



Department
of Health

Supplementary Evidence for the NHS Pay Review Body

Supplementary written evidence from the Health
Department for England – February 2015

February 2015

Title: Supplementary Evidence for the NHS Pay Review Body - Supplementary written evidence from the Health Department for England – February 2015
Author: S&ER Directorate/ Workforce/ NHS Pay, Pensions and Employment Services / 13710
Document Purpose: Policy
Publication date: February 2015
Target audience: Pay Review Bodies Public NHS organisations
Contact details: nhs_pp&e_services@dh.gsi.gov.uk

You may re-use the text of this document (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/

© Crown copyright

Published to gov.uk, in PDF format only.

www.gov.uk/dh

Supplementary Evidence for the NHS Pay Review Body

Supplementary written evidence from the Health
Department for England – February 2015

Prepared by NHS Pay, Pensions & Employment Services Team

Contents

Contents.....	4
Executive summary.....	5
Response to the NHS Pay Review Body’s Supplementary Questions.....	6
Q1 Do you consider that the current terms and conditions under Agenda for Change enable the delivery of seven-day services? If not, which specific aspects need to change to facilitate this?.....	6
Q2 What was the original design for AfC unsocial hours premia – what market rates/examples did you follow and how have these developed in recent years.....	7
Q3 Which services would benefit from additional staff outside standard hours? Which of these are the high priority areas?	8
Q4 How far is contract reform the key enabler of seven-day services?.....	9
Q5 and Q6 Your evidence states that “a seven day service is not reliant upon existing staff working harder or more frequently, or about more staff.” Do you therefore see this as the transition of staff from existing Monday to Friday based work patterns to staff working their contractual hours over 7 days? This is unlikely to obtain in all areas (a simple example is reception staff). Where else to you consider the workforce numbers will need to increase in order to deliver a seven day service?	9
Q7 Why do you think there is a higher demand for agency cover at weekends? This might suggest that these shifts are harder to cover and the current premium is not providing an incentive? How will you get staff to work these hours if, as you seem to be suggesting, these premia are removed or reduced?	11
Q8 Do you have evidence on the willingness of staff to work over seven-days under current Agenda for Change reward arrangements?	12
Q9 Given that both staff and union engagement will be required for any transition to seven-day services, why (according to the trade union evidence) has seven-day services not been discussed first more thoroughly at the NHS Staff Council.	12
Q10 When can we expect the findings and conclusions of the NHS England, NHS Services Seven Days a Week Forum, as mentioned in your evidence?	13
Q11 Have the options for pay models in your evidence been costed? (3.37 – 3.40).....	13
Q12 In your evidence you suggest that pay drift is likely to rise again – can you explain why and in particular how the increase in employer contributions to pensions impacts this?	13
Q13 What do you think the long term average figure for pay drift will be?.....	14
Q14 Please can you clarify by what is meant “without increasing the existing spend” in your remit letter:	15
Q15 You cite the example of the retail sector as a modern example of a service industry approach to weekend working (i.e. weekend as plain time), do you have alternative example where weekend working is not specifically rewarded?	16
Q16 Is there anywhere else in the World with a health system that operates in this way?..	16
Annex A - Agenda for Change Pay Proposal Letter	17

Executive summary

This document contains the Department's response to the NHS Pay Review Body's (NHSPRB) supplementary questions following the submission of our written evidence which can be found at:

<https://www.gov.uk/government/publications/evidence-for-pay-review-bodies-of-healthcare-professionals>

Response to the NHS Pay Review Body's Supplementary Questions

Q1 Do you consider that the current terms and conditions under Agenda for Change enable the delivery of seven-day services? If not, which specific aspects need to change to facilitate this?

