THE NHS EMPLOYERS ORGANISATION’S SUBMISSION TO THE NHS PAY REVIEW BODY

Delivering seven-day services within the NHS Agenda for Change pay system 2015

December 2014
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Key messages to the NHS Pay Review Body (NHSPRB)

- In December 2013 Sir Bruce Keogh, NHS England’s national medical director, set out plans to further develop seven-day care across the NHS over the next three years, based on the findings and recommendations of his forum on NHS services, *seven days a week*. These plans included ten new clinical standards that describe the standard of urgent and emergency care that all patients should expect. There is evidence of increased mortality rates\(^1\) for people who are admitted to hospitals at the weekend. This presents a clear case for moving towards a seven-day health and care system.

- In many settings, the NHS already provides continuous services over seven days and many staff on Agenda for Change contracts already provide care over seven days a week. There are no contractual barriers in the national agreement to prevent this. Working patterns have always been a matter for local organisations to determine.

- The Francis Report\(^2\) noted that patients feel more vulnerable at weekends when staff absences and shortages are more noticeable and it is becoming apparent that a five-day service model is no longer fit for purpose in providing safe, efficient care, or in meeting the public’s expectations for standards of care.

- A move towards seven-day services for the NHS will provide better, safer and more responsive services to patients and lead to a more efficient use of NHS resources. Seven-day service provision would potentially enable NHS organisations to make more productive use of high-cost diagnostic equipment and operating theatres which tend not to be fully utilised at weekends or evenings.

- NHS England’s *Five-year forward view*\(^3\), published on 23 October, sets out a vision for how the NHS can continue to provide care within available resources and how, by taking the proposed steps, the future of the NHS can be sustained. It highlights the need to consider how working patterns and pay and terms and conditions can best evolve to fully reward high performance, support job and service redesign. The move towards more seven-day services needs a wider culture change across the NHS, in addition to resolving the financial, workforce and service design challenges.

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1. NHS Services Seven-Days a Week Forum
2. The Francis Report
3. NHS England’s 5-Year Forward View
Employers have consistently told us that the national pay and terms and conditions of service for all NHS staff need to continue to adapt in order to make them more affordable and sustainable in the future and better support the challenges facing the NHS in terms of both patient care and affordability. A key challenge is the move towards delivery of patient services over seven days a week. Employers are looking for more flexibility around conditions of service to give them more scope to address their local challenges. In the recent HSJ/NHS Employers HR Barometer survey, over 80 per cent of responders agreed that there was a need for a review of Agenda for Change. Changes to the pay structure and unsocial hours pay enhancements were cited as key areas for reform.

The quality of services to patients should be consistent throughout the week, so that their care is actively progressed at weekends. In order to do this, service provision at times currently deemed unsocial hours needs to be made more affordable. Employers have told us that the additional costs associated with staff working evenings and weekends through the current unsocial hours enhancements provide a financial disincentive to providing non-urgent care at some times of the week. In the HR Barometer Survey, 60 per cent of responders said that the Agenda for Change unsocial hour’s provisions needed to be reviewed, whilst over 26 per cent listed the cost of paying unsocial hours enhancements as being a barrier to implementing more seven-day working.

There is a consensus among employers that changes are needed to the unsocial hours pay arrangements. In a 24-hour, seven-day service like the NHS, there is a need for more hours in the week to be paid at plain time, and the level of enhancements to be at a lower level for weekend and public holiday working. That said, there is a range of views on exactly how the unsocial hours pay enhancements should be recast to be more supportive of care delivery across the week.

Whilst outside the direct remit of the NHSPRB, employers have told us that more significant contractual barriers to seven-day service provision remain in the nationally determined medical and dental consultants’ contract. If patient outcomes are to be as good every day of the week, at all times of the day, it is clear that more senior doctors need to be present and working in the hospital more of the time.
1. Introduction

1.1 The issue of supporting new ways of delivering healthcare and improving the delivery of healthcare services continues to be priority across the NHS and is reflected in the 2015 Challenge Declaration signed by the NHS Confederation and its partners. The provision of seven-day services should be seen as part of this broader agenda and as a fundamental element of NHS provision.

1.2 The NHS Employers organisation welcomes the opportunity to submit our evidence for your special remit on seven-day services in the NHS. We look forward to hearing your independent and expert view on the issues raised by your special remit.

1.3 This document focuses on your seven–day services remit and does not provide the information and analysis that is normally submitted.

1.4 This evidence is submitted on behalf of NHS organisations in England, not the Government, and the general messages in this submission have been endorsed by our own Policy Board.

1.5 The evidence from the NHS Employers organisation takes account of feedback from employer representatives on the NHS Staff Council and our regional HR director networks and of discussions with members of our Policy Board. It has also been informed by the results of a short survey published on our website and the outcome of the HSJ/NHS Employers HR Barometer survey that was published in June 2014.

The financial challenge

1.6 The context for this review is the significant and growing financial challenge facing NHS organisations. Cost pressures on the NHS are projected to grow at around 4 per cent a year up to 2021/22, (Nuffield Trust 2012: A decade of austerity.) NHS England has projected that the gap between funding and demand will grow to £30 billion a year by 2021, (NHS England 2013: The NHS belongs to the people: A call to action.)

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4 NHS Confederation 2015 Challenge Declaration
5 Nuffield Trust 2012 – A decade of austerity
6 NHS England 2013 The NHS Belongs to the People: A Call to Action
1.7 The NHS Confederation Challenge Declaration says:

“Cost pressures on the NHS are around 4 per cent a year up to 2021/22, and health providers are required to make efficiencies of 4 per cent each year. There is scant evidence, even internationally, that this has been achieved over a significant period across a health system.”

1.8 There were increasing numbers of NHS providers in deficit at the end of 2013/14 and evidence of a deteriorating position across all providers. A survey of NHS finance directors by the NHS Confederation found that most are very or fairly concerned about balancing the books by the end of 2015/16.

1.9 The National Audit Office’s report on the financial stability of NHS bodies\(^7\) reported that the financial position of the NHS was under increasing stress and has worsened since 2012/13. At the end of June 2014, NHS trusts were forecasting a net deficit for the current financial year of £404 million and foundation trusts a net deficit of £108 million. This compares with initial plans of a net deficit of £425 million for NHS trusts and £20 million for foundation trusts.

1.10 In the current financial climate, the expectation facing the NHS is that the development and delivery of more seven-day services across the NHS will have to be met without any significant additional resources. This factor will need to be taken account of when considering the scope for changes in the current Agenda for Change provisions.

1.11 In November, Monitor and NHS England launched a statutory consultation on the 2015/16 national tariff\(^8\). This indicated that NHS provider organisations will be required to deliver efficiency savings of 3.8 per cent during 2015/16 – a demanding challenge for most NHS providers. An impact assessment of the proposed efficiency factor suggests that almost half of providers are forecasted to end 2015/16 with a deficit (as in 2014/15) if the efficiencies were delivered in full. If only 3 per cent efficiencies are delivered, almost three-quarters of providers are forecasted to be in deficit.

1.12 The Chancellor announced in his Autumn Statement that a further £2 billion per year would be invested in the NHS from 2015/16. The NHS Confederation\(^9\) welcomed this announcement and said that it provided funding to bridge the gap between what is currently being spent and what needs to be spent in 2015/16 to continue delivering high-quality services. The Chancellor also indicated that public sector pay restraint will continue into the next Parliament.

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\(^7\) The National Audit Office Report on the Financial Stability of NHS Bodies
\(^8\) Statutory Consultation on the 2015/16 National Tariff
\(^9\) NHS Confederation – The Autumn Statement
The NHS Pay Review Body’s remit for 2015/16

1.13 The remit for the NHS Pay Review Body (NHSPRB) is clearly set out in health minister Dr Dan Poulter’s letter of 28 August 2014. This asked the NHSPRB to make observations on the barriers and enablers within the Agenda for Change pay system for delivering healthcare services every day of the week in a financially sustainable way, i.e. without increasing the existing spend. Specifically, the NHSPRB is asked to make observations on:

- affordable ‘out of hours’ working arrangements
- any transitional arrangements.

