

HEADS OF AGREEMENT

REVIEW OF AGENDA FOR CHANGE (AfC)

Background

The Agenda for Change (AfC) pay, terms and conditions agreement was introduced in December 2004 as part of widescale reform and modernisation to NHS pay, terms and conditions.

The system has successfully delivered a unified approach to terms and conditions for staff who are governed by the agreement (broadly described as AfC staff). All stakeholders (Trade Unions, Employers and The Scottish Government) recognise the need to modernise the system and ensure that it remains fit for purpose to recognise the work of the current and future NHS workforce.

In January 2023, the Cabinet Secretary for Health and Social Care committed to review Agenda for Change as part of the 2023-24 AfC pay deal. This Heads of Agreement has been agreed jointly with Scottish Government and Health Trade Unions. NHS Scotland Employers are fully committed to working through the detail.

Principles

The Cabinet Secretary has set out the following principles for the review of Agenda for Change:

- Make NHS Scotland an employer of choice for health and other staff;
- Recognise the value of staff and professional roles;
- Improve outcomes for the public;
- Develop a modern and responsive pay, progression and reward system that meets the needs of NHS Scotland and its staff;
- Ensure no financial detriment to staff, and;
- The remit and timescales will be fully agreed to ensure the work is undertaken and completed by an agreed date.

The review must deliver in the context of NHS Scotland principles around sustainability and value and be evidence-based.

Whilst there should be a focus on addressing staff shortages across the AfC workforce, the review must deliver a positive change which will be:

- Fit for purpose;
- Exemplar;
- Equality proofed, and;
- Available to all.

NHS Scotland employers are of the view that the principles set out in the Heads of Agreement are adhered to when reviewing the detail as outlined within the review of AfC.

2022-23 Pay Settlement - Existing Priorities

The Scottish Government has committed to modernisation of the following priority areas:

Agreed as part of the 2022-23 pay settlement:

1. A review of band 5 job nursing profiles;
2. Protected learning time, and;
3. Review to deliver a reduction in the working week

All sides accept that these priority areas will progress faster than other aspects of the review process. Those areas which have been agreed as part of the 2022/23 pay settlement will be scoped out with a delivery plan by September 2023. These are:

1. REVIEW OF BAND 5 JOB PROFILES

All existing Band 5 nursing job profiles/ descriptions will be reviewed to determine if there are any inconsistencies in their application and if they still are fit for purpose. This will be undertaken in accordance with NHS Scotland job evaluation policy considering our equal pay obligations and responsibilities, and with a commitment to ensuring banding outcomes reflect current job content.

The review will be undertaken in partnership with a mandate and remit agreed by STAC, and will be conducted on a 'Once for Scotland' national basis to ensure consistency of any implementation of recommendations across all NHS boards in Scotland with any increased responsibility properly rewarded.

2. PROTECTED LEARNING TIME

A working group will be established to consider the learning time for professional groups of Agenda for Change (AfC) staff, and will be compliant with responsibilities as set out in the National Health Services (Scotland) Act 1978 at section 12II as revised through Section 4 of the Health and Care (Staffing) (Scotland) Act 2019. This states:

“In complying with the duty imposed by section 12IA, every Health Board and the Agency must ensure that its employees receive— (a) such training as it considers appropriate and relevant for the purposes set out in section 12IA(1)(a) and (b), and (b) such time and resources as it considers adequate to undertake such training.”

Any recommendations made by this group will support the recruitment and retention of staff, their development and wellbeing, and have due regard to the need of health boards to manage the day-to-day deployment of staff in line with existing and future service provision responsibilities. Implementation of this review will require that the predicted absence allowance is reviewed and/or adjusted to reflect the impact at team level, ensuring adherence to agreed paid protected learning time for staff.