- 1.1. Our evidence draws on work led by NHS England which demonstrates that mortality rates are higher at weekends than during the week. Delivery of the same high quality care every day of the week is a team effort, requiring support from clinical and non-clinical staff from medical and non-medical professions. Agenda for Change is predicated on pay rates designed around a Monday to Friday health service with premium pay rates for periods outside 'office hours'. This is out of step with modern pay rates in the wider economy. The delivery of seven day services cannot be mandated centrally; our role as stewards of the health care system is to help employers create the flexible workforce the need so that they are able to deploy staff in ways that respond to the increasing demand for services whilst improving quality, productivity and performance. We believe that unaffordable premium pay rates can stifle innovation and act as a barrier to the delivery of seven day services. We say in our evidence that this does not mean premium pay rates have no place in the NHS, but that they should be affordable, better targeted, and supportive of the NHS of the future.
- 1.2. The 10 clinical standards proposed by the NHS Services, Seven Days a Week Forum to improve seven day services, include provisions for emergency patients to be seen by a consultant within 14 hours, diagnostic services within 1 hour in critical cases, and psychiatric liaison where necessary within 1 hour. Therefore, the availability of appropriate safe staffing levels throughout the week is crucial.
- 1.3. Although the seven day services 10 clinical standards apply to urgent and emergency care, it is important that non-urgent care delivered throughout the week also is subject to similar standards , to ensure quality of care is maintained and safety of the patient is paramount. Potentially, this means that employers will need to look carefully at how they deploy staff at nights and weekends, and the most appropriate and fair allocation of premium pay rates for the benefit of staff and patients. In our evidence we say that the question is not *whether* premium pay rates should be paid at all, but that it is right to consider whether the allocated amount of the rates and the periods they apply to are necessary to retain and recruit staff, and whether they are appropriate for the aspirations of a modern NS. For example, we are aware that particular focus should be given to staff working nights, Sundays and in particularly pressured services such as A&E.
- 1.4. We appreciate that it will be challenging to introduce changes to long-established working patterns where premium pay rates have been the norm, especially where there are few direct comparators to the NHS which we can benchmark against. Employers locally will need to consider the services they want, or need, to deliver for their communities based on local priorities, and then consequently how best to deploy their workforce to deliver these services. Whatever decisions employers make locally, a key consideration will be the affordability and flexibility of their workforce and how they can continue to improve quality and productivity within the current pay bill.

- 1.5. Our evidence suggests that it would be important to look at the overall pay offer as part of any consideration of the changes that would best help employers deliver services over seven days. Pay is a significant amount of NHS expenditure, and we are looking to achieve better value from the £34bn spent on non-medical staff pay. We have asked for the PRB's views on premium pay rates given the spend on unsocial hours' pay. We have also suggested that the system of pay progression, with the inbuilt annual pressure of £800m for incremental pay cannot be ignored. Reform of the progression pay system in a more fair and affordable way, to reward excellence and not be more rewarding to senior staff, would provide opportunities to consider how premium pay rates might change, how they might be distributed, and - in due course - the most appropriate and affordable transitional arrangements.
- 1.6. Our evidence is supported by other parties' evidence put forward to the NHSPRB. In the evidence put forward by NHS Providers, 95% of members who responded to their survey believed that Agenda for Change presented barriers to more seven day services, and 94% said that it was important to narrow the definition of unsocial hours. Within NHS Employers' evidence, 62% of respondents to the HSJ / NHS Employers HR Barometer Survey believed that the increased cost of unsocial hours' payments was one of the main workforce barriers to providing more services over seven days.

Overlapping shifts

- 1.7. Within Agenda for Change there is a provision which allows that if more than half a shift falls within unsocial hours, the whole shift is be paid at unsocial hours rates (Section 2, para. 2.11 of the NHS Terms and Conditions of Service Handbook [insert ref]). NHS Employers' evidence suggests that there is little, if any, justification for this practice. We agree. It is not clear that this particular provision is an enabler to seven day services, though it is a provision that staff will no doubt value. Our request that the Pay Review Body pays particular attention to unsocial hour payments is not - as stated earlier - with the intention of removing entirely the system of unsocial hours' pay, but is an important part of the debate of how best to use a limited pay bill to support services and provide the necessary incentives the NHS needs to recruit and retain the staff.

Q2 What was the original design for AfC unsocial hours premia – what market rates/examples did you follow and how have these developed in recent years.

