

Pay Circular (AforC) 6/2010

Changes to NHS Terms and Conditions of Service Handbook (amendment 21): Section 6: Career and Pay Progression

To: all NHS employers

Summary

This pay circular informs employers that the NHS Staff Council has agreed changes to Section 6 of the NHS Terms and Conditions of Service Handbook. It introduces new simplified guidance on the use of the NHS Knowledge and Skills Framework, making it a more flexible, adaptable tool that employers can tailor to meet local needs.

1. Effective performance appraisal and staff development contributes directly to improved patient outcomes and can also contribute to other key NHS commitments.
2. The NHS Staff Council commissioned the Institute for Employment Studies (IES) to undertake an independent review of the KSF. The review was asked to consider how to simplify and streamline the KSF processes in order to ensure more effective use at local level. The resulting guide sets out a model which demonstrates how appraisal and developmental aspects of the review process can be linked together as part of the annual review cycle.
3. This guidance has been designed as a flexible tool to support employers and staff in undertaking local appraisal and development reviews. It provides a range of helpful tips and advice for organisations to help them improve their coverage and application of development reviews and contains some sample formats and templates which can be adapted to suit local circumstances.

Action

4. Employers are encouraged to make use of this guidance when implementing or reviewing their local appraisal/PDR policies.
5. The new guidance has been designed to supplement rather than replace the existing KSF. Employers may wish to continue using the existing KSF if they wish to do so.

Effect of this amendment

16 November 2010

The NHS Terms and Conditions of Service Handbook

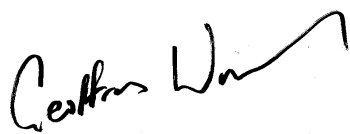
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6. Details of the changes made effective by this circular are in the attached Annex.

Enquiries

7. Employees must direct personal enquiries to their employer.
8. Employers should direct enquiries to: www.agendaforchange@nhsemployers.org
9. Copies of this circular can be downloaded from: www.nhsemployers.org
10. 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/PayAndContracts/AgendaForChange/Pages/Afc-AtAGlanceRP.aspx
11. 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/en/Publicationsandstatistics/Lettersandcirculars/Advancedletters/index.htm

Issued by



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Annex

Pay Circular (AforC) 6/2010

NHS Terms and Conditions of Service Handbook amendment number 21

The Changes made effective by this circular are:

New Title Page:

The reference to amendment number 20 is deleted and changed to:
amendment number 21

The reference in Section 2, paragraph 2.18 to paragraph 6.33 (Section 2
“Maintaining round the clock services”) is changed to paragraph **6.35** – new
replacement page is attached.

New Section 6 inserted (Career and Pay Progression) - delete old section 6

Two new paragraphs inserted – Para 6.1 has been reworded and paras 6.2 and 6.3
are new. All subsequent paragraphs and references to previous paras have been re-
numbered accordingly.

6.1 - This has been amended and reads as follows:

“The NHS Knowledge and Skills Framework¹ is a tool for describing the knowledge and skills staff need to apply at work in order to deliver high quality services and includes an annual system of review and development for staff. It applies to all staff covered by Agenda for Change contracts.

6.2- The NHS Staff Council guidance [*Appraisals and the KSF made simple: a practical guide*” enables NHS organisations to develop and implement local arrangements that are consistent with the principles underlying the national KSF Framework.

6.3 - The guidance detailed in 6.2 above, supplements rather than replaces the full Knowledge and Skills Framework. Paragraphs 6.4 to 6.15 below outline the processes for development reviews which were agreed as part of the original KSF documentation. Organisations may wish to continue to refer to the original provisions if the local partners wish to do so or to pursue the new guidance. The guidance could also be used to complement existing good local practice where the full KSF has not been implemented.”

The reference in Section 46, paragraph 46.28 to paragraph 6.32 (Section 46:
Assimilation and protection) is changed to paragraph **6.34** – new replacement page
is attached

¹ Available at: www.dh.gov.uk/PolicyandGuidance/HumanResourcesandTraining/ModernisingPay/AgendaForChange/KnowledgeAndSkillsFramework.htm
and at www.scot.nhs.uk/sehd/paymodernisation/afc.htm

NHS terms and conditions of service handbook

Amendment number 21

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THE NHS STAFF COUNCIL
WORKING IN PARTNERSHIP

Table 2

Column 1	Column 2	Column 3
Pay band	All time on Saturday (midnight to midnight) and any week day after 8 pm and before 6 am	All time on Sundays and Public Holidays (midnight to midnight)
1	Time plus 50%	Double Time
2	Time plus 44%	Time plus 88%
3	Time plus 37%	Time plus 74%
4 – 9	Time plus 30%	Time plus 60%