1.14 The NHSPRB is also asked to have regard to its normal terms of reference plus developments on other sectors that provide seven-day services.

1.15 In your 28th report you observed:

“Progress on a wider seven-day service is urgently needed. The parties should now rapidly negotiate and agree changes to Agenda for Change alongside negotiations for medical staff.”

1.16 We welcomed this. Your special remit on seven-day services provides an important opportunity for wider consideration and reflection on how changes to the Agenda for Change pay structure might better support the challenges of providing services over seven days across the NHS in England.

1.17 Our evidence sets out:

- the case for NHS services, seven days a week
- views from employers on the barriers to seven-day services
- the workforce implications of greater provision of seven-day services
- the existing Agenda for Change terms and conditions relevant to seven-day service provisions and some issues to be considered
- some possible options for reform of unsocial hours provisions and cost savings that could be re-invested in services.

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10 NHS Pay Review Body 28th Report
2. NHS services, seven days a week

The case for seven-day services

2.1 Patients need the NHS every day. Evidence shows that the limited availability of some hospital services at weekends can have a detrimental impact on outcomes for patients, including raising the risk of mortality. NHS England has said it is committed to offering a much more patient-focused service. Part of this commitment will be met by developing the provision of routine NHS services seven days a week. In December 2013, Sir Bruce Keogh set out plans to drive seven-day care across the NHS over the next three years, based on the recommendations of his forum on NHS service, seven days a week.

2.2 These plans include ten new clinical standards that describe the standard of urgent and emergency care that all patients should expect. In essence, patients should have access to the right services and staff at the right time and place to deliver a consistent quality of care across seven days.

“We all know in our hearts the service we offer at weekends isn’t as good, and we have to tackle that and do the right thing.” (Sir Bruce Keogh)

“How quickly you have your scan and your tests, or start your treatment, shouldn’t depend on how sick you are when you turn up.” (Sir Bruce Keogh)

2.3 The findings in his report suggest death rates are 16 per cent higher for patients with emergency conditions admitted on Sundays compared with those admitted on a Wednesday. If patient outcomes are to be as good every day of the week at all times of the day, more senior doctors, decision makers and support staff need to be present and working in the hospital more of the time. This will mean, over time, more staff being needed to work later in the evenings and weekends.

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11 http://www.england.nhs.uk/ourwork/qual-clin-lead/7ds/
12 NHS Services Seven-Days a Week Forum
The patient experience

2.4 In making the case for seven-day services Sir Bruce Keogh has said:

“...the NHS is owned by the people, so it must serve the people and serve them when they need it. With ill health, that has to be across the entire week.”

2.5 Sir Bruce Keogh’s Seven Days a Week Forum notes in its summary of its initial findings that:

“...minimising a patient’s length of stay [in hospital] can improve their experience of care, and reduces their risk of acquiring a hospital-based infection and the degree of lost mobility from time spent in bed. Several of the factors which contribute to unnecessarily prolonged lengths of stay are more pronounced at weekends. These include the non-availability of community-based resources such as primary care and social care, hospital factors such as lack of senior clinical review and timely access to therapies, and reduced co-ordination between services... Analysis has found that when patients have to wait for senior assessment, they have a longer length of hospital stay... Length of stay can also indicate whether relationships across the wider health and social care system are organised effectively – matching capacity to demand and supporting the flow of patients along their pathway, benefiting both patient care and system efficiency. These systems are less robust at weekends.”

2.6 The NHS already provides services over seven days and many Agenda for Change staff provide care over seven days a week. The challenge is for a fundamental change in culture about what the NHS regards as ‘out of hours’ so that it better corresponds with public expectations. It is no longer appropriate to continue to extensively label weekends and evenings as ‘out of hours’ for the NHS.

2.7 The future development of seven-day services cannot be restricted only to the hospital sector but needs to cover the whole healthcare system. Hospital services cannot function efficiently at the weekend if community and primary care services are not equally accessible. Progress will also need further developments of primary and social care services at weekends, to compliment the objectives in secondary care.

2.8 The development of more seven-day care is about changing the way the NHS works across the week to improve the standard of care patients receive. The NHS Employers organisation believes that all NHS services must be safe, effective, accessible, affordable and sustainable seven days a week.
Equipment

2.9 For certain complex interventions, the NHS operates at the farthest boundaries of modern science to deliver patient care. In order to do so extensive use is made of expensive machinery. This is evidenced, for example, in diagnostic services. A report from the National Imaging Clinical Advisory Group noted:

“...diagnostic services, including imaging, are central to all secondary care and a significant proportion of primary care, yet expensive plant lies underutilised on Saturdays and Sundays while patients wait, creating inconvenience and unnecessary anxiety... Diagnostic imaging equipment is one of the most significant capital investments for the NHS so it is imperative that it is used efficiently. 7 day working can optimise use of this expensive resource...”

2.10 A point also made by Sir Bruce Keogh in his introduction to the findings of his Seven Days A Week Forum.

“It also seems inefficient that in many hospitals expensive diagnostic machines, laboratory equipment and pathology laboratories are underused, operating theatres lie fallow and clinics remain empty, while access to specialist care is dogged by waiting lists and general practitioners and patients wait for diagnostic results.”

2.11 Seven-day care is not necessarily about having all our existing services in operation 24 hours a day, seven days a week – not all services may require this expansion. There is no ‘one size fits all’ approach that can work. Instead, it could mean that some services are spread more evenly across the week. Emergency and urgent services however need to be more universally defined with the expectation of medical consultants being present in the evenings and at weekends. Whether to adopt seven-day care, and what this looks like in practice, needs to be defined against specific patient needs and the requirements of local commissioners in a local health economy.

2.12 Seven-day care is already being implemented in some services. NHS Improving Quality (IQ) is working in partnership with NHS England to deliver a transformational change programme and is supporting the spread of seven-day care models across England. They are looking to work with the first cohort of ‘early adopter organisations’ to evidence whole system models of delivery as part of a three- to five-year transformational ‘Seven Day Service Improvement Programme’ (SDSIP). The NHS IQ website has links to case studies and describes how organisations have worked towards seven-day services.

13 Implementing Seven Day Working in Imaging Department Good Practice Guidance
14 First Cohort of Early Adopter Organisations
15 NHS IQ website
2.13 Within the Francis report it was noted that patients feel more vulnerable at weekends when "staff absences and shortages are more noticeable". It is becoming apparent that a five-day service model is no longer fit for purpose in meeting public expectation when it comes to providing safe, efficient care.

2.14 In its summary of initial findings, the Seven Days A Week Forum echoed some of what was said in the Francis report and went further by stating that a patient’s chances of dying were increased significantly if he/she were admitted to hospital at a weekend.

2.15 Causes include:

- variable staffing levels in hospitals at the weekend
- fewer decision makers of consultant level and experience
- a lack of consistent support services, such as diagnostics
- a lack of community and primary care services that could prevent some admissions and support timely discharge.