- 2.1. When initially developing AfC, the negotiators were required to deliver a harmonised system of unsocial hours payments which cost no more than the combined cost of all the separate Whitley (and some local) unsocial hours payment systems. The change had to reflect equalities legislation in line with equal pay principles and provide the right incentives. The negotiators also set themselves a strict target for the percentage of the workforce which would need pay protection, following assimilation to the new AfC pay system.
- 2.2. Once unsocial hours' payments talks got underway, quite late in the process, particular focus was given to a potential new system of harmonised payments, which employers preferred. "What if" modelling of a new system was difficult because at that time NHS information systems did not routinely link hours worked with payments received by staff.

- 2.3. The new AfC pay system, including unsocial hours, was tested in 12 Early Implementer sites from June 2003. In the course of testing it became clear that the unsocial hour arrangements (now contained at Annex E of the NHS Terms and Conditions of Service Handbook and which currently applies to ambulance staff) was unworkable. The numbers of staff requiring pay protection due to the harmonisation of unsocial hours' payments was much higher than expected, particularly among low paid staff and those working fixed patterns. Frequent changes in working patterns in some parts of the workforce, for example nursing, made it difficult to forecast an accurate level of unsocial hours' payments. This led to frequent revisions and corrections to payments, creating disproportionate administrative effort which made the new system unpopular with staff and employers.
- 2.4. Ambulance staff were the exception because their rotas tended to be more stable and predictable. This meant that an accurate forecast of the number of unsocial hours to be worked, at specific times, could be made. This allowed for a regular level of unsocial hours pay to be determined at the start of the rota.
- 2.5. In light of these difficulties, it was agreed that it would simply be impossible to proceed without significant risk to the NHS and its staff, especially if new arrangements were not fully developed and tested. The decision was taken therefore not to roll out the proposed unsocial hours' system, except in Ambulance Trusts.
- 2.6. The failure of the first negotiation led to the decision to "uncouple" unsocial hours' payments from Agenda for Change, to implement an interim regime and to remit the negotiators to conduct further, separate negotiations to agree a new, harmonised system of unsocial hours' payments. These negotiations were undertaken by NHS Employers, under the auspices of the NHS Staff Council. The financial envelope was fixed at £75m based on 2006/2007 costs, which would be £90m in real terms.
- 2.7. The second round of negotiations was successful. The partners developed a system capable of practical application for harmonising payments after phased implementation over three years. The negotiations took place between 2005 and 2008 and led to agreement to implement the system of unsocial hours' payments in place today. The negotiation had to take into account the financial envelope. It was also imperative to develop transitional arrangements which avoided, so far as was possible, financial loss to staff. Only one model was capable of delivering on the key objectives that any new system had to be affordable as defined by the financial envelope, and as far as possible avoided financial detriment to staff; this was the system of payments which applied to nurses as set out in the Whitley system (which had been used to pay some other staff groups during the interim period). This system was adjusted for staff in pay bands 1 to 4, and for some senior nurses to bring it into line with the remit and ensure that the system was consistent with equalities legislation.

Q3 Which services would benefit from additional staff outside standard hours? Which of these are the high priority areas?

- 3.1. It would be wrong, to dictate from the centre the services that local employers *should* deliver and which services ought to be the priority. The principle underlying NHS England's focus on seven day services has been that "patients in every community in England should be able to access urgent and emergency care services and their

supporting diagnostics” but to provide the same quality care every day of the week within the existing pay bill employers need to efficiently deploy resources beyond emergency/urgent work (e.g. elective treatments and diagnostic procedures) at weekends. We do not believe a blue print developed centrally is the right approach for staff or patients; it is for local organisations to identify high priority areas, and how best to respond to the demands they face in a way that facilitates high quality care. Employers cannot choose to deliver high quality care or achieve financial balance; they must do both within existing resources.

Q4 How far is contract reform the key enabler of seven-day services?

- 4.1. The NHSPRB have in recent reports recommended that the partners work together to reform AfC and unsocial hours pay. NHS employers spend around two thirds of their entire expenditure on pay and it would be difficult to argue that affordable employment contracts would not enable employers to think more creatively about how to deliver of seven day services. The inbuilt pressure of incremental pay and premium pay rates are costs that employers cannot separate from the overall pay bill. Giving employers more flexibility in how they use their existing workforce by amending unsocial hours and performance pay is a critical enabler of expanding the coverage of NHS services across the whole week.
- 4.2. Local consideration of how best to deliver services across seven days is set against the context of an unprecedented financial challenge across the NHS. After over a decade it is reasonable to consider if the design and rationale for premium pay rates and incremental pay remains appropriate, including how reviewing these provisions could deliver more affordable and better targeted arrangements for rewarding performance and the payment of premium pay rates.
- 4.3. In our evidence we point out that enabling the delivery of seven day services is not just about getting the employment contract right. It is also about alignment with other parts of the care system so that, for example, patient time in hospital is minimised, which in turn relies on services working seamlessly across primary care, secondary care, mental health, social care, and community services.

