

# THE NHS STAFF COUNCIL

## WORKING IN PARTNERSHIP

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### **NHS Pay Review Body – Joint NHS Staff Council submission on the Agenda for Change review updating on progress so far**

#### Background

1. In 2015, as part of the agreement to resolve the 2014/15 pay dispute in England, a commitment was made by the NHS trade unions to review and consider the scope for further reforms to Agenda for Change (AfC). These talks have been overseen by the NHS Staff Council and this has enabled involvement of representatives from the rest of the UK.
2. The aim of the AfC review talks has been to ensure that terms and conditions continue to deliver '*flexibility, capacity, fairness and value*'. Key aims have been to:
  - Maximise the contribution of NHS staff and reduce the reliance on agency staffing;
  - Strengthen the AfC agreement on pay progression;
  - Review generally the need for further reform to the pay system, maximising the value for patients and fairness for staff.
3. With this in mind, the NHS Staff Council Executive has worked constructively over the last year to start to explore the scope for changes which would keep the AfC pay structure and terms and conditions of service up-to-date and relevant for now and the future.
4. The initial focus of discussions has been on options for reform of the pay structure and progression. Employers and trade unions share a common desire to make the structure simpler so that it works better for staff and the service without disturbing the underpinning job evaluation scheme and pay bands. Employers have emphasised that this and the wider pay structure reform needs to be considered as part of a balanced package, including changes to some terms and conditions.
5. The parties have considered options to revise the pay structure in a way which would limit overlaps between pay bands; reduce the number of points between the top and bottom points in each band and create more even spacing between pay points. The parties will continue to examine the cost implications of this, and the options for 'transition' to such a new structure. It is recognised that a dynamic costing model needs to be developed to better understand the costs of reform of the pay structure from implementation through to 'steady state'.

6. The government's public sector pay policy of an average 1 per cent pay award for 2016/17, 17/18, 18/19 and 19/20 limits the amount of money that is available for any transitional cost for moving to a new pay structure. Given that an agreement is unlikely in time for 2017/18 this leaves only two more years of an average 1 per cent available to the negotiators in the current Spending Review period. This is further reduced by the need to fund the government's NLW.
7. Achieving jointly agreed changes to the pay structure and progression arrangements within the average 1 per cent annual increase determined by the government's public sector pay policy remains a difficult challenge. For agreement to be reached, employers will require consideration of wider terms and conditions issues, and trade unions will seek commitments to maintain the value of the overall AfC package, including unsocial hours payments. There are also significant capacity challenges in undertaking this work at the same time as reforming medical pay and contracts. However, there is recognition from all parties of the need to address capacity, supply and productivity challenges within the NHS workforce and the importance of maintaining AfC so that it supports the recruitment, retention and motivation of NHS staff. Despite the challenges the NHS Staff Council is keen to continue to explore the possibilities for positive change and agreement.
8. The technical group supporting the talks has reached the point where further dynamic cost modelling is needed ahead of any decision-making. Whilst the review of Agenda for Change remains a high priority for all parties, it is likely that delivery will be on a slower track than anticipated. The implication of this is that the group needs to anticipate the impact of NLW on NHS pay scales and re-structure the bottom of the pay scales to accommodate the statutory National Living Wage rates that are likely to impact on the NHS from 2018/19

### **AfC review discussions**

9. Constructive joint discussions have been ongoing since April 2015.
10. The NHS Staff Council Executive initially agreed the following principles by which the AfC review discussions would be guided:

## **Principles**

We would be looking for a future pay structure which:

- is simpler to explain, understand and operate;
- has shorter pay bands, with fewer points and no overlaps between bands;
- is fair and affordable for now and the future;
- is underpinned by the current NHS Job Evaluation system that delivers equal pay for work of equal value;
- supports and rewards the improvement of staff productivity;
- supports staff development and career progression;
- supports good recruitment and retention of staff, motivating staff at all levels;
- is supportive of the longer term Health and Social Care agenda and the corresponding workforce needs;
- links logically to the wider reward package contained within the NHS terms and conditions of service handbook;
- supports equal opportunity and diversity.

