

Section 1: Pay Structure

Question

Where a post holder's role has been determined (based on one contract of employment) and it includes specialist responsibilities - is it permissible for an employee to be paid at the specialist pay band on days when they do specialist duties and at a lower pay band when they do not?

Answer

No, the higher specialist pay band applies for all of their service.

Section 2: Working or providing emergency cover outside normal hours: paragraph 2.13 and 2.28

Question

Does the protection for on-call arrangements include protection for the "rate of pay?" For example, if the local protected agreement says that Sunday is double time is this protected under 2.13?

Answer

Yes, all current on-call arrangements may be protected for groups of employees for up to four years from the effective date of assimilation, irrespective of whether they were nationally or locally agreed (paragraphs 2.13 and 2.28). It is the totality of the local or national on-call agreement that is protected. Pay circular (AforC) 4/2007 announced that where flat rate on-call allowances continue to be paid in accordance with Section 2 these should be increased in line with the staged pay award.

Section 4: Pay in High Cost Areas: paragraphs 4.7 and 46.5

Question

Paragraphs 4.7 and 46.5 express COLS as RRP's. These say that "current entitlements will continue. . . ." Where this RRP (COL) is being paid to a staff group should newly appointed staff receive it on the same basis as existing staff?

Answer

Yes

Section 4: High Cost Area Payments: paragraph 4.7

Question

Where a member of staff is in receipt of a COLs based RRP (4.7 and 46.5) and is promoted within the same Trust does he or she retain the RRP?

Answer

Yes, providing the person is still in a staff group meeting the eligibility criteria.

Section 5, paragraph 3 and paragraph 18 in Annex R: National Long-Term Recruitment and Retention Premia

Question

How long do the national long-term RRPs for posts in the list in Table 19 in Annex R continue?

Answer

On assimilation the minimum level of premium for posts listed in Table 19 should be set locally. During the transition period the level of premium should be at least sufficient to ensure that staff do not require pay protection (paragraph 9 in Annex R). After the transition period local partnerships will need to review the value of any continuing RRP in accordance with the provisions in Section 5. This does not apply to RRPs for qualified maintenance craft persons, qualified maintenance technicians and chaplains in Annex R.

Section 14: Sickness Absence; paragraph 4

Question

How is the reference period for calculating sick pay determined under Section 14?

Answer:

This is the average pay for the three month period ending on the day before an employee commences sick leave – or any other locally agreed reference period.

Section 14: Sickness Absence: paragraph 4

Question

Paragraph 14.4 in the Agenda for Change Handbook provides for full pay to be paid when staff are on sickness absence. This takes into consideration “regularly paid supplements” such as unsocial hours. Unsocial hours arrangements are contained in Section 2. Where a staff group has existing, pre-Agenda for Change unsocial hours arrangements, protected during the interim regime but those arrangements do not include sick pay calculated on the basis of average pay in a reference period, should that staff group receive sick pay based on average pay as outlined in 14.4 or are they only paid basic pay?

Answer

The commitment in Agenda for Change was to ensure that where staff were on sickness absence their income should not suffer. A staff group which has had their unsocial hours arrangements protected but did not receive sick pay based on average pay in a reference period will now receive sick pay based on 14.4.

Section 46: Assimilation and Protection: paragraph 2

Question

Paragraph 46.2 provides for staff on local contracts, not incorporating national agreements on pay and conditions of service the opportunity to assimilate to Agenda for Change. Can staff whose NHS contract of employment arises from a TUPE transfer into the NHS prior to 1 October 2004 exercise the right to assimilate or not to assimilate to Agenda for Change terms and conditions?

Answer

Yes, staff who have transferred into the NHS who are not on Whitley or shadow Whitley contracts will be deemed to be NHS employees for the purposes of Agenda for Change implementation. For the purposes of paragraph 46.2 staff on local contracts will have the right to opt for Agenda for Change assimilation or remain on their existing terms and conditions.

Section 46: Assimilation and Protection

Question

Where a post holder is matched to a profile which includes “consultant” in the job title, is there is a requirement for the employing organisation to involve an external assessor from the appropriate professional body to determine whether assimilation to that post and the use of the job title is acceptable?

Answer

Once a post holder is matched to a profile there is no scope for a further external assessment process to affect the assimilation to the appropriate pay band.

NHS Terms and Conditions of Service Handbook

Section 19: Other terms and conditions of service: paragraph 1.

Question

What happens when local partnerships are not able to reach agreement on “other” terms and conditions of service not covered in the NHS Terms and Conditions of Service Handbook (see paragraph 19.1)?

Answer

Paragraph 19.1 of the handbook states “Other terms and conditions not covered in this Handbook will be determined locally following consultation with staff representatives with a view to reaching agreement on such terms and conditions or any changes to them (see Annex O).” In the absence of a local agreement the previous contractual arrangements for those on national contracts will apply.

Section 6 and Section 46

Question

How are arrears of pay to be calculated when someone “acts up” and works in a role at a higher level of responsibility for a period between 1 October 2004 and their date of assimilation to Agenda for Change?

Answer

Two pay histories need to be constructed. Each will start on 1 October 2004 and finish on the day before assimilation. Table 7 in Section 46 of the Handbook sets out what items should be included in each pay history. One details actual pay and all changes to pay under Whitley “before assimilation” and will include details of any changes to pay relating to the period of “acting up”. The second pay history details what would have been paid if the employee had been receiving Agenda for Change pay on 1 October 2004 and throughout the rest of the period. In this pay history Agenda for Change pay for the period of the “acting up” needs to be determined using paragraphs 6.30 to 6.32 in the Handbook. Paragraph 31 says that when the person acting up is not required to carry out the full responsibilities of the post, pay will be determined by job evaluation. Both parties will need to agree the two pay histories. A comparison of the two totals produced when all the calculations in each pay history have been done will show if arrears of pay, including any arrears of pay attributable to the period of “acting up”, are due. Paragraph 3.6 in the NHS Job Evaluation Handbook describes the jointly agreed procedures when jobs change.