Q5 and Q6 Your evidence states that “a seven day service is not reliant upon existing staff working harder or more frequently, or about more staff.” Do you therefore see this as the transition of staff from existing Monday to Friday based work patterns to staff working their contractual hours over 7 days? This is unlikely to obtain in all areas (a simple example is reception staff). Where else to you consider the workforce numbers will need to increase in order to deliver a seven day service?

- 6.1. We have chosen to answer these questions together, as the response is the same. It would be inappropriate to dictate from the centre the workforce model and therefore the

numbers of staff that would best fit all local needs. NHS Improving Quality are conducting pilots as a guide, but are not meant to be a directive for how employers should take seven day services forward.

- 6.2. It will be for local employers to determine their own priorities and the workforce they need to recruit and retain the staff they need to enable the delivery of care across seven days. The design of services and how staff are deployed including how employers determine their priorities will of course be informed by wider government policies, clinical and legal obligations but the actual model is best developed by those on the front line who understand their local communities and workforce. We must stress that the remit given to the NHSPRB has not asked the pay review body to advise on models of implementation for seven day services delivery; examination of the current contract, and observations on potential contract reform to enable sustainable seven day services should be the focus for the review body.
- It is not the intention that existing staff would work 'more frequently' – i.e. beyond contracted / safe hours
 - A seven day service is not necessarily reliant on more staff – it is possible to envisage that some services might be scheduled at the same levels but across seven days rather than five, or on a different five days to a current Monday to Friday pattern
 - Employers might choose to both redesign and increase service provision, using the financial resource available to them. This might mean reconfiguring services and funding, or releasing financial resources through efficiency gains
- 6.3. We do not believe one model of care will fit every NHS employer or that the centre can say with absolute certainty that any move to delivering seven day services will not involve more staff.
- 6.4. The workforce implications will depend on the local design of services and what local employers believe is necessary to support those services. In order to deliver seven day services, employers may need to draw on their non-clinical non-medical workforce. What is clear is that employers must achieve financial balance whilst improving quality and productivity. The Government is committed to reducing administrative costs by a third by the end of this Parliament to help free up resources for front line care.
- 6.5. As is happening now, employers will want to look to how they can provide services more efficiently and how to provide wider support across seven days. The solution may not need to lie in the recruitment of more clinical, medical and other NHS staff; employers will wish to consider how to reorganise services locally in the most effective way that meets the needs of patients and is sustainable within the existing budget. This is not about more services equalling more staff, it is about assessing the resources available and ensuring that they are being deployed in the most efficient way – both in terms of workforce and equipment. As the Tax Payers Alliance observed “Many NHS Trusts are not adequately utilising expensive diagnostic... equipment, if NHS Trusts are to establish genuine efficiency, the management of machines must be improved.”¹

¹ <http://www.taxpayersalliance.com/NHSMachines.pdf>

Q7 Why do you think there is a higher demand for agency cover at weekends? This might suggest that these shifts are harder to cover and the current premium is not providing an incentive? How will you get staff to work these hours if, as you seem to be suggesting, these premia are removed or reduced?