**Efficiency**

2.16 Already in the literature there is much said about the problems caused by shutting down services on Friday afternoon and starting them up again on Monday morning. The Seven Days A Week Forum noted that patients receive little progressive treatment at weekends, which causes a backlog by Monday morning. In this way the NHS is always playing catch up with inevitable adverse impacts on waiting times. The National Imaging Clinical Advisory Group has noted that:

“…Seven-day working can aid workflow within imaging departments; for example, on Monday mornings it is normal to see in-patient workload left over from Friday and the weekend that could not be delivered on the same day. This impacts not only on the Monday but also on the rest of the week as departments struggle to “play catch up”…”

2.17 In the report carried out by the Healthcare Financial Management Association (HFMA) for the Seven Days A Week Forum, there is the suggestion that:

“…if the quality of emergency care, and the services provided, were the same every day, there would be no backlog of cases requiring urgent action on Mondays. Staff would be used more effectively, and both emergency and elective work would be managed better…”

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16 Health Care Financial Management Association costing seven day services
2.18 A ‘one size fits all’ solution cannot work, given the diversity that exists among provider organisations and the differences in priorities in health economies.

2.19 It is clear that current services provided over seven days range from emergency and critical services to other enhancements to inpatient services and some elective work. Figure 1 is based on comments made by employers through the HSJ/NHS Employers HR Barometer survey about which services are currently delivered over seven days and which are priorities to move to seven-day services.

**Figure 1**

2.20 Elective and emergency care are different areas with different needs. That said it is becoming clear that to deliver seven-day working in NHS services we will need to look across diagnostic and scientific services so that waiting times can be managed and reduced, in a controlled and systematic way, and the overall experience of patients and their carers improved. This would mean carefully balancing the demands of emergency specialties with the demand for elective procedures. If seven-day services are right for the patients who need urgent care – they are also right for specialist inpatient services. At present, patients in hospital beds at weekends receive little progressive treatment or diagnostics and have few options to be discharged.

2.21 The new and emerging models are involving planned services, not just emergency care, particularly those specialties with lower demand for emergency work that would not alone justify senior staff presence. Some are suggesting that the expansion of weekday scheduled clinics, diagnostic services and operating lists, will ensure that consultants are in the hospital longer. This will help to ensure that senior decision making and advice continues over weekends, as well as being on site for any emergency cases.
2.22 If the seven-day vision is to be realised across the NHS, including more senior clinical staff present at weekends, there will need to be ready access to services such as pharmacy and physiotherapy. These, together with appropriate access to radiology and pathology services, allow decisions on a patient’s care to be made at the right point. It is important for the whole team to be involved. This approach also extends in to the community, where we need to integrate with social care services so a patient can return home to be cared for when they no longer require a hospital bed.

2.23 The initiatives reported so far mainly, but not exclusively, in acute services in the hospital sector, suggest some emerging themes when it comes to benefits. For example:

- junior medical and nursing staff are better supported and the opportunities for training increased
- patient safety (at all times) is improved
- hospital admissions and the average length of stay are reduced
- reductions in bed occupancy reduce nursing costs and release resources for extra support elsewhere at weekends e.g. physiotherapy.

2.24 The evidence from the case studies is that relatively small steps from departments in organisations can have big long-term benefits. We believe that gradual progress, with regular reviews to identify, share and implement the learning, will ensure success.
3. Some workforce implications of greater provision of seven-day services

3.1 If seven-day services are to become a reality and operate via a model that is both financially and clinically sustainable, then large-scale change is needed. This brings with it numerous implications for the NHS workforce. Whilst the review body is asked to consider issues specifically around the Agenda for Change provisions, other potential barriers include the need to consider approaches at local level to:

- staff engagement and communications and working with unions to address local issues
- cultural and organisational change – the need for leadership, changing attitudes to weekend and evening working, promotion of NHS and organisational values
- staffing levels and appropriate skill mix and effective handover arrangements
- managing rota and shift planning
- ensuring an adequate workforce supply to provide additional capacity, taking account of the costs and availability of suitably trained staff and future workforce planning
- equality and diversity issues – fairness to all staff groups, implications/impact on families, religious observance, older people, childcare etc
- Occupational health and wellbeing of staff
- Support for staff – support services such as maintenance, IT and HR, need to be available.
Safe staffing levels

3.2 Seven-day care requires not only the appropriate number of staff but also staff with the correct mix of skills. Safe levels of staffing across seven days is about more than this. It involves the whole team working together effectively and ensuring that staff are appropriately supported and engaged in the workplace. Setting national staff levels for a single staff group, such as nurses, is not the safest way forward. The NHS workforce needs to be flexible and develop over time to meet the changing needs and demands of patients. This is best determined at employer level, based on robust evidence and taking account of local circumstances. Employers also need to have the necessary tools and support to help them determine what that appropriate level is.

The importance of the reform of medical contracts

3.3 The availability of appropriate medical staff at weekends is a key factor in delivering seven-day care. Employers have consistently expressed concern about the term in the consultants’ contract at schedule 3 paragraph 6, which allows consultants to refuse non-emergency out-of-hours work. This is a barrier to developing and delivering cost-effective and high-quality services at evening and weekends. It has been used in places to justify increasing national contract rates, which created unnecessary financial pressures. Employers believe that the barrier is indefensible and must be removed. It does not apply to any other worker in the NHS or indeed the UK labour market. It prevents employers developing services that ensure the same high-quality care and patient safety every day of the week.

3.4 We also know that individual consultants have negotiated higher rates of payment with their employers that are outside of the national contract arrangements. As a result, the employer is in some difficulty in providing affordable, reliable care with these premium payments and contractual arrangements which means some doctors are not prepared to discuss extended working hours. The renegotiation of these arrangements, and the ability to use increments and Clinical Excellence Awards (CEA) more effectively to drive service improvements, quality and safety, will allow employers to develop plans to move forward.

17 Consultant Contract 2003
3.5 This message was reinforced by typical responses from employers in our online survey, which included:-

“Medical contracts are an issue and we are dependent on the willingness of the medical workforce to change contracted hours – accepting that they may already have an on-call commitment.” – An acute Foundation Trust in eastern England.

“This affects staff not only working under Agenda for Change but also on medical contracts. Changes designed to support seven day services should impact on all workers equally, consultants as well as nurses.” – An acute Foundation Trust in London.

Financial implications

3.6 The Healthcare Financial Management Association (HFMA) has looked into the financial implications of introducing seven-day services for urgent and emergency care as part of NHS England’s review. Their report\(^\text{18}\) concludes it is difficult to calculate an overall cost, as both the costs and speed of implementing seven-day care varies greatly between organisations. It also points out that although the move to seven-day care does seem achievable, it may be unsustainable for all existing hospitals to move all their current range of services to a seven-day basis.

3.7 Following its study of eight NHS trusts on the potential costs of seven-day services, the Seven Day A Week Forum reported that costs are essentially the costs of additional staff (mainly consultants) offset by savings (mainly nurses) created by reducing length of stay or admissions. These net costs vary across trusts, partly because they start from different positions with regard to the care provided. They concluded:

“the costs of implementing seven-day services is typically 1.5 per cent to 2 per cent of total income or, expressed another way, a 5 per cent to 6 per cent addition to the cost of emergency admissions.” e.g. “the cost of implementing seven-day services typically represent 1.5 per cent…”

\(^{18}\) Health Care Financial Management Association Costing Seven Day Services
3.8 There is some evidence that the provision of seven-day services implies an increase in workforce costs. Evidence is emerging that seven-day services can reduce admissions and shorten length of patient stay. Professor Keith Willett, NHS England’s director for acute care, has reported on his experience at the John Radcliffe orthopedic trauma clinic at Oxford:

“…we found that we were able to close down the number of beds – in fact it was reduced by 25 per cent – and that meant we released nursing costs, with that money going into the extra physiotherapy support we needed at weekends… We did this by holding clinics on Saturdays and Sundays, as well as running similar numbers of urgent operating lists… I believe the planned services must be looked at too – particularly for those specialties with lower demand of emergency work which wouldn’t alone justify senior presence. It may well be better to look at decompressing weekday scheduled clinics, diagnostic and operating lists so consultants are in the hospital and can also ensure decision making and advice continues over weekends, as well as being on site for any emergency cases that may come in.”