- 2.15 The enhanced rates shown in table 2, column 2 will be paid for all unsocial hours worked on a Saturday (midnight to midnight) or on weekdays between 8 pm and 6 am. The rates shown in column 3 will be paid for all hours worked on Sundays and public holidays (midnight to midnight).
- 2.16 Where a continuous night shift or evening shift on a weekday (other than a public holiday) includes hours outside the period of 8 pm to 6 am, the enhancements in column 2 should be applied to the whole shift if more than half of the time falls between 8 pm and 6 am.
- 2.17 Staff will only receive one rate of percentage enhancement for each hour worked.

Promotion

- 2.18 If on promotion, the working pattern remains substantially the same, staff will move to the first incremental point producing an increase when basic pay, any long-term recruitment and retention premium and the percentage enhancement for unsocial hours, are combined. If the working pattern changes on promotion paragraph **6.35** will apply.

Occupational sick pay

- 2.19 All percentage enhancements for unsocial hours will be pensionable and will count for occupational sick pay and contractual maternity pay, in line with paragraph 4 in Section 14. They will not be included in any part of the calculation of overtime payments, on-call payments nor any other payment described in this Handbook.

Protection

- 2.20 On assimilation to the new unsocial hours system the overall level of pay will be recalculated using Table 8 and paragraphs 46.18 to 46.20. If the

overall level of pay falls after assimilation to the new system of unsocial hours payments protection will apply in line with paragraphs 46.22 to 46.27. The period of protection will end on the dates in paragraph 46.25.

Annual leave

2.21 Pay during annual leave is set out in Section 13 paragraph 13.9.

Part time staff and other staff working non-standard hours

2.22 Part time staff working less than 37½ hours a week will be eligible for percentage enhancements for unsocial hours.

2.23 Staff whose basic week is more or less than 37½ hours will be eligible for percentage enhancements for unsocial hours for all their basic hours, as set out in Section 46, Tables 9 and 10.

2.24 Staff on annualised hours contracts will be eligible for percentage enhancements for unsocial hours as in Table 2.

Staff working overtime

2.25 Staff working shifts which include overtime will be entitled to percentage enhancements for their work in standard hours. Their overtime will be paid in line with Section 3.

Self-rostering schemes

2.26 Where teams of staff agree rosters among themselves, including who covers unsocial hours shifts, it will be for the team to decide how these shifts are allocated, provided the team continue to provide satisfactory levels of service cover.

Prospective application

2.27 This agreement may be used retrospectively or prospectively. It will be for local partnerships to decide which option best meets local operational needs.

2.28 If this agreement is used prospectively it must comply with the principle of equal pay for work of equal value. It must produce broadly the same level of payments as a retrospective system, including for part-time staff. Local partnerships will need to agree a reference period that can be used to calculate the appropriate level of prospective payment.

2.29 Prospective systems are more likely to be satisfactory where work pattern are predictable. If rotas vary so much that it is not possible to predict

Section 6: Career and pay progression

- 6.1 The NHS Knowledge and Skills Framework¹ is a tool for describing the knowledge and skills staff need to apply at work in order to deliver high quality services and includes an annual system of review and development for staff. It applies to all staff covered by Agenda for Change contracts.

Simplified Process

- 6.2 The NHS Staff Council guidance "**Appraisals and KSF made simple- a practical guide**" enables NHS organisations to develop and implement local arrangements that are consistent with the principles underlying the national KSF Framework.
- 6.3 The guidance detailed in 6.2 above, supplements rather than replaces the full Knowledge and Skills Framework. Paragraphs 6.4 to 6.15 below outline the processes for development reviews which were agreed as part of the original KSF documentation. Organisations may wish to continue to refer to the original provisions if the local partners wish to do so or to pursue the new guidance. The guidance could also be used to complement existing good local practice where the full KSF has not been implemented.

Development review process

- 6.4 The output from the NHS Knowledge and Skills Framework for an individual job will be a list of descriptions and/or standards (KSF post outline) specifying the minimum applied knowledge and skills required for a job and how this should develop during a person's time in post. It will provide prompts for action by individuals and their managers to update or develop their knowledge and skills, or address areas for development in the application of knowledge and skills. Development review procedures should be jointly agreed by management and staff representatives locally.
- 6.5 It must be clear which elements, as identified in the NHS Knowledge and Skills Framework, should be demonstrated at both the foundation and second gateway (see paragraphs **6.16 to 6.20** below).
- 6.6 The KSF post outlines within an organisation will be available to all staff members to help them identify the knowledge and skills requirements likely to be needed for future career steps and identify the development needed to support them. These requirements are not, however, fixed and will be reviewed in partnership when posts become vacant or changes need to take place for service development and other reasons.

