

The Scottish Government
Health Workforce Directorate
Employment and Retention Division



Dear Colleague

EXTENSION OF CURRENT ON-CALL ARRANGEMENTS

Summary

1. This circular informs employers of the NHS Staff Council's agreement to extend the period of protection of existing on-call arrangements until a joint review is finished.
2. The Agenda for Change agreement said that the NHS Staff Council might devise new harmonised arrangements during the four-year period of protection for on-call, based on further monitoring of experience in early implementer sites and evidence from national roll-out. The time taken to review unsocial hours arrangements means that the period of protection of existing on-call arrangements needs to be extended to give time for a thorough review of on-call arrangements.
3. The target date for completion of the review is September 2009. This will allow sufficient time for consultation and NHS preparation before new arrangements could be implemented in April 2010. The review will ensure that on-call arrangements are consistent with equal pay for work of equal value. Existing arrangements for on-call can remain in place until new arrangements are implemented.
4. Attached to this circular is an Appendix listing the changes to the Agenda for Change Terms and Conditions flowing from this agreement. A revised section containing these amendments is also attached for ease of reference.
5. Please note that these new arrangements mean that the last sentence of Paragraph 2.7 of the Handbook should be disregarded. This change will be picked up in the next version of the Handbook agreed at a UK level.

28 July 2008

Addresses

For action

Chairs, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)
Chief Executives, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)
Directors of Finance, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)
Directors of Human Resources, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)

For information

Members, Scottish Partnership Forum
Members, Scottish Terms and Conditions Committee
Members, Scottish Workforce and Governance Committee

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Cabinet Secretary approval

6. Employers should implement this circular, which has been approved by the Cabinet Secretary under regulations 2 and 3 of the National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1991 (S.I. 1991/537). A copy of the formal approval is attached.

Action

7. Employers will be able to continue to use existing local and nationally agreed systems of remuneration of on-call until the national review is finished.

8. Unless agreed otherwise by local partnerships, existing payments under local and nationally agreed arrangements can continue until 31 March 2010 when any new arrangements agreed by the Staff Council would start. This extended protection applies to existing staff and new starters.

9. Employers should make their own arrangements for obtaining additional copies of this circular, which can be viewed at:

www.show.scot.nhs.uk/sehd/publications.asp

Yours sincerely

COLIN MCGOWAN

Acting Deputy Director for Health Workforce
Employment and Retention

The Scottish Government
Health Workforce Directorate
Employment and Retention Division



**NATIONAL HEALTH SERVICE
APPROVAL OF REMUNERATION AND CONDITIONS OF SERVICE**

In accordance with regulations 2 and 3 of the National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1991 (S.I. 1991/537) the remuneration and conditions of service set out in the attached Scottish Government Health Workforce Directorate circular of 28 July 2008 – PCS(AFC)2008/9 – in respect of on-call provision under Agenda for Change are hereby approved for the purposes of the said Regulations.

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28 July 2008

APPENDIX

Changes to the Agenda for Change NHS Terms and Conditions of Service Handbook:

Section 2: Maintaining round the clock services

Specific Changes to Section 2

1. The present paragraph 2.32 is deleted and replaced by the following:

“The NHS Staff Council is reviewing on-call. The target date for completion is September 2009 to allow sufficient time for consultation and NHS preparation before new arrangements could be implemented in April 2010. The review will ensure that on-call arrangements are consistent with equal pay for work of equal value. Existing arrangements for on-call will remain in place until new arrangements are implemented. Paragraph 2.46 specifies the period of protection of on-call.”

2. The present paragraph 2.46 is deleted and replaced by the following:

“Unless locally, it is agreed otherwise, all current on-call arrangements will be protected for groups of employees up to 31 March 2010, irrespective of whether they were nationally or locally agreed. This extended protection will apply to existing staff and new staff during the period of protection.”

SECTION 2

MAINTAINING ROUND THE CLOCK SERVICES

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

- 2.1 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.
- 2.2 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.
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 The arrangements which will apply to ambulance staff in Scotland and Wales will be discussed and agreed in partnership in each country.
- 2.7 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 amended by PCS(AFC)2008/9

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.

- 2.8 The standard hours of work are set out in Section 10, paragraph 1.
- 2.9 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.
- 2.10 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.
- 2.11 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.
- 2.12 The basic hourly rate for staff working more or less than the standard week will be worked out using tables 9 and 10 in Section 46.
- 2.13 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 51. 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

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%

- 2.14 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).

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- 2.15 Where 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.
- 2.16 Staff will only receive one rate of percentage enhancement for each hour worked.

Promotion

- 2.17 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

- 2.18 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

- 2.19 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 system of unsocial hours payments 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

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

Part time staff and other staff working non-standard hours

- 2.21 Part time staff working less than 37½ hours a week will be eligible for percentage enhancements for unsocial hours.
- 2.22 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 9 and 10.
- 2.23 Staff on annualised hours contracts will be eligible for percentage enhancements for unsocial hours on these terms.

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Staff working overtime

- 2.24 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

- 2.25 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

- 2.26 This agreement may be used retrospectively or prospectively. It will be for local partnerships to decide which option best meets local operational needs.
- 2.27 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.
- 2.28 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.
- 2.29 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.
- 2.30 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.

On-call and other extended service cover

- 2.31 From 1 October 2004 groups of staff will be able to either retain their current on-call provisions (both national and local) where agreed locally, as set out in paragraph 2.46, or to use the on-call provisions set out below. Annex D lists the relevant sections of the Whitley handbooks in relation to on-call. Staff for whom there is currently no on-call provision will be entitled to the

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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.