- 7.1. The data we presented in our evidence on agency spend patterns, which is based on the London region, does indicate that in this particular region, agency staff are more in demand at weekends, but we do not have any further data about the reasons for this, nor whether this is a common pattern across the country.
- 7.2. We do not intend to increase agency spend by introducing more seven day services. We also do not believe that the solution is to increase staff pay to attract staff away from agency. The Department of Health is putting in place a number of actions to reduce agency spend, including:
- Tough new rules (through the updated Section 42 guidance) which mean Trusts that need extra financial support from DH will have to prove they have robust plans in place to reduce agency spend – aiming for them to reduce the spend by 50% over the next 18 months;
 - Intensive work with a number (11) of trusts to understand agency spend and patterns;
 - Created a new toolkit and updated guidance on workforce planning for trusts – good workforce planning is essential in driving down costs;
- 7.3. We do not want to deter employers from using agency staff all together, simply to reduce the expenditure on agency staffing. There are valid times when agency provides a useful source of temporary staffing, where other alternatives such as using permanent staff or bank are not possible. However, we would like to incentivise employers to use effective workforce planning and roster management in the first instance, to deliver seven day services. Where temporary staffing is required, and the local ‘bank’ staff are not an option, agency costs need to be better managed to ensure that this does not place an additional barrier to seven day services.
- 7.4. In terms of enabling sustainable seven day services, the reliance upon more expensive agency staff to work unsocial shifts will need to reduce, and employers will need to put more emphasis on the importance of good rostering and staff engagement. Case studies have shown that staff engagement is key, and permanent staff were willing to change their working patterns to deliver better care and improve general performance of a service ².

² <http://www.nhs.uk/resources/case-studies/equality-for-all-delivering-safe-care-seven-days-a-week-case-studies.aspx>

Q8 Do you have evidence on the willingness of staff to work over seven-days under current Agenda for Change reward arrangements?

- 8.1. We have no specific evidence which suggest that staff choose a career in the NHS *because* part of the employment offer includes premium pay rates, but our view is that a career in the NHS for most staff is embarked upon in the knowledge that they are entering a 24/7 health care system. The main issue for Government is that employers are able to afford the right numbers of staff. We believe that it is difficult to look at premium pay rates in isolation. How the overall employment offer, including how incremental pay might be better targeted to help improve performance and productivity, is an important element of how employers are able to continue to recruit and retain the staff they need.
- 8.2. As indicated in other parties' evidence, there is a view that staff rely on premium pay rates and that any reduction would result in staff either choosing not to work these hours or leaving the NHS. It is not clear how this issue, in isolation to the overall NHS employment offer (pay and non-pay benefits), would become *the* deciding factor in staff choosing to leave the health service. The reward package offered to NHS staff *is* considered to be competitive – as the main employer of health professionals, the NHS has set the rate for others to follow, and the total package on offer to staff is very competitive within the market – taking into consideration the pay and non-pay benefits provided - especially for support staff when compared to jobs in the private care sector. Therefore, employers must strike the right balance. More than ten years since AfC was introduced we believe it is right that the system is reviewed in a way that is fair to staff and the tax payer.

Q9 Given that both staff and union engagement will be required for any transition to seven-day services, why (according to the trade union evidence) has seven-day services not been discussed first more thoroughly at the NHS Staff Council.

- 9.1. There has always been a wish and a commitment to taking forward further pay reform in partnership. In particular, to review the structure of incremental progression and the current arrangements for unsocial hours' payments. Provider organisations have also been clear that further reform is necessary. We acknowledge that the March 2013 national agreements on making strong links between pay and performance, and changes to sick pay, were a very welcome first step; but we need to go further.
- 9.2. Whilst there have been informal discussions between NHS Employers and NHS trade unions on the possible changes to AfC, there was no decision to enter into negotiations. Following the Government's pay settlement which rejected the NHSPRB pay recommendation for 2014/2015, trade unions balloted their members for industrial action. Trade unions confirmed that they could not enter into negotiations on pay reform whilst in dispute with the Government and employers. However, following the Government's pay offer (see Annex A), trade unions agreed to consult their members on

pay proposals designed to give most AfC staff a consolidated one per cent pay rise in 2015/2016 and for example, agreement on changes to contractual redundancy, and to talks on AfC reform.

Q10 When can we expect the findings and conclusions of the NHS England, NHS Services Seven Days a Week Forum, as mentioned in your evidence?

- 10.1. NHS England established the NHS Services Seven Days a Week Forum, and commissioned work to undertake an impact assessment of seven day services. This work has not reported yet, and NHS England will therefore confirm when the outcomes of this research will be shared.