3. WORKING WEEK

A working group will be established to explore the reduction of the hours in the working week, with the aim of getting to a 36 hour working week without the loss of earnings within an agreed timescale taking account of matters including, but not limited to, service provisions, safe staffing levels, staff wellbeing, and costs. Implementation of any recommendations will be costed, fully resourced and will be reflected in local NHS board workforce plans and set out in future NHS Scotland health and social care workforce plans.

Review of Agenda for Change – Scope

The offer further commits to modernise Agenda for Change to support workforce recruitment, sustainability and retention as set out in this Heads of Agreement. The scope of the wider review will be rooted in the following thematic areas.

1. Career Development and Progression

i) Supplementary staffing – Rates of Pay, Allowances & Overtime

Staff Side Position

Recognition and reward for additional work undertaken by NHS staff. There is a common view that whilst supplementary staffing will remain a feature of the delivery of services, there is an urgent need to do all possible to stabilise the workforce and properly reward additional hours worked. We have a shared concern that the escalating reliance on high-cost agency is not sustainable. We are aware of the work currently being led by the CNOs office and make the following observation on the need to revise terms and conditions.

Staff Side propose a move to standard overtime rates for all additional hours worked by substantive NHS employees. This would include those hours worked through bank arrangements.

Dialogue is required on measures to further alleviate high-costs agency utilisation in areas such as ICU or other specialist services where current NHS staff might be willing to deploy to adjacent/more distant boards where travel is involved but, for example, costs inhibit. Additionally, we seek consistency in the grades paid to staff who do offer to undertake extra hours and seek payment on actual grade.

Rates of pay and the way which substantive staff are paid through the bank should be reviewed as the current system acts as a disincentive and encourages staff to seek agency work. There were temporary changes in response to Covid which should be part of the considerations.

2. Pay and Reward

i) Pay spine, band transition and incremental distribution

Staff Side Position

An urgency around review and revision of the pay spine values given the cumulative impact of how the pay spine has changed over time.

Any revision should look at achieving a more regulated incremental value and meaningful transition points for band to band on promotion.

The gaps between the pay bands need to be large enough to incentivise promotion and therefore encourage career progression, particularly for staff working at the top of their pay band. Small gaps between the bands are already an issue, and appropriate investment is needed at all levels of the pay structure to ensure that this issue is not exacerbated by further compression of the bands.

Employer Position

Employers acknowledge the need to redesign the pay system to better support staff going on promotion and are in favour of review.

ii) Progression through pay increments

Staff Side Position

The NHS workforce crisis and increased expectations on staff to do more with less have driven a culture where NHS workers 'sink or swim.' The historic practice of taking time to learn the job is now a luxury that staff no longer enjoy and so progression should reflect this to facilitate faster and fairer progressions towards the agreed rate for the job, which is the top of the scale.

Consideration needs to be given to the length of time taken to move from the bottom to the top of the pay bands to support recruitment and retention at all levels.

Employers Position

Employers see the value in targeted creation of progression routes where staffing is an issue (e.g. Critical Care and Operating Theatres) and are conscious of the opportunity that it could reduce supplementary staffing costs.

iii) Pay on Promotion

Staff Side Position

The potential loss of pay enhancements, such as unsocial hours and overtime, also needs to be factored into considerations when incentivising promotion between the pay bands.

Currently, when promotion may result in a loss of earnings when basic pay, unsocial hours and RRP's are considered and the working pattern is unchanged the staff member may be appointed to the first point of the new pay scale that produces a salary increase, this also includes circumstances where working patterns are not similar but, in these circumstances, only basic pay and long terms RRP's will be considered.

Consideration to be given to a change to provide that even in circumstances where the working pattern is changed, basic pay, unsocial hours, and any long term RRP should be taken into consideration as the loss of earnings on promotion at points such as band 6 to 7 have been shown to be a real disincentive to staff seeking promotion.

Furthermore, Staff Side believe that there is an urgent need to consider the operation of Annex 21 in respect of the salary paid to those in training posts. There are staff who are being paid less than they would in their substantive post to undertake training, this clearly acts as a disincentive to participate in further training and in turn impacts on the filling of essential specialist vacancies.