- 2.32 The NHS Staff Council is reviewing on-call. The target date for completion is September 2009 to allow sufficient time for consultation and NHS preparation before new arrangements could be implemented in April 2010. The review will ensure that on-call arrangements are consistent with equal pay for work of equal value. Existing arrangements for on-call will remain in place until new arrangements are implemented. Paragraph 2.46 specifies the period of protection of on-call.

Interim regime

- 2.33 Employees who are required to be available to provide on-call cover outside their normal working hours will be entitled to receive a pay enhancement. This enhancement recognises both their availability to provide cover and any advice given by telephone during periods of on-call availability.
- 2.34 Subject to the provision for retention of current on-call provisions under the protection arrangements set out in paragraph 2.46, this enhancement will be based on the proportion of on-call periods in the rota when on-call cover is required. The on-call period in each week should be divided into nine periods of at least 12 hours. The enhancement for an individual staff member will be based on the proportion of these periods in which they are required to be on-call, as set out in paragraphs 2.35 to 2.40 below.

Pay enhancements for on-call cover

- 2.35 An enhancement of 9.5 per cent will be paid to staff who are required to be on-call an average of one in three of the defined periods or more frequently.
- 2.36 An enhancement of 4.5 per cent will be paid to staff who are required to be on-call an average of between one in six and less than one in three of the defined periods.
- 2.37 An enhancement of 3 per cent will be paid to staff who are required to be on-call an average of between one in nine and less than one in six of the defined periods.
- 2.38 An enhancement of 2 per cent will be paid to staff who are required to be on-call an average of between one in nine and less than one in 12 of the defined periods.
- 2.39 For these purposes, the average availability required will be measured over a full rota, or over a 13-week period if no standard pattern is applicable. The reference period will not include any periods when the employee is absent from work on either annual leave or sickness absence.

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- 2.40 Where on-call cover is limited or very irregular (averaging less than one in 12) pay enhancements will be agreed locally. These may be fixed or variable, and based on actual or estimated frequencies of on-call work worked, subject to local agreement. To ensure fairness to all staff qualifying under the national rules set out above, locally agreed payments may not exceed the minimum percentage in the national provisions.

Table 3

Frequency of on-call	Value of enhancements as percentage of basic pay
1 in 3 or more frequent	9.5%
1 in 6 or more but less than 1 in 3	4.5%
1 in 9 or more but less than 1 in 6	3.0%
1 in 12 or more but less than 1 in 9	2.0%
Less frequent than 1 in 12	By local agreement

On-call payments for part-time staff or other staff working non-standard hours

- 2.41 For part-time staff and other staff working other than 37½ hours a week excluding meal breaks, the percentage added to basic pay on account of on-call availability will be adjusted to ensure that they are paid a fair percentage enhancement of salary for on-call working. This will be done by adjusting the payment in proportion to their part-time salary so that they receive the same payment for the same length of availability on-call as full-time staff.

Employees called into work during an on-call period

- 2.42 Employees who are called into work during a period of on-call will receive payment for the period they are required to attend, including any travel time. Alternatively, staff may choose to take time off in lieu. However, if for operational reasons time off in lieu cannot be taken within three months, the hours worked must be paid for.
- 2.43 For work (including travel time) as a result of being called out the employee will receive a payment at time and a half, with the exception of work on general public holidays which will be at double time. Time off in lieu should be at plain time. There is no disqualification from this payment for bands 8 and 9, as a result of being called out.
- 2.44 By agreement between employers and staff, there may be local arrangements whereby the payment for hours worked during a given period of on-call is subject to a fixed minimum level, in place of separately recognising travel time.
- 2.45 In addition, where employers and staff agree it is appropriate, the amount paid for work and travel time during periods of on-call may be decided on a prospective basis (e.g. for a forward period of three months) based on the

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average work carried out during a prior reference period (e.g. of three months). Where these arrangements are agreed, the actual work carried out during a given period would be monitored and, if the average amount assumed in the calculation of the payment is significantly different, the level of payment should be adjusted for the next period; there should be no retrospective adjustment to the amount paid in the previous period.

- 2.46 Unless locally, it is agreed otherwise, all current on-call arrangements will be protected for groups of employees up to 31 March 2010, irrespective of whether they were nationally or locally agreed. This extended protection will apply to existing staff and new staff during the period of protection.
- 2.47 On-call payments made under such arrangements should be excluded from the pre and post assimilation pay used in the calculation of any protected level of pay (see Section 46).

Other arrangements to provide extended service cover

- 2.48 Some staff are required to be on the premises to provide emergency cover but are allowed to rest except for the times when they are required to carry out emergency work. Where employers consider this an essential arrangement to provide service cover, there should be an agreed local arrangement, at least equivalent to on-call payments, to recognise the type of cover provided.
- 2.49 A further group of staff, often in community services such as learning disabilities, have “sleeping-in arrangements” where they sleep on work premises but are seldom required to attend an incident during the night. In these circumstances, appropriate arrangements should be agreed locally.

Christmas and New Year holidays at weekends

- 2.50 General and public holiday entitlements are in Section 13. These include Christmas Day, Boxing Day (26 December) and New Year’s Day. When any of these holidays falls on a Saturday or Sunday arrangements will need to be made to ensure that the right of staff to three public holidays in the Christmas and New Year holiday period is preserved. Annex Y sets out what applies when staff work on general and public holidays in this holiday period. In Scotland there are four public holidays over the Christmas/New Year period. Further information is available from paymodernisation.scot.nhs.uk.

Transitional arrangements

- 2.51 See Section 46 for further information on assimilation and protection.

As amended by PCS(AFC)2008/9