Cultural changes

3.9 In other sectors, seven-day services have been an integral part of the workforce establishment for several years. In retail, aviation and the food and drinks industry, operating across a seven-day week is now considered to be the norm. Arguably, these sectors and the services they provide are substantially different from the NHS, but their success is closely linked to their ability to recruit, train and manage a workforce to operate outside of Monday to Friday, 9am to 5pm office hours. This suggests a huge organisational challenge for the NHS to change the way patient services are delivered.

Communication and engagement

3.10 There needs to be sufficient communication about what it means to improve seven-day care whilst outlining what the specific changes are. This is something that needs to be done both internally with staff throughout an NHS organisation, and externally with patients and the wider public so everyone is fully informed as to what the changes mean for them.

3.11 Internally, there is an important leadership role to help staff adopt this new culture and way of working. It is fundamental that senior leaders engage with their staff to help them understand how their new roles will develop to better meet patient need.

19 NHS England – 7 day services working reality – Keith Willett
3.12 A report from the National Imaging Clinical Advisory Group\textsuperscript{20} noted that if hospitals are going to be open and offering a service, then there is a need to have an infrastructure to support this. Workforce leaders planning a change to seven-day working need to be aware of these broader issues. Most local authorities, especially the more rural, run greatly reduced public transport services at weekends, especially on a Sunday. The report said that:

“…moving to seven-day working in hospitals will require discussion with local government and health and wellbeing boards on issues such as:

- patient and staff access to public transport services
- childcare facilities, so parents are able to attend for appointments or procedures over the weekend or in the evening
- staff childcare arrangements to facilitate working in the evening or weekend.”

3.13 It is also clear that hospitals will need to provide additional support services including catering facilities and human resources to support new opening hours.

**Equality issues**

3.14 It is important that employers ensure that the equality impact is fully considered and assessed for staff who may be required to change working patterns. Employers will need to be particularly sensitive to ensure that changes to current contractual arrangements do not disadvantage particular groups of staff who could be asked to work some weekends. This could include staff with child care responsibilities and others who want to reserve a Saturday or Sunday for religious worship.

3.15 Some employers have also noted the inherent conflict between the need for more flexible staff deployment (including more weekend and evening working) and the need to support the family and carer needs of a predominantly female workforce.

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\textsuperscript{20} National Imaging Clinical Advisory Group Good Practice Guidance
Barrier to seven-day services

3.16 Employers have highlighted a number of issues through the HSJ/NHS Employers HR Barometer survey. In response to questions about wider barriers to the provision of more seven-day services, issues regularly mentioned included:

- costs and funding, including the need for more clinical and diagnostic staff
- lack of senior decision-making staff available at weekends
- terms and conditions, costs of out-of-hours working
- clarity on what future seven-days service provision means

These indicate wider concerns about funding and the need for more staff to support the extension of services.

3.17 Whilst many NHS staff, already work across seven days, trusts face significant challenges in extending the range of seven-day services. Feedback from employers is that while the relatively high cost of unsocial hours premia need to be addressed, it is not the most significant challenge. The bigger barriers relate to workforce supply of some key staff groups, particularly medical staff and, to a lesser extent, nurses.

3.18 Employers were asked what the main workforce barriers were to providing more services over seven days and these are shown in Figure 2. This again demonstrates employer concerns about the costs, staffing and cultural challenges facing employers seeking to extend services over seven days.
What are the main workforce barriers to providing more services over seven days? (Tick all that apply.)

<table>
<thead>
<tr>
<th>Percentage of Respondents</th>
<th>Cost of Recruiting Additional Medical Workforce</th>
<th>Cost of Medical Out of Hours Arrangements</th>
<th>Increased Cost of AFC Overtime Payments</th>
<th>Increased Cost of AFC On-Call Payments</th>
<th>Difficulty Recruiting Additional Medical Workforce</th>
<th>Difficulty Recruiting Additional AFC Workforce</th>
<th>Unwillingness of Staff to Work Weekends</th>
<th>Unwillingness of Staff to Work Evenings</th>
<th>Unwillingness of Staff to Work Nights</th>
<th>Other</th>
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<tr>
<td>Increased cost of AFC unsocial hours payments</td>
<td>62%</td>
<td>58%</td>
<td>56%</td>
<td>30%</td>
<td>22%</td>
<td>56%</td>
<td>48%</td>
<td>15%</td>
<td>11%</td>
<td>8%</td>
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**Figure 2**
4. Agenda for Change and seven-day services

4.1 Employers have consistently told us that national pay and terms and conditions of service for all NHS staff need to continue to adapt in order to make them more affordable and sustainable in the future so they better support the challenges facing the NHS in terms of both patient care and affordability. A key challenge is the move towards delivery of patient services over seven days a week. Employers are looking for more flexibility around conditions of service to give them more scope to address their local challenges. In the recent HSJ/NHS Employers HR Barometer survey, over 80 per cent of responders agreed that there was a need for a review of Agenda for Change. Of those who said that the Agenda for Change system was in need of review, 60 per cent said that changes were needed to current unsocial hours pay enhancements.

Figure 3

Do you believe Agenda for Change needs to be reviewed?

No, 12.80%

Yes, 87.20%
Which elements of Agenda for Change are most in need of change?

<table>
<thead>
<tr>
<th>Element</th>
<th>% of Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sick Pay entitlements</td>
<td>71.4%</td>
</tr>
<tr>
<td>Pay Structure</td>
<td>60%</td>
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<tr>
<td>Unsocial Hours Enhancements</td>
<td>60%</td>
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<tr>
<td>Annual Leave entitlements</td>
<td>37.1%</td>
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<tr>
<td>Redundancy provisions</td>
<td>37.1%</td>
</tr>
<tr>
<td>Other (please explain)</td>
<td>15.7%</td>
</tr>
</tbody>
</table>
4.2 Many of the staff covered by the Agenda for Change agreements already have working patterns over seven days. For most nurses, midwives, radiographers, clinical support staff, porters and cleaners, seven-day working is already a reality. There is no contractual barrier to prevent staff working over seven days. Working patterns have always been determined locally and are not dependent on the national agreements.

4.3 The nationally agreed working week for Agenda for Change staff is 37.5 hours per week. There are no plans to change this. It is important to stress that, in the future, employees who may be required to work over seven days will not be required to work additional hours. Changes may be needed to the working patterns of some staff and over time more staff may be needed to work during some weekends.

4.4 Moving forward, there will be a need to refine contractual commitments set out in the national agreements to emphasise that all employees are joining a 24/7, 365 day per year service, and that all staff may from time to time be required to work in the evenings, at night and at weekends.

4.5 In response to a question in the HSJ/NHS Employers HR Barometer Survey on the most significant barriers to implementing seven day services 26.5 per cent responded that it was the cost of paying pay unsocial hours enhancements.

**Figure 5**

What are the significant barriers to implementing seven day services within your organisation
4.6 The report on the cost of seven-day services produced by the Seven Days A Week Forum\textsuperscript{21} was based on the current workforce terms and conditions. In the report the forum reports that change to weekend pay premiums would make seven-day services more financially sustainable, as most of the cost comes from employing more, highly paid, medical staff. The forum reported that:

“…currently the pay premium rates at weekends often make this unattractive for providers”… changes to employment contracts would make seven-day services more affordable but not generally cost neutral….. costs could be reduced if current payments for working unsocial hours were reduced.”

4.7 Comments made from employers in responding to our online survey included:

“The concept of what is or is not unsociable has undoubtedly changed in what is an increasingly 24/7 society.” – An acute Foundation Trust in London.

“In many industries working at weekends is entirely normal and fits in with family circumstances. Excessive pay for doing this should be changed.” – An acute Foundation Trust in the Midlands.