¹ Available at: www.dh.gov.uk/PolicyandGuidance/HumanResourcesandTraining/ModernisingPay/AgendaForChange/KnowledgeAndSkillsFramework.htm and at www.scot.nhs.uk/sehd/paymodernisation/afc.htm

- 6.7 All staff will have annual development reviews against the NHS Knowledge and Skills Framework (KSF) which will result in the production of a personal development plan. Similar to current practice, development reviews will take place between staff and their manager or, where appropriate, their supervisor, a professional adviser or another appropriately trained senior team member. Development review procedures should be jointly agreed by management and staff representatives locally.
- 6.8 The main purpose of the development review will be to look at the way a member of staff is developing with reference to:
- how the duties and responsibilities of the job are being undertaken, based on current agreed objectives;
 - the application of knowledge and skills in the workplace;
 - the consequent development needs of the individual member of staff.
- 6.9 The primary outputs of a development review for an employee will be a record of the above against the relevant KSF post outline and an individual personal development plan, which links to the needs of the employee in the post. During the development review process, discussion should cover the duties and responsibilities of the job that is being undertaken, as outlined in paragraph **6.8** above. This will help to define future objectives and learning needs.
- 6.10 The review of learning achievements demonstrated in the workplace will be demonstrated by reference to the current personal development plan.
- 6.11 Development will primarily focus on helping members of staff to carry out their current job to the standard specified in the KSF outline for the post, although personal interests and opportunities for career progression will also be taken into account. Approaches to development will not just consist of courses but will also involve distance learning, private study, opportunities to participate in particular projects or work areas, short secondments, work shadowing, peer review and other continuing professional development activities.
- 6.12 Development plans will distinguish between goals for the year ahead and those applying to the longer term. There will be a commitment from both parties to make all reasonable efforts to meet the developmental goals for the year ahead in that year and elements not completed through force of circumstance will be carried over to the following year, unless agreed otherwise.
- 6.13 Managers and staff will work together to fulfil agreed development plans. Employers will encourage staff members to progress and develop and, where training and/or development needs have been identified and agreed, employers will ensure sufficient financial support is provided. Where appropriate, employers should ensure that staff have appropriate

time to fulfil training and/or development needs related to their current job and appropriate financial and other support. If an employer fails to do this, they cannot defer pay progression. Wherever possible, employers will also provide similar encouragement and support for elements of the personal development plan which reflect personal interests or help staff prepare for a more senior role or transfer to a different area of work within the NHS.

- 6.14 Staff members will contribute to undertaking the agreed personal development plan through their personal effort. They may individually choose, where appropriate, to commit personal time and resources, especially in those areas relating to longer-term career development. It is the employer's responsibility to support individuals and their personal efforts appropriately. Where development needs essential to the post are agreed with the employer, there will not normally be any requirement for the employee to use his or her unpaid personal time.
- 6.15 Local development and review processes must be designed to ensure that part-time staff and those working outside normal hours, have equal access to them.

Gateways

- 6.16 Gateways are points on a pay band where assessment of the application of knowledge and skills necessary to progress will be made. There are two gateway points: the foundation gateway and the second gateway.

Foundation gateway

- 6.17 The foundation gateway applies no later than 12 months after appointment to the pay band, regardless of the pay point to which the person is appointed.

Second gateway

- 6.18 The foundation gateway will be followed by a second gateway which will vary between pay bands as set out in Table 4 below:

Table 4
Position of second gateway

Pay band	Position of second gateway
Pay band 1	Before final point
Pay bands 2–4	Before first of last two points
Pay bands 5-7	Before first of last three points
Pay band 8, ranges A–D	Before final point
Pay band 9	Before final point

- 6.19 The review at the foundation gateway will be based on the agreed subset as specified in the KSF outline for the post. The review at the second gateway will be based on the relevant dimensions, levels and indicators, as specified in the full KSF outline for the post.
- 6.20 The gateway review should take place in time for staff to progress on their normal incremental date. Robust jointly agreed local arrangements must be in place to deal with cases where this is not possible (for example because the relevant manager is ill). These should ensure that there is no incentive to abuse the process.

