Welcome to this autumn edition of our quarterly newsletter.

With the health secretary’s announcement to end the 1 per cent pay cap for NHS staff, and concerns from senior NHS leaders about the effect this may have on NHS finances, it is more important than ever that we take time to reflect on how we use reward to attract, motivate and retain our staff.

In this edition of Reward in the NHS, we share some of the latest developments around very senior managers’ contracts, including guidance released by NHS Improvement. We update you on key aspects of our work, and provide an update on apprenticeship pay, including interim guidance from the NHS Staff Council. We share an update on the future negotiations on the General Medical Services contract for primary care services and give a brief overview of what the Trade Union Act 2016 means for employers.

On page 2, we reflect on the first year of the new contract for doctors and dentists in training, share some of the challenges and successes from the first year and acknowledge the hard work of colleagues during implementation.

We know that there is continuing uncertainty around holiday pay after recent court and tribunal cases, so on page 3 we have set out the latest information and support available from NHS Employers. On page 4, we share our latest resources designed to guide you through the process of using reward strategically, making it relevant to the needs of your organisation and your staff.

Finally, on page 4, our head of diversity and inclusion, Paul Deemer, shares his views on the new gender pay gap reporting requirements and the driving forces behind the changes.

I hope you are finding the newsletter interesting and useful. If you have any feedback, or would like to suggest helpful content for future editions, please email us at reward@nhsemployers.org.

Paul Wallace
Director of Employment Relations and Reward
NHS Employers
Primary care contracting
NHS Employers (on behalf of NHS England) is leading negotiations on changes to the General Medical Services (GMS) contract, which covers the delivery of primary care services. Negotiations with the General Practice Committee (GPC) of the British Medical Association (BMA) are currently taking place and we will update you on the agreement once negotiations are concluded. NHS Employers will then work alongside NHS England and the BMA GPC to update relevant guidance, legislation and technical requirements to implement the contract changes.

Very senior managers (VSM)
The Department of Health has said it will publish a VSM national pay framework in the near future. In the interim, NHS Improvement (NHSI) has published pay guidance for VSMs including established pay ranges. In addition to the current framework and guidance for seeking approval (or opinion, if a foundation trust) for salaries above £142,500, NHSI also has guidance on senior appointments and severances. NHSI’s guidance on off-payroll interims, which is in line with HMRC rules, might also be helpful.

NHS pay review bodies
We expect the remit for the NHS Pay Review Body and the NHS Doctors’ and Dentists’ Review Body 2018/19 pay round will become clearer and be made public in the November budget. We continue to gather employer views in the interim, and one clear message coming across so far is the importance of the full range of workforce challenges. Our evidence will need to describe the role that pay can play in supporting the work of HR teams on the supply of people joining the NHS, as well as their development, motivation and retention. We will update our NHS pay review body web page once we know more.

A new contract for junior doctors: one year on
October marks one year since the start of junior doctors’ transition to their new employment contract.

After a stepped approach, all eligible trainees will be working under the new terms and conditions by the end of October 2017. This is thanks to the hard work of HR, medical staffing and education colleagues, who lined up systems, people and processes to ensure transition was as smooth as possible.

The contract was designed to encourage a pay structure and working environment that are supportive, fair and safe for patients and doctors. Several new resources and approaches were introduced as part of it, including schedules, guardians of safe working hours and exception reporting, which all support better conditions for medics in training.

Although changes to culture and new roles take time to bed down, positive outcomes are already being noted by trainees, patients and employers. Junior doctors are collaborating with their educational and clinical supervisors to improve their working conditions, and a new group of dynamic guardians are making a real impact through identifying poor working practices and jointly driving improvements with their junior doctor forums. Boards are talking about education and safe working hours more than ever before.

We will continue to keep you updated through our junior doctors web pages and in this newsletter.
Holiday pay

Recent tribunal and court cases have expanded the elements of pay that should be included in holiday pay, to include compulsory and non-guaranteed overtime (Bear Scotland v Fulton) and commission earnings (British Gas Trading v Lock). Now, the Employment Appeal Tribunal (EAT) in Dudley Metropolitan Borough Council v Mr G Willetts, has upheld the judgement of a lower tribunal which said voluntary overtime should be included in holiday pay calculations as long as it was normally worked. The EAT confirmed that doing voluntary overtime as little as once every four or five weeks counted as normally working it. However, the EAT went on to say that each case must be decided on its own facts, and it is up to individual employment tribunals to determine whether overtime payments are sufficiently ‘regular and settled’ to require inclusion in holiday pay. You can find a review of the case law on our holiday pay web page.
Paul Deemer, our head of diversity and inclusion, shares his views on gender pay gap reporting and why he feels it is so important.

So, what’s driving the impending gender pay gap reporting requirements? Political correctness? Legal compliance? Or good business sense? In my view, it’s probably all three.

It is absolutely the right thing that our politicians have openly and very clearly indicated that some of the societal inequality faced by women should not continue. Report after report since the Equal Pay Act in 1970 has repeatedly painted the same picture – of a country and employers that ostensibly want to tackle the problem, but which systemically and culturally maintain the status quo. It is time for a change.

Legally, beyond the Equal Pay Act, we now have the Equality Act 2010, which has been amended to accommodate these new provisions. The ambition is that, in the long term, these provisions might be extended to the areas of race, disability, religion and other protected characteristics. Evidence shows that these groups fare just as poorly as women when it comes to equity and fairness of pay.

The overriding argument for gender pay gap reporting is the business case. A commitment to equality, demonstrated by transparency of pay reporting, positively impacts your organisation’s ability to attract and retain the best talent. It also avoids reputational damage and costly tribunals, as well as boosting the economy. In this current economic climate, what organisation can afford to discriminate against 50 per cent of the population? What organisation – public or private – would welcome the poor publicity that goes with reports of large gender pay gaps between their male and female staff? What organisation can afford the cost of legal challenge for breaching the new regulations?

Whether you approach this from an emotional, moral, legal or business perspective, the organisational and societal benefits of gender pay gap reporting will be far reaching.

NHS Employers has published a range of advice and guidance about gender pay gap reporting, including actions for employers. We also developed the NHS equal pay toolkit to help you prepare. Government guidance is available on the gov.uk website.

Are you using reward in a strategic way?

We recently published a quick guide to lead you through the three phases of our reward strategy toolkit and to help you identify the key actions from each phase. You don’t have to follow each phase of the toolkit in sequence and not all phases may be applicable to your approach, as you may be at a different starting point dependent on your current approach to reward.

The reward strategy toolkit was created to help you plan, develop and implement an effective reward approach specific to your organisational needs. We developed these resources as there are a variety of reward practices in the NHS and clearly a desire from organisations to use reward as a tool in a strategic way, particularly to help with current recruitment and retention challenges.

You can access the quick guide, checklists and toolkit on our resources web page.