“A total revamp of contracts is needed so we pay staff for working in a 24/7 culture with smaller enhancements for working unsocial hours. We need to move to different contracts to reflect this for new starters.” – An acute Foundation Trust in the South East.

“There is a cultural shift needed to make seven-day services the norm. Terms and conditions for both Agenda for Change and medical staff do not help because they perpetuate the belief that evening and weekends are not part of the normal working week.” – An acute Foundation Trust in the West Midlands.

### Current unsocial hours entitlements under Agenda for Change

4.8 The current pay arrangements for “maintaining round-the-clock services” for Agenda for Change staff is set out in Section 2(a) of the NHS Terms and Conditions of Service Handbook.\textsuperscript{22}

4.9 The original rationale for this system of unsocial hours pay enhancements was to recognise the historic view about the unsociable nature of some shifts and shift patterns within the normal working week and, arguably, the additional costs incurred by staff who work them. There may be, for example, less public transport available at these times which might mean

\textsuperscript{21} NHS England Seven Day Services Forum Summary of Initial Findings

\textsuperscript{22} NHS Terms and Conditions of Service Handbook
that, in some cases, employees might need to use more expensive forms of transport such as taxis.

4.10 These unsocial hours provisions were introduced in phases starting in April 2008. This followed a long and complex negotiation which had started in 2005 and was aimed at harmonising entitlements across the different occupational groups. This re-balancing of payments was achieved in stages over three years. By April 2011 all staff had settled onto a system of fixed payments with levels of premium dependent on their pay band. The highest premiums were attached to pay band 1, reducing in size up to pay band 4. This was in line with the historic structure of these payments in the NHS and related to the need to incentivise lower paid employees to participate in unsociable shifts.

4.11 Unsocial hours payments increase employer baseline costs because they attach a premium to hours worked within the standard Agenda for Change 37.5 hour week. The levels of premium are set out in Figure 6.

**Figure 6: Section 2(a) unsocial hours payments**

<table>
<thead>
<tr>
<th>Pay band</th>
<th>All time on Saturday (midnight to midnight) and any week day after 8 pm and before 6 am</th>
<th>All time on Sundays and Public Holidays (midnight to midnight)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Time plus 50%</td>
<td>Double Time</td>
</tr>
<tr>
<td>2</td>
<td>Time plus 44%</td>
<td>Time plus 88%</td>
</tr>
<tr>
<td>3</td>
<td>Time plus 37%</td>
<td>Time plus 74%</td>
</tr>
<tr>
<td>4-9</td>
<td>Time plus 30%</td>
<td>Time plus 60%</td>
</tr>
</tbody>
</table>

4.12 The multipliers (in columns 2 and 3) are applied to basic pay or basic pay plus long-term recruitment and retention premia, if this is in payment. Therefore, a consolidated increase to rates of basic pay automatically increases levels of unsocial hours remuneration and employer costs. The payments continue during annual leave.

4.13 A comprehensive seven-day service will involve many clinical and support services in order to facilitate discharge at weekends. For example, ancillary staff, such as booking clerks and porters, are key to the delivery of an efficient service.

4.14 Other factors serve to push up costs. For example, on a normal week day (not a public holiday) including Friday night, if more than half of a shift comes within the designated time slots, the whole of the shift attracts the appropriate premium in Figure 6.
4.15 These provisions are available to employers to use for all their Agenda for Change staff. They incentivise work at certain times and on certain days. Employees regularly working on Sundays and working a significant number of night shifts earn more than employees whose working hours fall outside the times (and days) defined as unsociable. The highest reward would, therefore, accrue to employees on fixed working patterns which always include significant numbers of unsociable hours.

4.16 The demands of patient services mean that employers regularly need staff on duty at unsociable times but it is a feature of the NHS patient workload that is unpredictable. Workloads vary from hour to hour, day to day and week to week. The pattern of patient needs also varies, with greater numbers of patients presenting with acute physical illness, or chronic or unpredictable psychological and physical illness, at different times. This suggests that to be successful in meeting these varying demands, employers need a flexible workforce that can be deployed according to demand. Therefore, employers also value staff flexibility when it comes to shift patterns. It is a moot point as to whether or not the system of shift premiums in Agenda for Change adequately recognises this important aspect of employee commitment. The greater the number of employees who are able to work flexibly, the less the burden of the essential onerous shifts and shift patterns falls on individual employees.

**Ambulance service – Annex E provisions**

4.17 The ambulance service has a different system of nationally defined unsocial hours payments which is used for staff such as paramedics and those working in control rooms. These staff receive an unsocial hours allowance linked to the percentage of their shifts that are worked in unsociable hours. Once set, the rate of the allowance does not change unless there is a significant change in the working pattern affecting the number of unsociable hours worked. See Figure 7.

**Figure 7: Annex E unsocial hours payments**

<table>
<thead>
<tr>
<th>Average unsocial hours</th>
<th>Percentage of basic salary</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pay Bands 1–7</td>
</tr>
<tr>
<td>Up to 5</td>
<td>Local agreement</td>
</tr>
<tr>
<td>More than 5 but not more than 9</td>
<td>9%</td>
</tr>
<tr>
<td>More than 9 but not more than 13</td>
<td>13%</td>
</tr>
<tr>
<td>More than 13 but not more than 17</td>
<td>17%</td>
</tr>
<tr>
<td>More than 17 but not more than 21</td>
<td>21%</td>
</tr>
<tr>
<td>More than 21</td>
<td>25%</td>
</tr>
</tbody>
</table>
4.18 Unlike in the system of payments applying to nurses, which attaches multipliers to hourly rates of pay, the multipliers in this system attach to basic pay, plus long-term recruitment and retention premia, if this is in payment. An employee working shifts that attract the 25 per cent payment will, therefore, receive an unsocial hours allowance equivalent to one quarter of his/her normal basic pay each month. The payments continue during annual leave. As the multipliers in this system are also applied to basic pay or basic pay plus long-term recruitment and retention premia, if it is in payment, a consolidated increase to rates of basic pay automatically increases levels of unsocial hours remuneration and employer costs.

4.19 The only link between pay band and the percentage payment is band 8 and above, where the additional percentage payment for work out of normal hours is limited to a ceiling of 10 per cent. This is partly on the grounds that staff at this level will be expected to do whatever hours are required, partly on the ground that senior staff generally have control over their own hours and, consequently, there is the potential risk of abuse. The system of unsocial hours payments used for the rest of the Agenda for Change workforce is not abated for staff at the top of the pay structure, who like their counterparts in the ambulance service, are generally in control of their working hours.

4.20 The intention of employer representatives was that the agreement made in the Staff Council in 2013 not to pay unsocial hours payments during sickness absence would also have applied to the ambulance service. Unfortunately, trade unions have been unable to agree that ambulance staff are part of this agreement because of their unique system of unsocial hours payments. Consequently, in the ambulance service, the unsocial hours allowance continues to be paid during sickness absence. There are ongoing discussions between ambulance employers and trade unions looking at whether the unsocial hours arrangements that apply to the rest of Agenda for Change staff should be used for ambulance staff.

Unsocial hours payments – Issues

4.21 The original objective of the previous negotiations on unsocial hours was to harmonise payments in line with principles of equity. This was achieved but the outcome was to re-affirm a clear distinction between weekday and weekend working. Employers have told us that now is the time for a new approach.

4.22 There is now a broad consensus among employers that changes are needed to the unsocial hours pay arrangements. In a 24-hour, seven-day service like the NHS, there is a need for more hours in the week to be paid at plain time, and for enhancements to be at a lower level. There is a range of views on exactly how the unsocial hours pay enhancements should be recast to be more supportive of seven-day working, with some wanting more radical changes to current national provisions.
4.23 Employers are concerned that the current level of pay enhancements will not be sustainable in the longer term and will serve to make comprehensive seven-day working unaffordable. In retail and many service industries, Saturday and Sunday are often regarded as normal working days – part of a seven-day working week. It is easy to argue that the NHS is nothing like these areas of employment. If people fall ill at a weekend, they should expect to receive the same quality and level of care that would have been available on a week day.