Pay progression

- 6.21 Newly appointed or promoted staff, joining a pay band under the new system, will serve an initial foundation period of up to 12 months. During this initial period all staff will have at least two discussions with their manager (or the person acting as their reviewer) to review progress, guided by the KSF foundation outline for the post. The first of these discussions should normally be during the induction period. The aim of these discussions and any resulting support and development will be to help staff make a success of the new job and confirm as quickly as possible that they are applying the basic knowledge and skills needed for the job, and can pass through the foundation gateway and commence progression up their pay band (see Annex T, Development of Professional Roles, paragraph 3).
- 6.22 Once progression has been agreed, a member of staff will normally progress to the next point on their pay band 12 months after appointment and to subsequent points every 12 months thereafter, subject to meeting the criteria for progression when they pass through the second gateway point.
- 6.23 Before moving through the second gateway there will be an assessment, as part of the process of development review, against the full KSF outline for the post. Staff will normally expect to move through the second gateway at this point but, subject to the safeguards set out below, progression may be deferred if the review indicates that they are not yet applying the full range of knowledge and skills required for the post.
- 6.24 The gateway system will only become fully operational when an employer has put in place reasonable arrangements to ensure that staff have access to development reviews, personal development plans and appropriate support for training and development to meet the applied knowledge and skills required at the gateway concerned.
- 6.25 Existing staff with at least 12 months experience in post will be assumed to have met the criteria for passing through the foundation gateway.

Where the gateway system is operational they will, however, be subject to the normal operation of the new system at the second gateway.

6.26 The following safeguards will also apply:

- there will be a normal expectation of progression and no national or local quotas will apply. All staff must have an equal opportunity to demonstrate the required standard of knowledge and skills to progress through the gateways and pay points;
- the applied skills and knowledge required at the foundation and second gateways should be clearly stated during recruitment;
- the KSF outlines may be changed subsequently by local agreement, within the work area concerned, where changes apply to a number of posts, or with the individual, where they apply only to a single post. They may also be changed where that is necessary to reflect a change in professional standards, as agreed by the relevant professional body or authority;
- the demonstration of knowledge and skills must be that used within each dimension, level and indicators in the KSF;
- employers must ensure there is a robust, jointly agreed process for checking managers' decisions and reviewing disagreements, with an agreed timescale for re-review;
- pay progression cannot be deferred unless there has been prior discussion between the individual and the person undertaking their review (which should be recorded) about the knowledge and skills that the individual needs to develop and apply and the member of staff has been given the opportunity to achieve the necessary development;
- employers and staff representatives acting in partnership, will monitor decisions on pay progression to ensure that there is no discrimination or bias in relation to race or ethnicity, gender, sexual orientation, disability, religion, age or trade union membership, or pattern of employment e.g. part-time, flexible and night workers.

Development of Professional Roles

6.27 Guidance on the development of professional roles for healthcare professionals on pay band 5 is set out at Annex T.

Exceptional grounds for deferral of pay progression

6.28 Where significant weaknesses in performance in the current post have been identified, discussed and documented with the staff member concerned and have not been resolved, despite opportunities for

appropriate training/development and support, exceptionally, pay progression may be deferred at any pay point until the problems are resolved.

- 6.29 Significant weaknesses are those which prevent a staff member from continuing to apply consistently, across a recognised normal workload, the knowledge and skills specified under the KSF foundation post outline for the foundation gateway or, for staff above the second gateway, the full range of knowledge and skills specified under the full KSF post outline, without continued supervision and support inappropriate to the post.

Career development moves

- 6.30 Where a member of staff moves to another job in the NHS covered by this agreement, where the necessary arrangements to support the operation of the gateways are in place, pay progression will normally depend on demonstrating the knowledge and skills specified in the KSF outline for the post, within the first twelve months of appointment.
- 6.31 Where, however, an individual re-trains in a different area of work, for wider service or operational reasons, with the explicit agreement of the employer concerned, their existing level of pay should be protected. Once protection is agreed, it may not be withdrawn until the person concerned has had a reasonable opportunity to complete their re-training and progress to a point where pay protection is no longer required. Explicit employer agreement in this context cannot, however, be deemed to have been given solely because the employer has agreed to re-employ someone following redundancy.

Temporary movement into a higher pay band

- 6.32 Individuals may be moved into a higher pay band where it is necessary to fill a post on a temporary basis when a vacancy is unfilled, but being advertised, or the post is being held open for someone who is due to return, e.g. from long-term sick leave, maternity leave, or from extended training.
- 6.33 Pay should be set either at the minimum of the new pay band or, if this would result in no pay increase (by reference to basic pay plus any recruitment and retention premium, if applicable) the first pay point in the band which would deliver an increase in pay. Temporary movement into a new pay band should not normally last more than six months or less than one month, except in instances of maternity leave or long-term sick leave, where a longer period may be known at the outset. In circumstances where the individual is not required to carry out the full responsibilities of the post, pay will be determined by job evaluation.