Q11 Have the options for pay models in your evidence been costed? (3.37 – 3.40)

- 11.1. DH and NHS Employers have developed a joint modelling relationship. The options for pay models provided in DH's evidence were discussed with NHS Employers, and they have provided some costings in their evidence in Figure 9, based on consideration of shift payments attributable to Saturdays, Sundays, Nights and Bank Holidays, alongside illustrative examples of estimated number of hours worked. After adjusting for on-costs, NHS Employers estimated this to cost £1.44bn. This table provides a useful starting point for considering the potential to revise unsocial hours' periods.
- 11.2. The unsocial hours' costs provided by NHS Employers only cover elements which are directly attributable to the four time periods listed above. There are additional unsocial hours' related payments within shift working which are not directly attributable to a specific time period, but are identified as unsocial. These payments, along with On Call and adjusting for on-costs, are included in the £1.8bn cost estimated by DH. There is also a further cost from Overtime hours relating to unsocial periods, but this is not identifiable from published data sources, so not included in either estimate.

Q12 In your evidence you suggest that pay drift is likely to rise again – can you explain why and in particular how the increase in employer contributions to pensions impacts this?

- 12.1. Paybill per FTE drift captures anything making paybill per FTE change at a different rate to the headline pay award. This includes factors which cause employer on-costs to grow at different rates to the headline pay award.

- 12.2. There was a significant reduction in paybill per FTE drift in 2013-14. The temporary costs of managerial exit packages from NHS reform made 2013/14 earnings seem low in comparison to 2012-13. Additionally, likely in response to the Francis Report and to address unsafe staffing risks, there was a significant increase in the HCHS workforce in 2013-14. This workforce growth was particularly strong for non-medics, which neutralised the contribution seen in recent years from medical workforce expansion. As recruitment is usually focused towards the lower end of pay scales, this also had a depressing impact on average experience and hence pay levels, which then translated into lower drift. Although there have been recent increases to NHS budgets, resources will still be under pressure, and limits to affordable recruitment levels. As such, the expectation is that pay drift will increase from its 2013-14 level.
- 12.3. There are 2 upcoming effects which will contribute to a rise:
- 2015/16: Revaluation of NHS pension scheme, to ensure that contributions are sufficient to cover liabilities, causing an increase in employer contribution rates from 14% to 14.3%. This will increase paybill per FTE by 0.2%
 - 2016/17: Single Tier State Pension. This is a pensions related impact, which manifests in employer National Insurance contributions. (NIC)
- 12.4. NHS pension scheme members benefit from discounted national insurance (both employee and employer) through contracting out from the second state pension. Contracting out is being abolished from 2016/17. Consequently this gives an increase in average employer NIC rates. This gives a cost pressure of 1.75%.

Q13 What do you think the long term average figure for pay drift will be?

- 13.1. Paybill per FTE drift is difficult to forecast as it is not independent of public finance, and pay policy decisions are influenced by the responses and actions of hundreds of employers and over 1 million staff.
- 13.2. To illustrate, a key driver of drift is recruitment levels. With greater recruitment, there is a greater influx of new staff probably towards the bottom of payscales, which drags down average paybill levels. As such, decisions in the upcoming Spending Review, which influence workforce affordability will have knock-on consequences for pay drift. Similarly, pay policy decisions can have an impact on drift. Their influence on recruitment and retention prospects can also influence the average position of staff on payscales (and therefore their cost) and there could be wider impacts such as a greater propensity to claim payment for all additional work (some Trade Unions are currently advising a withdrawal of unpaid labour in response to the current pay dispute). Further to this, individual employers' decisions about the relative prioritisation of staff groups when dealing with affordability constraints have a role. The more that expensive staff groups like medics are prioritised the greater drift will be as average paybill per FTE levels are influenced by the composition of staff.
- 13.3. As such, paybill per FTE drift cannot be considered a stable exogenous pressure that does not vary in response to decisions of wider government, DH, employers and staff.

The decisions associated with the upcoming Spending Review that will be faced by the government of the next Parliament will be key to refining our expectations. We do and will take these factors and uncertainties into account when undertaking financial planning, but ultimately pay pressure expectations will never be certain and will benefit from a consideration of scenarios, particularly when thinking about the long term.