4.24 There needs to be consideration to measures to reduce the disparity between remuneration in normal hours on weekdays and at weekends and on the targeting of additional reward so that it clearly applies to the parts of shifts which are defined as unsocial and does not spill over into the whole shift. Our evidence sets out some possible options on alternative approaches.

4.25 Feedback from employers on the changes they would like to see, range from a small minority who suggest no hours of the week should attract any enhancements, to those only seeking minor adjustments to the current provisions. In response to our online survey, 82 per cent agreed that the NHS needed to continue to pay enhancements for some unsocial hours working.

4.26 There was strong support in particular in favour of paying enhanced rates of pay for working at night, Sundays and public holidays, though many employers would like to see levels of enhancements reduced during these times. There was less support for needing to pay extra for evening and Saturday working.
If yes to the previous, what times of the working week should continue to attract pay enhancements?

- Nights (Midnight-6am): 75%, 59
- Public Holidays: 59%, 47
- Late Evenings (10pm-Midnight): 51%, 40
- Sundays: 46%, 36
- Saturdays: 24%, 19
- Early Evenings (6pm-10pm): 14%, 19
- Other: 3%, 2
4.27 There is no justification for retaining the provision (Section 2, para 2.11 of the NHS Terms and Conditions of Service Handbook\textsuperscript{23}) that requires pay enhancements to apply to the whole of a shift on a weekday, if more than half of the time falls between 8pm and 6am. Only time in the deemed unsocial hour period should attract pay enhancements.

4.28 There are mixed views from employers on whether the most senior staff in the Agenda for Change pay structure (bands 8 and 9) should be entitled to receive unsocial hours pay enhancements. The national agreement on overtime excludes senior staff in bands 8 and 9 from getting pay enhancements when working excess hours. A significant minority who responded to our online survey suggested that the same approach should be followed within a modernised unsocial hours system. Most responders said that all staff should be entitled to unsocial hours pay enhancements:

“The notion of what is unsociable should not change based upon a worker’s grade or pay band, nor based upon their profession”- an acute Foundation Trust in London.

4.29 Any changes to existing pay or conditions of service could have a differential impact on NHS organisations in terms of recruitment, retention, motivation and behaviours of the workforce. For this reason, it would be important that any subsequent changes provide employers with some flexibility to enable them to adjust national provisions to meet local operational challenges.

**On call**

4.30 Some employers may need to see an increased use of on-call type working arrangements, to help cover the delivery of seven-day services. The parties to the NHS Staff Council agreement, agreed to define on call in the Agenda for Change workforce in the following terms:

“On-call systems exist as part of arrangements to provide appropriate service cover across the NHS. A member of staff is on call when, as part of an established arrangement with his/her employer, he/she is available outside his/her normal working hours – either at the workplace, at home or elsewhere – to work as and when required.” NHS Staff Council Terms and Conditions of Service Handbook, Section 2A para 2.26\textsuperscript{24}

\textsuperscript{23} NHS Terms and Conditions of Service Handbook
\textsuperscript{24} NHS Terms and Conditions of Service Handbook
Complex national negotiations between 2008 and 2010 considered the scope to agree and introduce a single, national system of remuneration for on call. The wide range of local approaches and difficulties in modelling the financial impact at national level meant an alternative approach was agreed. In November 2010, the NHS Staff Council agreed a set of national principles to underpin local on-call negotiations – Annex A3 of Handbook.25

These included the ‘guiding principle’ that locally agreed harmonised arrangements “should be consistent with the principles of equal pay for work of equal value”, that there should be a “commitment or availability payment” to reward staff who make themselves available to be called out, and another payment for “work done, including work done at home”. The twelve principles gave a more consistent approach to on call across the NHS to meet equal pay requirements, whilst still allowing local employers the flexibility to meet local needs. The nationally agreed definition of on call clearly distinguishes this aspect of service provision from others, allowing remuneration to be designed locally to meet service needs.

Staff involved in on-call cover in a typical acute organisation could include:

- neonatal nurse practitioners
- computer services managers and staff
- estates managers and staff
- pathology services staff
- community midwives
- general managers
- hospital chaplains
- operational services managers
- staff working in pharmacy, physiotherapy, radiology, sterile services and theatres.

Employers generally believe that the balance of the national agreement on on call remains appropriate. While some employers have found agreeing local arrangements challenging, there is no desire for further changes to this.

25 NHS Terms and Conditions of Service Handbook
Overtime payments

4.35 The national agreement also provides for all staff in pay bands 1 to 7 to be eligible to receive overtime payments. There is a nationally harmonised rate of time and a half for all overtime, with the exception of work on public holidays which is paid at double time. There are no plans for these provisions to be changed.

4.36 Employers have told us that the Agenda for Change pay system is in need of wider reform to make it more affordable, flexible and fit for purpose. This would need a review of the pay structure and some of the terms and conditions, which should support employers to face the challenges of modernising the NHS in England. However, in relation to seven-day services, the immediate priority is changes to the unsocial hours payment arrangements. We set out some possible approaches in the next section.
5. Current costs of delivering out-of-hours services

5.1 The cost of unsocial hours payments under the Agenda for Change agreement (as detailed in table 2, section 2 of the Agenda for Change handbook) is around £1.44 billion per year\(^{26}\). Figures 9 and 10 show that a wide range of services are delivered on a seven-day basis, by a range of staff groups. As the NHS already delivers significant amounts of seven-day services it might be surprising that this makes up just 4.2 per cent of the pay bill. This is for three reasons. Firstly, the payments do not reflect the totality of the payments received by staff for working unsocial hours, just the value of the supplements in addition to basic pay. Secondly, although unsocial hours are covered over seven days, often this is at a reduced level of service being delivered by fewer staff. Finally, for those services that do deliver services over seven days, the average unsocial hours pay bill is much higher, but the average is reduced by the parts of the NHS where there is no requirement to work over seven days.

**Figure 9**

<table>
<thead>
<tr>
<th>Unsocial Hours Enhancement periods</th>
<th>£bn</th>
<th>per cent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nights</td>
<td>0.47</td>
<td>33%</td>
</tr>
<tr>
<td>Saturdays</td>
<td>0.29</td>
<td>20%</td>
</tr>
<tr>
<td>Sundays</td>
<td>0.58</td>
<td>41%</td>
</tr>
<tr>
<td>Bank Holidays</td>
<td>0.10</td>
<td>7%</td>
</tr>
<tr>
<td><strong>Total Unsocial Hours Enhancements</strong></td>
<td><strong>1.44</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

5.2 Figure 10 is based on published average earnings information\(^{27}\). It shows the pay elements that make up additional pay, expressed as a percentage of basic pay.

\(^{26}\) NHS Employers analysis of data extracted from the live ESR system for the financial year 2013-14

Figure 10: Mean additional pay as a percentage of basic pay by staff group. April 2013 – March 2014
5.3 Figure 10\(^{28}\) shows that the staff groups who receive the highest levels of unsocial hours payments (included as part of the shift work payments category) are:

- qualified ambulance staff – average 23 per cent addition to basic pay
- support to Ambulance staff – 17 per cent
- qualified Midwives – 12 per cent
- hotel, property and estates - 10 per cent
- all qualified nursing, midwifery and health visitors - 9 per cent.