Employers Position

Employers acknowledge the need to redesign the pay system to better support staff going on promotion and support the review of Annex 21.

iv) Supplementary staffing – Rates of Pay, Allowances, Overtime and Unsocial Hours Rates

Staff Side Position

Appropriate recognition and reward for additional work undertaken by NHS staff. There is a common view that whilst supplementary staffing will remain a feature of the delivery of services, there is an urgent need to do all possible to stabilise the workforce and properly reward additional hours worked. We have a shared concern that the escalating reliance on high-cost agency any further is not sustainable. We are aware of the work currently being led by the CNOs office and make the following observation on the need to revise terms and conditions.

We would propose a move to standard overtime rates for all additional hours worked by substantive NHS employees. This would include those hours worked through bank arrangements.

Dialogue is required on measures to further alleviate high-costs agency utilisation in areas such as ICU or other specialist services where current NHS staff might be willing to deploy to adjacent/more distant boards where travel is involved but, for example, costs inhibit. Additionally, we seek consistency in the grades paid to staff who do offer to undertake extra hours and seek payment on actual grade.

Rates of pay and the way in which substantive staff are paid through the bank should be reviewed as the current system acts as a disincentive and encourages staff to seek agency work. There were temporary changes in response to Covid which should be part of the considerations.

Employers Position

Employers are content to work with Staff Side and The Scottish Government to address priorities through reviewing terms and conditions of service to provide a safe and effective service for staff and patients.

v) On Call

Staff Side Position

With an increase in demand for services, shortages of staff and more regionalised working, the frequency where staff are on call and demands of the on-call period all point to the need for review. Additionally union members have reported concern that compensatory rest cannot be/is not being applied appropriately.

There is a shared view that both the rate paid for on call and the operation of on call should be reviewed. Consideration is also needed in respect of practices in use that are more reflective of the former “standby” arrangements i.e., staff staying within the hospital overnight.

Consideration to review the Scotland-wide policy to be universally applied across all NHS employers in Scotland in respect of the operation of on call arrangements including compensatory rest.

Employers Position

Employers are content to work with Staff Side and The Scottish Government to address priorities through reviewing terms and conditions of service to provide a safe and effective service for staff and patients.

3. Fair recognition of skills and experience

i.) Job growth/Career progression

Staff Side Position

Parity across professions and staff groups is of fundamental importance. To achieve this parity and to deliver equality-proofed profiles and job descriptions, we require responsive, objective and consistent processes and practices. Current practice – which is too often restrictive, subjective and open to bias – therefore requires to be reviewed and tightened and job descriptions require to be kept under regular review.

Additionally, AfC workers need to have confidence that their professional growth will be recognised and rewarded. It is the Staff Side view that this will be best achieved through an accelerated career progression model which will recognise the rapid accumulation of additional skills. This would resolve issues created by the impact of the 'growing' job on Band 5 and 6 roles – an impact that has diminished recognition and reward for the jobs being undertaken and which has, in turn, negatively impacted recruitment and retention for those roles.

The review work in respect of band 5 nursing that has already been committed to, also applies to other disciplines and reflects a need at other points across the banding structure in a range of groups. For example: within Midwifery, Radiography, Physiotherapy, other AHPs and biomedical Heads of Agreement – NHS Agenda for Change 9 sciences - further examples incremental of situations where role growth is not being recognised and is negatively impacting on the retention of staff, will be provided.

This work is urgent - especially across professions and roles that are currently experiencing recruitment and retention difficulties.

For complete clarity this will apply to other roles across the grading structure. Utilisation of the framework agreed, as was applied when the revised profiles were implemented for band 2/3 will provide a foundation for progression of the work.