Q14 Please can you clarify by what is meant “without increasing the existing spend” in your remit letter:

- Does this mean at no extra cost based on the current paybill and average pay cost per FTE? If not, please explain what it does mean.
- If so, is this an average pay cost per FTE where an individual is currently working and being paid for unsocial hours, or without?
- Do you expect to incur short-term transition costs on moving to a seven-day service?

- 14.1. By ‘existing spend’ we mean the amount that employers currently spend on staffing costs per FTE.
- 14.2. Employers want greater flexibility to schedule services seven days a week within their available financial resources. This is about using available resources in different ways and providing employers with the affordable opportunities to run additional services, with the safe staffing levels required, at weekends. The current contractual arrangements are perceived as a barrier to the affordability of delivering services seven days a week, and by considering the Agenda for Change terms and conditions as a whole, including unsocial hours arrangements and premiums, as well as progression pay within our evidence basis for contractual reform, we can consider options that combined together result in opportunities for keeping the pay bill cost per FTE the same as it would otherwise have been under current arrangements, including any work done within unsocial hours.
- 14.3. Our remit letter refers to affordable ‘out of hours’ working arrangements. If there were changes to: the periods of plain time working and the rates payable for premium time working employers would be more able to schedule their staff to provide services into the evenings and at weekends within existing budgets. This could mean more affordable opportunities for employers to develop and utilise a flexible workforce; and less reliance on agency staff.
- 14.4. This is not an issue that is limited to the AfC staff groups. A key barrier in the consultant contract is the right of consultants to opt out of non-urgent work in the evenings and at weekends, which means higher costs for trusts is in employing consultants (sometimes the same consultants) at much higher, extra-contractual rates during those times.
- 14.5. In terms of short-term transition costs, we are seeking PRB views on this question, but we would expect any changes to be delivered within the existing pay envelope over a transitional period.

Q15 You cite the example of the retail sector as a modern example of a service industry approach to weekend working (i.e. weekend as plain time), do you have alternative example where weekend working is not specifically rewarded?

15.1. Our evidence summarises findings from a report by *Income Data Services* in 2013/2014 on unsocial hours payments in a range of public and private sector organisations. The report was drawn from surveys with employers and provides a number of examples where weekend working is not specifically rewarded. For example:

- Police officers receive an unsociable hours' allowance of 10% of basic pay for work done during evenings and nights, with daytime work paid the same rate irrespective of the day worked.
- Only a minority of employers in the housing and social care sector pay unsocial hours payments to nurses or homecare managers, whereas in other areas (such as call centres) the position varies.
- It is very unusual for unsocial hours' payments to be made to senior professionals such as those working in law and finance, with compensation generally reflected in higher basic and salaries and earnings packages.

Q16 Is there anywhere else in the World with a health system that operates in this way?

16.1. The Department is aware that some health services are being delivered or trialled across the week at provider level in other parts of the world, but has no evidence of a nationally driven strategy akin to the work being undertaken by NHS England. In terms of workforce issues, the Australian Government's *Productivity Commission* is in the early stages of reviewing the use of unsocial hours' rates during the weekend across all sectors, including in health. A link is provided here:
<http://www.pc.gov.au/inquiries/current/workplace-relations>

Annex A - Agenda for Change Pay Proposal Letter



Department
of Health

From the Rt Hon Jeremy Hunt MP
Secretary of State for Health

Department of Health
Richmond House
79 Whitehall
London SW1A 2NS

Tel 020 7210 5320
healthsofs@dh.gsi.gov.uk

www.dh.gov.uk

Christina McAnea
Staff Side Chair of NHS Staff Council
UNISON
130 Euston Road
London
NW1 2AY

Dear Christine,

27.1.2015

Agenda for Change Pay Proposal

I am writing to you to make a pay offer for 2015/16 in respect of staff employed under Agenda for Change Terms and Conditions in England, following discussions between my officials and representatives of the staff side of the NHS Staff Council.

As we have discussed before the priority for the Government has always been to ensure a fair pay award for hard working NHS staff whilst also doing what is best for patients, and those staff, which is protecting front line staff numbers.