- 6.34 Where temporary movement into a higher pay band results in only one extra pay point the incremental date remains the same. Where temporary movement results in more than one extra pay point the incremental date for the period of the temporary movement becomes the date the movement began.

Pay on promotion

- 6.35 Pay on promotion should be set either at the minimum of the new pay band or, if this would result in no pay increase, the first pay point in the band which would deliver an increase in pay (by reference to basic pay plus any recruitment and retention premium, if applicable).

Transitional arrangements

- 6.36 Further information on assimilation arrangements during the transition to the new system is set out in Part 7, including information on:
- the arrangements which need to be put in place before the gateway system can become fully operational;
 - the position of existing staff in relation to the foundation and second gateways;
 - the position of existing staff in relation to their current incremental date.

over a reference period of 12 weeks or three months ending at the assimilation date, except:

- where this period includes the annual pay award due in April 2005 or an annual increment, the protected amount should be adjusted as if that award or increment had applied throughout the reference period;
- where the shift allowances or payments for working outside normal hours vary over a rota which is longer than three months, the average over the full rota should be used;
- where bonuses are paid less frequently than monthly an average over the last 12 months should be used.

Accelerated progression for staff in high cost areas

46.21 In the case of staff in high cost areas, as defined in Section 4, where the combined value of the payments before assimilation is greater than the combined value of payments after assimilation, the latter should be recalculated using the first or second available higher pay point within the pay band to that indicated in paragraph 46.12, if that will obviate the need for protection. In such cases the employee's next incremental increase will be payable on 1 October 2005 and 1 October will be the employee's incremental date.

Pay protection arrangements¹⁰

46.22 Where the combined value of the payments before assimilation remains greater than the combined value of the payments after assimilation, the former level of pay will be protected. These protection arrangements apply to the combined value of payments before and after assimilation, not to individual pay components, excepting the provisions relating to retention of existing on-call arrangements (see Table 8 above and paragraph 48 in Section 2).

46.23 The level of protected pay will be re-calculated for staff assimilating after April 2004, taking into account the 3.225 per cent uplift in April 2005 in respect of all payments to which it applies.

46.24 If standard hours change during the period of protection, other than under the rules for assimilation to new standard hours below (for example, where a member of staff changes from full-time to part-time employment, or if a staff member reduces his or her hours of work or level of unsocial hours working) the protected level of pay will be re-calculated.

46.25 The period of protection will end when the total level of payments under the new system exceeds the level of protected pay, or when the protected person changes job voluntarily, or at the latest on 30 September 2009 for

¹⁰ see the question and answer guidance in Annex A2
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staff in early implementer sites and 31 March 2011 for staff in national roll-out. For protection arrangements in NHSScotland, please refer to the pay protection section of the pay and modernisation website: www.show.scot.nhs.uk/sehd/paymodernisation/afc.htm

- 46.26 As soon as possible during the period of protection, the skills, knowledge and role of staff subject to protection will be reviewed to establish whether they could be re-assigned to a higher weighted job or offered development and training to fit them for a higher weighted job.
- 46.27 Staff with pay protection arising from changes unrelated to this agreement, who are also eligible for protection under this agreement may, at the time of assimilation, elect either to continue with their existing protection agreement or move to this protection agreement. When the agreement concerned expires they will move onto the normal terms and conditions under this agreement.

Incremental dates

- 46.28 Subject to the special provisions set out in Section 6, paragraph **34** relating to temporary movement into a higher pay band, paragraph 46.16 for staff on special transitional points and paragraph 46.21 in relation to accelerated progression for staff in high cost areas, incremental dates will be determined as follows:
- for existing staff on spot salaries (i.e. in posts with a single salary rate and no increments) or staff who are on or above the maximum of their current pay scale, the incremental date will be the anniversary of the effective date of assimilation;
 - for newly appointed or promoted staff the incremental date will be the date they take up their post.
- 46.29 All other staff will retain their current incremental date.

Assimilation to new conditioned hours

- 46.30 For staff who currently work more than 37½ hours, excluding meal breaks, there is a two year transitional period during which the new contracted hours will be phased in, as set out in Table 9 below, and during which staff may be required to work up to their old contracted hours, with overtime payable for any hours in excess of their standard hours.¹¹ Pro-rata arrangements will apply to part-time staff.

¹¹ See the question and answer guidance in Annex A2.
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