Employers Position

Employers see the value in targeted creation of progression routes. Reviewing the distribution of grades/bands across NHS Boards and identifying any inconsistencies. Employers also noted that reviewing current job descriptions/profiles are key in ensuring roles are still fit for purpose.

ii) Operation of the job evaluation scheme

Staff Side Position

Staff Side is committed to the current AfC job evaluation process but recognise there are significant issues across NHS Scotland with consistency of application.

There is a shared Staff Side view that the scheme is not consistently applied across employers and further work is necessary in respect of demonstrating that NHS roles have consistent banding outcomes across the health systems within Scotland.

Staff Side wish to seek a single, Scotland wide policy to be universally applied across all NHS employers in Scotland in respect of the operation of the AfC Job Evaluation system arrangements.

Employers Position

Employers have indicated their preference for a Once for Scotland system for Job evaluation to prevent grade inflation and ensure that roles are graded fairly. They have also highlighted significant benefit through resource savings for HR teams through a single approach.

4. Flexibility and Modern Ways of Working

i) Reduced Working Week

A commitment has already been made to scope the reduction of the working week in the NHS to 36 hours as part of the 2022/23 pay deal. This details that:

A working group will be established to explore the feasibility and implications of reduced hours in the working week, with the aim of getting to a 36 hour working week without the loss of earnings within an agreed timescale taking account of matters including, but not limited to, service provisions, safe staffing levels, staff wellbeing, and costs. Implementation of any recommendations will be costed and fully resourced and will be reflected in local NHS board workforce plans and set out in future NHS Scotland health and social care workforce plans.

Staff Side Position

In support of work life balance, there is a common view that the commitment to reducing the working week to 36 hours has been welcomed, commencing as soon as possible with a commitment to reach a 36 hour working week in the shortest achievable timescale. It is recognised this will be required to be incremental over an agreed period.

Employers Position

Employers' have noted strongly that any move to reduce the working week should be accompanied with service reform. Any implementation should be done on a phased basis to ensure a smooth transition.

ii) Maternity, Paternity & Shared Parental Leave Arrangements

Staff Side Position

Staff Side would wish that consideration is given to aligning the qualifying period for such leave to that of other public sector provision, for example the qualifying period within Scottish local authorities, meaning that NHS occupational maternity pay for example would be payable after 6 months qualifying service. There is also a requirement for clear guidance on maternity leave pay for those on bank contracts.

Employers Position

Employers are content to work with Staff Side and Scottish Government to address priorities through reviewing terms and conditions of service to provide a safe and effective service for staff and patients.

Commissioning and Governance

The review will be taken forward within the auspices of the Scottish Terms and Conditions Committee (STAC). STAC will form the overall governance group and will commission, where appropriate subgroups reporting into STAC to take forward areas of work.

Within 4 weeks of the 2023/24 pay offer being agreed through trade unions ballots, STAC will have developed a high level workplan and terms of reference for each of the required working groups.

STAC will report to the Cabinet Secretary for Health and Social Care who will provide Ministerial oversight and agreement to proceed within 2 weeks of completion of the work plan.

It is recognised that some aspects of the review may take longer than others. Those areas in which have been agreed as part of the 2022/23 pay deal will be scoped out with a delivery plan by September 2023. A Agenda for Change review document will also be prepared no later than September 2023 with next steps on the matters set out as priorities within the wider review, allowing time for multi-year pay negotiations to take place as required.

The review document from STAC will identify:

- Costed proposals and implementation plans for 2022-23 commitments and for any wider matters where there is agreement on modernisation.
- Costed proposals for consideration by the Cabinet Secretary where there is no agreement.
- Detailed timescales and mechanisms for implementation including 'quick wins', should all parties be in agreement.

Governance

Whilst STAC will develop a governance structure as part of the commissioning process it is accepted that any final proposal may require trade unions to consult members on any proposed changes and timescales.

It is accepted that should STAC fail to make progress or reach agreement on identified issues within agreed timescales this would require escalation to the Cabinet Secretary and, in Staff Side's view, may result in trades disputes.