The pay offer is intended to provide nearly 1.1m NHS staff under Agenda for Change (AfC) terms and conditions with a pay rise next year in line with the Government's pay policy. It also provides additional support for the lowest paid staff in the NHS. This offer does not increase the cost of employing NHS staff next year and therefore does not affect the affordable NHS workforce. I would ask as part of an agreement that the Trade Unions commit to work together with NHS employers to ensure this remains affordable and that the £34bn plus spent on paying Agenda for Change staff achieves the best value going forward.

The elements of the pay proposal from the Department are as follows:

- Abolition of the bottom point of AfC and increasing pay point 2 to £15,100. This means an increase of 5.6% for staff on point 1 and 3.1% for staff on pay point 2;
- 1% consolidated pay rise for all staff up to point 42 from April 2015;
- A further consolidated pay rise of an additional £200 for staff on pay points 3-8. This means staff on these pay points will receive an increase between 2.1% and 2.3%;

- An increment freeze in 2015/16 for staff on pay point 34 and above for one year only; and
- Urgent talks to take place with a view to the proposed redundancy changes being implemented from 1 April 2015, including a floor for calculation of redundancy payments of £23,000 and a ceiling for calculation of £80,000 with an end to employer top up for early retirement on grounds of redundancy.

The Government is also taking this opportunity to reaffirm its commitment to the NHS Pay Review Body. The Pay Review Body system has generally served the NHS well and will continue to have an important role in making future recommendations on pay uplift for NHS staff in relation to 2016/17 and thereafter.

As part of the offer the Government asks the Trade Unions to commit to talks on further reforming Agenda for Change. The Government recognises that the Agenda for Change pay system has successfully created a framework for equal pay in the NHS and a framework for rewarding staff fairly. However we believe that after 10 years the time is now right to review the agreement to ensure it can continue to deliver flexibility, capacity, fairness and value.

The talks would support NHS organisations to maximise the contribution of NHS employed staff and reduce reliance on agency staffing, strengthen the AfC agreement on progression and review more generally the need for further reform of the pay system with the aims of maximising value for patients and fairness for all staff including those in Bands 8 and 9. These talks would aim to produce an agreement for implementation from April 2016 and will be part of a more general review of terms and conditions for all NHS staff.

As part of the broader negotiations, unions representing ambulance staff have had discussions with the Department and ambulance employers about related issues concerning ambulance staff terms and conditions. The annex to this letter sets out proposals for taking these forward. I would be grateful if Trade Unions representing ambulance staff would include this element of the offer in consultations with their membership on the overall proposals.

I believe that this offer strikes a fair balance between the need to protect the NHS frontline and giving staff an affordable pay rise. We hope that this offer will enable Trade Unions in dispute to suspend planned industrial action pending consultation with your members.

I am copying this letter to David Wherrett, Chair of the Staff Council Management Side.

Yes and
Jer

JEREMY HUNT

Annex

Proposal from Ambulance Service Employers to the Ambulance Unions

Ambulance employers recognise that the current industrial action has a wider context for ambulance staff of other concerns about terms and conditions. The Ambulance Employers commit to work in partnership with the Ambulance Trade Unions (UNISON, GMB and UNITE) to seek to resolve these wider issues.

In particular:

- In relation to Sickness / Unsocial hours allowance payment; to curtail discussions for the move away from Annex E unsocial hours enhancements. To curtail discussions around a move towards section 2a unsocial hours under A4C. To suspend immediately any further work to test, in the High Court, the national agreement on sick pay which relates to the NHS Employers and the Ambulance Service Employers view that the original agreements included the Ambulance Service Sector. This issue would instead be remitted to the wider talks on further AfC reform.
- Ambulance Employers to introduce a scheme whereby they will match the value of additional pension contributions made by front line ambulance staff to enable them to take their 2015 pension unreduced at 65. For instance if the cost of this was 4%, the employer would pay 2%.
- Ambulance employers to work with the ambulance unions to address current recruitment and retention issues, either through changes to use of job profiles and bandings or through application of recruitment and retention premia to job roles meeting agreed criteria.
- Ambulance Employers will take forward with Ambulance Unions work a specific work stream under the NHS Staff Council Working Longer Review identifying the specific challenges for front line ambulance staff of the increase in pension age and how they can be addressed.