11. The discussions on possible pay structure reform looked at 3 parts of the current pay structure:

- Bands 4 – 8a
- Bands 1 – 3
- Bands 8b and above

12. Staff side proposed a 5 point scale with the values of each of the pay points being determined as a percentage of the top pay point in each pay band. This has been labelled by the trade unions the 'Hanging Rate' model. This model would fit with the current progression policy whereby local partnerships are able to agree the criteria for pay progression.

13. Employers initially suggested a number of alternative models with a preferred option having 4 points; new starter, developmental, good and an annually earned bonus point. The movement between pay points would likely not be on an annual basis.

14. Having explored the options, employer representatives have been prepared to discuss and consider in more detail the suggested 5 point scale for Bands 4 – 8a. This is without prejudice to later consideration of a range of terms and conditions issues.

15. Discussion on Bands 8B and above have been limited to date and no consensus has yet been reached.
16. It has been accepted that shorter pay scales may be more appropriate for Band 1-3 roles due to the shorter developmental timeframes when compared with roles at Band 4 and above.
17. The trade unions have made clear that they wish to use the impetus of the NLW to prioritise the restructuring of Bands 1-3. In April, the trade unions made proposals to 'hang' a revised band 1-3 from the top of the current Band 3, keeping the lowest pay point above the campaigners' Living Wage. Employers have made it clear that their preference is to minimise additional investment in Bands 1-3 as they would prefer the limited resources available to be used for reform of the middle pay bands.
18. There has been no consensus so far on the detail of this approach, although both parties recognise the benefit of a solution that preserves the integrity of the pay banding structure linked to the agreed job evaluation scheme. Further technical work and modelling of this will be a priority. Employers understand that the NLW costs will have to be met within the government's public sector pay policy and that there is no additional funding available. This suggests that that the future pay awards of those earning above the NLW may have to be reduced in order to fund the additional costs of implementing the NLW. Trade unions believe that as the NLW is a social policy it should be funded outside the current public sector pay policy of an average 1 per cent pay award through to 2019/20.

## Barriers to negotiating changes

### a) Employer Constraints

19. Employers are seeking a balanced package of changes which include changes to the pay structure and some adjustments to other terms and conditions. Trade unions have been unable to date to discuss terms and condition changes, and have active mandates not to negotiate on unsocial hours premia.
20. Employer engagement has suggested varying aspirations for what can be delivered by any future negotiations. Facing increasing cost pressures and greater demands for savings there is a challenge in managing employer expectations about what is deliverable through negotiations. There is also an employer concern that a nationally negotiated change, whilst cost neutral at a national level, may not be at a local level due to how the money flows through the system.

## **b) Union Constraints**

21. Whilst trade unions understand that employers will want to see structural improvements 'balanced' by other potential changes to terms and conditions, small and incremental re-calibration in the value of pay scales is unlikely to generate the will needed for any significant contractual change. This will be particularly true if funding challenges mean that there is little change experienced by the large groups of staff clustered at the top of pay bands.
22. If structural change is to be introduced within the current tight cost envelope, it would need to be made incrementally over a number of years. The trade union position is that NHS staff will therefore expect to receive a commitment that the value of their pay by the end of such a phasing-in period would at least be what they could have expected to have received had things remained unchanged.
23. Trade unions are likely to come under increasing pressure from members to challenge continued pay restraint. This is likely to be exacerbated if the introduction of NLW is at the expense of the expected 1 per cent for other staff and this could lead to industrial unrest.

### **Next Steps**

24. The priority for the next 6 months will be to look further at the options for restructuring the lowest pay points in Bands 1-3 and the cost impact of the National Living Wage.

**NHS Staff Council secretariat**  
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