5.4 These are the Agenda for Change staff groups who are most likely to have working patterns over seven days.

5.5 The largest group of staff in the NHS is qualified nurses, midwifery and health visiting staff on band 5 (100,000 FTE). The mean unsocial hours payment for this group is around 12 per cent of their basic pay. However, there is considerable variation in the extent of working at unsociable times within the group. Figure 11 highlights the variation in unsocial hours payments for nurses by their area of work. Around a quarter of those working in community learning disabilities and community psychiatry do not receive any unsocial hours payments. Qualified nursing staff in intensive areas of work, such as neonatal nursing (including special care baby units), paediatric nursing and other psychiatry receive higher levels of unsocial hours payments. The figure details the number of staff in each area of work, as the size of the group may have an effect on the range of payments within the group.

Figure 11: Mean additional pay as a percentage of basic pay – Band 5 Qualified Nursing, Midwifery & Health Visiting staff – Percentage of Unsocial Hours Payments (Night Duty, Saturday, Sunday, Bank Holiday, AfC Outside Normal Hours) of Basic Pay by Area of Work
5.6 For a band 5 nurse to receive unsocial hours pay that is equivalent to an extra 12 per cent of their monthly basic pay (the mean unsocial hours pay percentage, see figure 10), they would need to work every Sunday or at least one night per week and every Saturday.

5.7 For a band 5 nurse to receive unsocial hours pay that is equivalent to an extra 24 per cent of monthly basic pay, they would need to work at least one night per week and every Saturday and Sunday.

5.8 NHS infrastructure support includes administrative staff, the majority of whom do not work unsocial hours Monday to Friday. This is reflected in Figure 10 with only the equivalent of 2 per cent of basic earnings being earned through unsocial hours payments.

5.9 Very few staff in pay bands 8 and 9 receive unsocial hours payments. See Figure 12. The data indicates that those who do are mostly working in ambulance services and nursing. There are mixed views from employers on whether staff at this pay level ought to receive these payments. Some take the view that a requirement to work outside of normal working hours is adequately compensated through basic pay.
Figure 12: Mean additional pay as a percentage of basic pay – Bands 8 and 9 staff – Percentage of out-of-hours payments (night duty, Saturday, Sunday, bank holiday, AfC outside normal hours) of basic pay by staff group.
5.10 Staff undertaking the most work in unsocial hours occupy a range of pay bands. The analysis of non-basic pay shown in figure 13, which is broken down by pay band, shows that:

- In pay band 1 (e.g. porters and cleaners) staff earn the equivalent of 15 per cent of basic pay by working unsocial hours
- In pay band 2 (e.g. porters and cleaners) this is 12 per cent
- In pay band 5 (e.g. nurses) this is 11 per cent.
Figure 13: Mean additional pay as a percentage of basic pay by Agenda for Change band: April 2013 – March 2014
5.11 The requirement to pay more at evenings, weekends and bank holidays makes delivering the same services during these times more expensive. This is a barrier to reconfiguring services so that they are delivered across seven days. An extension of plain-time hours, and/or reduction of unsocial hours rates, would reduce the costs of delivering services in the evenings, at weekends, and on bank holidays.

5.12 There are numerous approaches that could be adopted in re-designing the current unsocial hours payment arrangements and variations might emerge during any negotiation. Taking account of all the feedback from employers, we have developed a series of illustrative examples that would go some way to mitigating some of the pay-related cost barriers that organisations face when reconfiguring services. These are explained below.

**Alternative options for a new unsocial hours payments system**

5.13 The following paragraphs suggest some alternative models to the existing unsocial hours payment systems, which illustrate the potential cost savings that could be achieved. Our cost modelling is based on pay bill data for 2013/14 collected from the Electronic Staff Record (ESR) live system. The system records payments to individuals, but not the hours worked. We have attempted to make illustrative estimates of the number of hours worked by:

(a) assuming the total hours worked in the relevant period by dividing the total payments by the relevant hourly rate for the time period and pay band

(b) spreading the number of hours worked in the period evenly across the number of hours in the time period

(c) producing a representative average working pattern for each full-time equivalent (FTE) notional employee

(d) using this average pattern to estimate the potential costs of alternative unsocial hours payment systems to the nearest £10m.

5.14 Reductions in the cost of the unsocial hours part of the overall non-medical pay bill might be achieved by:

(a) reducing the number of hours in the week deemed to be unsocial (see Figure 14)

(b) changing the rates paid during the defined unsocial time periods (see Figure 15)

(c) a combination of both. (see Figure 16)
Figure 14: Models for times and days at which unsocial hours rates are paid

Model 1 – Evenings (8pm – 10pm) paid at plain time

Model 2 – Evenings (8pm – 10pm) and Saturdays paid at plain time

Model 3 – Evenings (8pm – 10pm), Saturdays and Sundays paid at plain time
**Figure 15: Models for paying unsocial hours rates**

Model A – Current Rates

<table>
<thead>
<tr>
<th>Premium Rate 1</th>
<th>Premium Rate 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nights and Sundays</td>
<td>Sundays &amp; Bank Holidays</td>
</tr>
<tr>
<td>Band 1</td>
<td>0.5</td>
</tr>
<tr>
<td>Band 2</td>
<td>0.44</td>
</tr>
<tr>
<td>Band 3</td>
<td>0.37</td>
</tr>
<tr>
<td>Band 4-9</td>
<td>0.3</td>
</tr>
</tbody>
</table>

Model B – Single Tier Rates (at lower level of existing rates)

<table>
<thead>
<tr>
<th>Premium Rate 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nights and Saturdays</td>
</tr>
<tr>
<td>Band 1</td>
</tr>
<tr>
<td>Band 2</td>
</tr>
<tr>
<td>Band 3</td>
</tr>
<tr>
<td>Band 4-9</td>
</tr>
</tbody>
</table>

Model C – Half Current Rates

<table>
<thead>
<tr>
<th>Premium Rate 1</th>
<th>Premium Rate 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nights and Sundays</td>
<td>Sundays &amp; Bank Holidays</td>
</tr>
<tr>
<td>Band 1</td>
<td>0.25</td>
</tr>
<tr>
<td>Band 2</td>
<td>0.22</td>
</tr>
<tr>
<td>Band 3</td>
<td>0.185</td>
</tr>
<tr>
<td>Band 4-9</td>
<td>0.15</td>
</tr>
</tbody>
</table>
Times and days at which unsocial hours rates are paid

5.15 Under Model 1, plain time has been extended until 10pm, Monday to Friday. This would make delivery of services in the evenings more affordable. Feedback from some employers was that making payments on Saturday identical to payments on Mondays to Fridays would reduce costs and allow more services to be delivered on Saturday, either routinely or as part of contingency or emergency planning. This is reflected in Model 2.

5.16 In Model 2, unsocial hours payments on Saturday are identical to payments on Monday to Friday, and plain time is extended to 10pm, Monday to Saturday.

5.17 Model 3 is similar to Model 2, but Sunday is also paid at plain time in addition to Saturdays and evenings.

5.18 If all working hours were paid at plain time, employer costs would reduce by around £1.44bn or 4.2 per cent of the pay bill. This is not a model that has been advocated by many employer representatives.

Different rates of unsocial hours payments

5.19 Under the current system, unsocial hours payments are at two sets of rates, higher and lower, depending on the day of the week on which the work is done. Work done on public holidays is paid at the higher rates. The rates of unsocial hours payments vary by pay band. There is a graduated decrease in the unsocial hours rate for those on the highest pay bands.

5.20 We have considered and estimated the reduction in employer costs when the rates of unsocial hours payments are reduced.

5.21 Model B considers simplifying the current two-tiered premium rate structure and replacing it with a new single premium rate. The rate is set at the lower of the two premium rates in payment, and continues to vary by band.

