

## Eligibility

Effective from 1 September 2018, the following staff will cease to be paid unsocial hours payments via the provisions of this annex, and will be paid unsocial hours payments under the provisions of section 2: maintaining round the clock services (England):

Staff who start their employment (new entrant) in an ambulance trust in England on or after 1 September 2018

Any member of staff who changes role within an ambulance trust in England on or after 1 September 2018 (see note at end of annex)

Any member of staff who voluntarily chooses to move to section 2 for the purposes of unsocial hours payments.

The provisions of this annex will continue to apply to:

ambulance staff employed by ambulance trusts in Wales, Scotland and Northern Ireland, and ambulance staff in England employed under the terms of this handbook prior to 1 September 2018 (provided they do not start any new employment in an ambulance trust or move role, as described above).

Should a member of staff opt to be paid their unsocial hours payments under the provisions of section 2, they will not be able to switch back to having their unsocial hours paid under the provisions of this Annex.

Staff members remaining on this annex will continue to receive their unsocial hours payments during periods of sickness absence.

## Working outside normal hours

1. The following provisions for unsocial hours payments will apply to ambulance staff employed by ambulance trusts (ambulance boards in Scotland).

2. Pay enhancements will be given to staff whose working pattern in standard hours, but excluding overtime and work arising from on-call duties, is carried out during the times identified below:

**for staff in pay bands 1 to 7** any time worked before 7:00 am or after 7:00 pm Monday to Friday, and any time worked on Saturdays, Sundays or Bank Holidays;

**for staff in pay bands 8 and 9** any time worked before 7:00 am or after 10:00 pm Monday to Friday, any time worked before 9:00 am or after 1:00 pm on Saturdays and Sundays, and any time worked on Bank Holidays.

3. The pay enhancement will be based on the average number of hours worked outside these times during the standard working week, and will be paid as a fixed percentage addition to basic pay in each pay period. The enhancement will be pensionable and count for sick pay, but will not be consolidated for purposes of overtime or any other payment. Once the average has been agreed, the payment will not normally change because of small week to week variations in the shifts worked. It will, therefore, be payable during short periods of leave or training. It will, however, be re-calculated if there is a significant change in working pattern.

4. This average will be calculated over a 13-week reference period or over the period in which one cycle of the rota is completed, whichever most accurately reflects the normal pattern of working. For the purposes of the calculation, short meal breaks taken during each work period will be included. An eight-hour shift from 3:00 pm to 11:00 pm would, therefore, include four qualifying hours for staff in pay bands 1 to 7, irrespective of when in that period a meal break was taken.

5. The enhancement will be paid as a percentage of basic salary each month, subject to a maximum of 25 per cent for staff in pay bands 1 to 7 and 10 per cent in pay bands 8 and above. Basic salary for these purposes will be regarded as including any long-term recruitment and

retention premium. It will not include short-term recruitment and retention premia, high cost area payments or any other payment.

6. Where the average exceeds five hours a week during the times set out above, there will be a banded system of pay enhancements. The payment will not vary unless the working pattern changes sufficiently to take the number of qualifying hours outside the band over the reference period as a whole.

**Table 11**

Average unsocial hours	Percentage of basic salary	
	Pay Bands 1 - 7	Pay Bands 8 & 9
Up to 5	Local agreement	Local agreement
More than 5 but not more than 9	9%	9%
More than 9 but not more than 13	13%	10%
More than 13 but not more than 17	17%	10%
More than 17 but not more than 21	21%	10%
More than 21	25%	10%

7. Where unsocial hours working is limited or very irregular (averaging no more than five hours a week over the reference period) pay enhancements will be agreed locally. These may be fixed or variable, and based on actual or estimated hours worked, subject to local agreement. To ensure fairness to staff qualifying under the national rules set out above, locally agreed payments may not exceed the minimum percentage in the national provisions.

#### Part-time staff and other staff working non-standard hours

8. For part-time staff and other staff working other than 37.5 hours a week excluding meal breaks, the average number of hours worked outside the normal hours will be adjusted to ensure they are paid a fair percentage enhancement of salary for unsocial hours working. This will be done by calculating the number of hours which would have been worked outside normal hours, if they had worked standard full-time hours of 37.5 hours a week, with the same proportion of hours worked outside normal hours.

This number of hours is then used to determine the appropriate percentage set out in table 11.

9. For an example of the effect of this provision, see annex 6.

#### Staff working rostered overtime

10. Where staff work shifts which always include a fixed amount of overtime (rostered overtime) the hours worked outside normal hours should be calculated as if they were working non-standard hours in excess of 37.5 hours per week (paragraphs 8 and 9 in this section). For an example of the effect of this, see annex 6.

#### Self-rostering schemes

11. Where staff have agreed self-rostering arrangements with their employer, local provisions should be agreed to ensure that the enhancements payable under these types of provisions are shared fairly between members of the team.

12. In these cases employers and staff side representatives should agree the level of payment appropriate for the team, on the basis of the unsocial hours coverage needed to provide satisfactory levels of patient care. This should be based on the period covering a full rota or, where there is no fixed pattern, an agreed period of not less than thirteen weeks activity for that team and divided between team members, subject to a formula that they agree.

13. For an example of the effect of this provision, see annex 6.

#### Annual hours and similar agreements

14. Agreement should be reached locally on pay enhancements for staff on annual hours agreements who work outside normal hours. The agreement should respect the principles of this annex to ensure that the arrangements for these staff are consistent with those for other staff working outside normal hours.

15. For an example of the effect of this provision, see annex 6.

#### Bank staff

16. Work for a staff bank run by the employer should be treated as a separate contract for the purpose of these rules and any additional payment due calculated as a percentage of their bank earnings, based on the number of bank hours worked outside normal hours.

17. For an example of the effect of this provision, see annex 6.

#### Unforeseen changes to agreed patterns of working

18. Local employers and staff side representatives, working in partnership, should develop protocols which ensure sensible planning for unexpected absence (such as the use of first on-call rotas for overtime) and minimise the need for frequent or sudden changes to agreed normal working patterns.

19. However, where it is necessary for employers to ask staff to change their shift within 24 hours of the scheduled work period, such staff should receive an unforeseen change payment of £15 for doing so. The payment is not applicable to shifts which staff agree to work as overtime, or that they swap with other staff members.

20. Good management practice should ensure that this type of payment is not used where absence is predictable e.g. to cover maternity leave, long-term sickness absence, planned annual leave etc. Appropriate monitoring of these payments should be undertaken at both a local (for example ward) and strategic (i.e. board) level in the organisation to identify circumstances which would suggest excessive or unusual trends for such payments.

#### **To note:**

Any movement which requires a new contract of employment to be issued would be considered as 'a change of role', thereby initiating the move to Section 2 of the NHS Terms and Conditions of Service Handbook for payment of unsocial hours enhancement.

*Amendment number 39: NHS TCS Advisory Notice 01/2018*

**Note: For further ambulance guidance, visit our TCS Resource hub.**