

13 September 2010

Pay Circular (AforC) 4/2010

Changes to NHS Terms and Conditions of Service Handbook (amendment 19): A New Section 21: Right to Raise Concerns in the Public Interest ('Whistleblowing')

To: All NHS employers

Summary

This pay circular informs employers of agreed changes to the NHS Terms and Conditions of Service Handbook. The NHS Staff Council has agreed a new Section 21: Right to Raise Concerns in the Public Interest (Whistleblowing).

The NHS Staff Council has agreed all employees working in the NHS have a contractual right and duty to raise genuine concerns with their employer about malpractice, patient safety, financial impropriety or any other serious risks they consider to be in the public interest.

Action

1. Employers should review their local policies to ensure that they emphasise that it is safe and acceptable for staff to raise concerns and set out clear arrangements for doing so.
2. This new agreement makes recommendations on the content of local policies to enable employers, working in partnership with the trades unions, to achieve best practice when developing or reviewing their local 'whistleblowing' or 'open practice' arrangements.

Effect of this amendment

3. Details of the changes made effective by this circular are in the Appendix attached.

Enquiries

4. Employees must direct personal enquiries to their employer or their trade union.
5. Employers should direct enquiries to: agendaforchange@nhsemployers.org
6. Copies of this circular can be downloaded from: www.nhsemployers.org
7. A copy of the NHS Terms and Conditions of Service Handbook can be downloaded from the NHS Employers website at the following web address: www.nhsemployers.org/payandconditions/agendaforchnage.asp
8. Prior to the establishment of NHS Employers in November 2004, responsibility to inform the NHS of changes to pay and allowances for staff on Agenda for Change contracts rested with the Department of Health. Changes were published in Advance Letters. Copies of previous Advance Letters going back to 1995 may be obtained from the Department of Health website at the following address: www.dh.gov.uk/letters

Issued by



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Annex

Pay Circular (AforC) 4/2010

NHS Terms and Conditions of Service Handbook

The Changes made effective by this circular are:

New Title Page:

The reference to amendment number 18 is changed to:

Amendment number 19

The reference to Pay circular (AforC) 3/2010 is changed to:

Pay circular (AforC) 4/2010

Change to Introduction:

The reference to “Health and Personal Social Services organisations in Northern Ireland” in the second paragraph has been changed to: **“Health and Social Care organisations in Northern Ireland”**.

New List of Contents:

Section 21 has been added to the list of contents. The reference to “Section 21 to 24 (Unallocated)” has been changed to read: **“Section 22 to 24 (Unallocated)”**

Section 21: Right to Raise Concerns in the Public Interest (Whistleblowing):

Section 21 is a new entry to the Handbook.

The page which contains the reference “Sections 21 to 24 (Unallocated)”

Has been changed to read: “Sections 22 to 24 (Unallocated)”

NHS terms and conditions of service handbook

Amendment number 19

Pay Circular (AforC) 4/2010

THE NHS STAFF COUNCIL
WORKING IN PARTNERSHIP

Introduction

This Handbook is amended whenever new agreements are reached in the NHS Staff Council. Amendments to the Handbook are published in numbered pay circulars which set out details of the changes, including the effective date(s) of changes to pay and conditions. The title page shows the number of the latest amendment and the number of the pay circular which announced it. Footnotes refer to the pay circular which contained the last amendment to each Section.

The terms and conditions of service set out in this handbook apply in full to all staff directly employed by NHS organisations, except very senior managers and staff within the remit of the Doctors' and Dentists' Review Body. NHS organisations include Health and Social Care organisations in Northern Ireland. References to the NHS throughout this document should be read as including these organisations where appropriate. Staff on contracts which incorporate national agreements will assimilate to the new system, and staff on local contracts will be offered the opportunity of transferring to it under the timetable it sets out.

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Section 21: Right to raise concerns in the public interest (Whistleblowing)

- 21.1 All employees working in the NHS have a contractual right and a duty to raise genuine concerns they have with their employer about malpractice, patient safety, financial impropriety or any other serious risks they consider to be in the public interest.
- 21.2 NHS organisations must have local policies that emphasise that it is safe and acceptable for staff to raise concerns and set out clear arrangements for doing so. Such policies are often referred to as ‘whistleblowing’ or ‘open practice’ policies
- 21.3 The NHS Staff Council recommends that local policies should include the following points:
- the organisation takes malpractice or wrongdoing seriously, giving examples of the types of concerns that should be raised;
 - employees have the option to raise concerns outside of line management, including ultimately with the Secretary of State or relevant Minister in the Devolved Administrations, or with any body they designate for these purposes;
 - employees are able to access confidential advice from their trades union or their professional organisation. They may in addition seek confidential advice from an independent body e.g. Public Concern at Work;
 - the organisation will handle all concerns sensitively with, respect to the confidentiality of a member of staff raising a concern;
 - when and how concerns may properly be raised outside the organisation (e.g. with a regulator);
 - it is a disciplinary matter either to victimise a genuine “whistleblower” or for someone to maliciously make a false allegation. However, every concern should be treated as made in good faith, unless it is subsequently found out not to be;
 - the policy covers all staff, not just clinical professionals.
- 21.4 Local policies should be developed and signed off in partnership with local staff representatives. Policies should be reviewed on a regular basis and use of the policy monitored.

- 21.5 Local polices should be easily accessible to all staff and promoted across the organisation. It is recommended that local staff side organisations should be involved in any agreed communications strategy.
- 21.6 The specific arrangements for applying these principles in Scotland, Wales and Northern Ireland will be agreed in partnership within the Devolved Administrations.

Sections 22 – 24
(Unallocated)