5.22 Model C retains the two-tier premium rate structure, but halves the premium rates on each band.

Summary of models

5.23 Figure 16 provides a summary of the estimated savings for each potential model. The three premium time scenarios have been combined with the three premium rate scenarios to give nine different models. For each of the nine scenarios the table shows the estimated total cost of unsocial hours (assuming current working patterns), the savings as compared to the current
arrangements, and the saving expressed as a percentage of the Agenda for Change pay bill. This is intended to help the Pay Review Body consider the potential cost impact of adjustments to existing arrangements.
### Figure 16: Costs for each scenario expressed as a % of the Agenda for Change Paybill

<table>
<thead>
<tr>
<th>Premium Time Scenarios</th>
<th>1</th>
<th>2</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Early evenings paid at plain time</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current Afc rates</td>
<td>£1340m</td>
<td>£1150m</td>
<td>£670m</td>
</tr>
<tr>
<td>-90m</td>
<td>-£290m</td>
<td>-£770m</td>
<td></td>
</tr>
<tr>
<td>-0.3%</td>
<td>-0.8%</td>
<td>-2.2%</td>
<td></td>
</tr>
<tr>
<td>Pay all premium times at current</td>
<td>£1000m</td>
<td>£810m</td>
<td>£690m</td>
</tr>
<tr>
<td>Saturday and Night Rate</td>
<td>-£430m</td>
<td>-£530m</td>
<td></td>
</tr>
<tr>
<td>-1.3%</td>
<td>-1.8%</td>
<td>-2.2%</td>
<td></td>
</tr>
<tr>
<td>Half current premium rates</td>
<td>£670m</td>
<td>£580m</td>
<td>£340m</td>
</tr>
<tr>
<td>-£770m</td>
<td>-£860m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-2.2%</td>
<td>-2.5%</td>
<td>-3.2%</td>
<td></td>
</tr>
</tbody>
</table>

Key:
1. Total cost of unsocial hours for the scenario
2. Cost difference compared to current system
3. Cost difference expressed as a % of Agenda for Change paybill

**Theoretical maximum savings possible for comparative purposes (not a proposal)**

1. Current Total cost of unsocial hours
2. Cost difference if all hours paid at plain time
3. Cost difference expressed as a % of Afc paybill

<table>
<thead>
<tr>
<th>Reduced Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>£1440m</td>
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<tr>
<td>-£1440m</td>
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<td>-4.2%</td>
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</tbody>
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Notes:
1. Any changes to unsocial hours pay arrangements may have a consequential impact on other areas of the pay bill. These have not been assessed.
2. Costs include the on-costs (employer national insurance contributions and employer pension contributions) paid at current rates to all scenarios. The marginal impact of on-costs, which will vary by scenario, have not been fully assessed here.
5.24 Comparing A1, A2 and A3 with C1, C2, and C3 respectively shows that halving premium rates, while maintaining the hours defined as premium, halves the total cost of unsocial hours payments.

5.25 The increases to plain time and decreases to premium rates can be balanced to achieve any given level of savings. For example, Model A3 and Model C1 both save approximately £670m. A3 achieves this through increasing plain-time rates to early evenings and weekends, but leaving the premium rates as they currently stand, whereas, C1 achieves the savings through more modest reductions to plain-time hours, but halving current premium rates.

5.26 When expressed as a percentage of pay bill, or the NHS budget, the average savings may seem relatively modest but potentially would leave some additional funding to be reinvested into the wider cost of service provision. The costs of unsocial hours payments can have a disproportionate impact on relatively small departments. It is in these settings, e.g. some of the specialist technical and support services, where the impact described here may be the biggest.

5.27 The overall cost of the average unsocial hours may appear low because they take into account an estimated 55 per cent of the NHS workforce who receive no unsocial hours payments. However, for organisations and departments where unsocial hours working is more frequent, the unsocial hours costs and potential savings, will be considerably higher.

5.28 As changes to services and staff working patterns are likely to be developed locally and adjusted gradually, it is not possible to make a realistic estimate of potential costs moving forward.

5.29 All cost modelling of alternative scenarios reflects the cost of paying current working patterns, but with alternative pay arrangements. This would more closely reflect the cost immediately following implementation, rather than the cost following a full transition to seven-day services.

5.30 It is not possible for us to make an assessment of the impact on issues such as recruitment and retention, or the potential for changes to staff availability to work different working patterns as a result of changes to the payment system. Current examples of staff working over seven days are undertaken within the existing Agenda for Change payment system.
6. Conclusion

6.1 Employers have told us that changes to the Agenda for Change unsocial hours payment arrangements are one of a number of issues that need to be addressed to support the further development of the delivery of patient services seven days a week.

6.2 There is a general consensus among employers that fewer hours of the working week should attract enhanced payments – with particular reference to evening working and Saturdays. There are also issues about the levels of pay during the times that may still be viewed as ‘unsocial’.

6.3 There is a wide range of perspectives on how this could be done. Our submission has set out a range of possible models of how unsocial hours payment could be reformed and the potential cost savings that could be released from such changes. These should assist the Pay Review Body to develop their observations on the need for affordable and sustainable ‘out of hours working’ in the NHS.
Dear Jerry,

NHS Pay Review Body Remit 2015/16

I am writing as a follow up to the letter you received from the Chief Secretary to the Treasury, Danny Alexander on 31st July 2014 confirming the Government’s approach to reforming NHS employment contracts.

I should first wish to add my own thanks to those of the Chief Secretary for the robust and independent advice that the Government receives from the NHS Pay Review Body (NHSPRB). I can assure you that we value this advice very highly and attach considerable importance to the role of the NHSPRB, informed as it is by expert, impartial and independent judgement. This is true even where, as in the previous review round, the continuing need for pay restraint right across the public sector to support fiscal consolidation, together with the unprecedented financial challenge facing the NHS meant that we are not able to accept your recommendations.

Following the Government’s announcement of a two year pay settlement for employed Agenda for Change (AfC) staff in England, the NHSPRB is not required to report or make recommendations for the 2015/2016 year on:

- the remuneration of employed AfC staff, including High Cost Area Supplements and Recruitment and Retention Premia;
- the recruitment, retention and motivation of suitably able and qualified staff; and
- regional/local variations in labour markets and their effects on recruitment and retention of staff.
National employment contracts are a critical element of how we put patients right at the heart of everything the NHS does, providing potentially a seamless pathway of care no matter what day of the week. I was pleased that the NHSPRB’s 28th report said that more progress should be made on seven day services, “Progress on a wider seven-day service is urgently needed. The parties should now rapidly negotiate and agree changes to Agenda for Change alongside negotiation for medical staff... We suggest that if the parties find it difficult to agree we would be prepared to look into this if given an appropriate remit and evidence”.

There is a strong case for seven day services on the grounds of both patient safety and quality of patient care. For example, recommendations of the NHS Services, Seven Days a Week Forum29 accepted by NHS England, explore the consequences of the non-availability of clinical services across the seven day week and that availability needs to be achieved in a clinically and financially sustainable way.

For 2015/2016 the NHSPRB is asked to make observations on the barriers and enablers within the AfC pay system, for delivering health care services every day of the week in a financially sustainable way, i.e. without increasing the existing spend. The NHSPRB is asked to make observations on:

- affordable ‘out of hours’ working arrangements; and
- any transitional arrangements.

In considering these propositions, the NHSPRB should have regard to its normal terms of reference plus developments in other sectors which provide seven day services.

Although the NHSPRB’s remit covers the whole of the United Kingdom, for this particular remit, we ask that you make observations for England only. It is for each of the devolved administrations to make their own decisions about the nature of the remit appropriate for its workforce for 2015/2016 and to communicate their intention to you directly.

In view of the work to which the NHSPRB is committed to support the pay review round in the devolved administrations, a realistic timetable for you to report on your work on contract reform would be July 2015.

As always, my officials will be happy to work closely with your secretariat to ensure you have all the information you need to assist your task of providing independent observations on reforms that are crucial to this vital area of service provision.

Best wishes,

DR DAN POUFTER

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29 Summary of Initial Findings – First Published December 2013 –