2008, will receive a single payment of £3,000.

7. Paragraph 107.2 of the Maintenance Staff's Handbook sets out the conditions for the payment of "Alternative Shift Allowance" of thirty five pence per hour. Maintenance staff who were regularly receiving this allowance during the six months ending on 31 December 2007 and who are still employed on 1 April 2008, will receive a single payment of £3,000.
8. Some Administrative and Clerical (A and C) Staff working alternating shifts as defined in paragraph 741 of the Administrative and Clerical Staffs Whitley Council Handbook have been receiving the 10 per cent addition to basic pay in paragraph 742 (iii). A and C staff regularly receiving this allowance during the six months ending on 31 December 2007 and who are still employed on 1 April 2008 will receive a single payment of 30% of their basic pay, calculated on the rate effective from 1 April 2008.
9. The provisions for pay protection in paragraph 19 will not apply to staff who receive one of the single payments in paragraphs 6, 7 and 8 of this Annex. Part-time employees will receive the single payments on a pro-rata basis to full-time colleagues.

Section 2: Working or providing emergency cover outside normal hours

From 1 October 2004 groups of staff will be able either to retain their current on-call provisions (both national and local) where agreed locally, as set out in paragraph 2.28, or to use the on-call provisions set out below. Annex D indicates where on-call provisions can be found in the Whitley handbooks. Staff for whom there is currently no on-call provision will be entitled to the arrangements set out below. Those staff previously covered by the PTA Whitley Council on the new pay band 5 who were paid at a higher grade for unsupervised work on-call should be paid as a minimum on the fourth point of pay band 5 (pay spine point 20) when on-call.

Section 13: Annual leave and general public holidays

Pay during annual leave

- 13.9 Pay during annual leave will include regularly paid supplements including any recruitment and retention premia, payments for work outside normal hours and high cost area supplements. Pay is calculated on the basis of what the individual would have received had he/she been at work.
- 13.10 Existing arrangements will be undisturbed for staff groups who already receive payments for working outside normal hours in respect of annual leave. Staff groups who do not currently receive full payment will do so by means of the standard formula based mechanism used to pay unsocial hours in respect of the statutory leave entitlement. The formula is 11.59 per cent of unsocial hours payments in each pay period.

Section 14: Sickness Absence

Pay during sickness absence – definition of full pay

- 14.4 The definition of full pay will include regularly paid supplements including any recruitment and retention premia, payments for work outside normal hours and high cost area supplements. Sick pay is calculated on the basis of what the individual would have received had he/she been at work. Existing arrangements in respect of sickness absence will be undisturbed for staff groups who already receive payments for working outside normal hours; staff groups who do not currently receive payment will do so by a calculation based on average pay in a reference period. This would be based on the previous three months at work or any other reference period that may be locally agreed. Local partnerships can use virtual rotas showing what hours the employee would have worked in a reference period had he or she been at work.

Professional and technical staff (estate officers; MTOs; ATOs; biomedical scientists; pathology support and dental auxiliaries:

Section 4: Emergency duties PTB Council Handbook (the “green” book)

Scientific and Professional Staff

Whole-time healthcare chaplains and whole-time healthcare chaplains assistants:

Appendix E to Advance Letter (SP) 3/2002): local out of hours arrangements

Speech and language therapists:

No provision: see Section 2.

Clinical psychologists and child psychotherapists:

No provision: see Section 2.

Healthcare pharmacists:

Advance Letter (PH) 1/86 paragraph 4: emergency duty service and Appendix C to Advance Letter (PH) 1/2004 emergency duty commitment allowance

Healthcare scientists and optometrists:

Appendix D to Advance Letter (SP) 2/2002

Annex E, “*Provisions for unsocial hours payments for ambulance staff and available to early implementer sites*” and Annex F, “*Examples of special cases*” should stay in the Handbook until the end of the “convergence” period.