

The Scottish Government
Health Workforce Directorate
NHS Pay and Conditions



Dear Colleague

TEXTUAL CHANGES TO AGENDA FOR CHANGE HANDBOOK

1. The UK Staff Council recently agreed a series of minor textual revisions to the Agenda for Change Handbook. The only elements which apply in Scotland cover sections 14.6, 15.49, 15.50 and Annex A2 which addresses frequently asked questions. However, the attached Annex sets out the changes in full. An up to date version of the Agenda for Change Handbook can be found at www.msg.scot.nhs.uk.

Cabinet Secretary Approval

2. The provisions of this circular have been approved by Scottish Ministers under Regulations 2 and 3 of the National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1991 (SI 1991 No 537). A copy of the formal approval is attached.

Action

3. NHS Boards and Special Health Boards should follow the procedures, advice and timescales set out in the guidance.

Enquiries

4. Employees should direct their personal enquiries to their employing NHS Board or Special Health Board.

5. Employers should make their own arrangements for obtaining additional copies of this circular, which can be viewed at:

www.sehd.scot.nhs.uk

Yours sincerely

SHIRLEY ROGERS

Director, Health Workforce

24 August 2016

Addressees

For action

Chief Executives,
Directors of Finance,
Directors of Human Resources:
NHS Boards and Special Health
Boards, NHS National Services
Scotland (Common Services
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For information

Members, Scottish Partnership
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Members, Scottish Terms and
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Members, Scottish Workforce and
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**NATIONAL HEALTH SERVICE
APPROVAL OF REMUNERATION AND CONDITIONS OF SERVICE**

In accordance with regulations 2 and 3 of the National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1991 (S.I. 1991/537) the remuneration and conditions of service set out in the attached Scottish Government Health Workforce Directorate circular of 24 August 2016 – PCS(AFC)2016/6 – in respect of changes to the Agenda for Change Handbook are hereby approved for the purposes of the said Regulations.

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24 August 2016

PCS(AFC)2016/6 – Textual Changes to the Agenda for Change Handbook

Section 14: sickness absence

Paragraph 14.6 is:

“The period during which sick pay should be paid and the rate of sick pay for any period of absence is calculated, by deducting from the employee’s entitlement on the first day of sickness, the aggregate periods of paid sickness absence during the 12 months immediately preceding that day. In aggregating periods of absence due to illness no account will be taken of:

- unpaid sick absence;
- injuries, diseases, or other health conditions sustained or contracted in the discharge of the employee's duties of employment, as defined in Section 22;
- injury resulting from a crime of violence, not sustained on duty but connected with or arising from the employee’s employment, where the injury has been the subject of payment by the Criminal Injuries Compensation Authority (England, Wales and Scotland) and the Compensation Agency (Northern Ireland);
- as above, but an injury which has not attracted payment of an award as it has not met the loss of earnings criteria or was not one for which compensation above the minimum would arise.”

It is changed to:

“The period during which sick pay should be paid and the rate of sick pay for any period of absence is calculated, by deducting from the employee’s entitlement on the first day of sickness, the aggregate periods of paid sickness absence during the 12 months immediately preceding that day. In aggregating periods of absence due to illness the following absences will be disregarded:

- unpaid sick absence;
- absence caused by injuries, diseases, or other health conditions that are wholly or mainly attributable to the employee’s NHS employment and which have been sustained or contracted in the discharge of the employee's duties of employment, as defined in paragraph 22.3;
- absence caused by injury resulting from a crime of violence, not sustained on duty but connected with or arising from the employee’s employment, where the injury has been the subject of payment by the Criminal Injuries Compensation Authority (England, Wales and Scotland) and the Compensation Agency (Northern Ireland);
- absence caused by injury resulting from a crime of violence as described in the bullet immediately above, but which has not attracted payment of an award as it has not met the loss of earnings criteria or was not one for which compensation above the minimum would arise.”

Section 14(a) (England and Wales): sickness absence

Paragraph 14.4: the first sentence is:

“For staff on pay spine points 1 to 8 and those absent due to a work related injury or disease contracted in the actual discharge of their duties (see paragraph 14.7 in this Section) who are in receipt of injury allowance, the definition of full pay will include regularly paid supplements, including any recruitment and retention premia, payments for work outside normal hours and high cost area supplements. Sick pay is calculated on the basis of what the individual would have received had he/she been at work. This would be based on the previous three months at work or any other reference period that may be locally agreed. Local partnerships can use virtual rotas showing what hours the employee would have worked in a reference period had he or she been at work.”

It is changed to:

“For staff:

- **on pay spine points 1 to 8: and**
- **those staff who are absent due to injuries, diseases or other health conditions sustained or contracted in the discharge of their duties of employment which are wholly or mainly attributable to their NHS employment, whom the employer determines are eligible to receive injury allowance in line with paragraphs 22.3 and 22.4 (see paragraph 14.7 in this Section);**

pay during sickness absence is calculated on the basis of what the individual would have received had he/she been at work. It will include regularly paid supplements, including any recruitment and retention premia, payments for work outside normal hours and high cost area supplements. It will be based on the previous three months at work or any other reference period that may be locally agreed. Local partnerships can use virtual rotas showing what hours the employee would have worked in a reference period had he or she been at work.”

Paragraph 14.7 is:

“The period during which sick pay should be paid and the rate of sick pay for any period of absence is calculated, by deducting from the employee’s entitlement on the first day of sickness, the aggregate periods of paid sickness absence during the 12 months immediately preceding that day. In aggregating periods of absence due to illness no account will be taken of:

- unpaid sick absence;
- injuries, diseases or other health conditions sustained or contracted in the discharge of the employee’s duties of employment, as defined in Section 22;
- absence caused by injury resulting from a crime of violence, not sustained on duty but connected with or arising from the employee’s employment, where the injury has been the subject of payment by the Criminal Injuries Compensation Authority (England, Wales and Scotland), and the Compensation Agency (Northern Ireland);

- as above, but an injury which has not attracted payment of an award as it has not met the loss of earnings criteria or was not one for which compensation above the minimum would arise.”

It is changed to:

“The period during which sick pay should be paid and the rate of sick pay for any period of absence is calculated, by deducting from the employee’s entitlement on the first day of sickness, the aggregate periods of paid sickness absence during the 12 months immediately preceding that day. In aggregating periods of absence due to illness the following absences will be disregarded:

- **unpaid sick absence;**
- **absence caused by injuries, diseases, or other health conditions that are wholly or mainly attributable to the employee’s NHS employment and which have been sustained or contracted in the discharge of the employee’s duties of employment, as defined in paragraph 22.3;**
- **absence caused by injury resulting from a crime of violence, not sustained on duty but connected with or arising from the employee’s employment, where the injury has been the subject of payment by the Criminal Injuries Compensation Authority (England, Wales and Scotland), and the Compensation Agency (Northern Ireland);**
- **absence caused by injury resulting from a crime of violence as described in the bullet immediately above, but which has not attracted payment of an award as it has not met the loss of earnings criteria or was not one for which compensation above the minimum would arise.”**

Section 15: Maternity leave and pay

The heading above paragraph 15.49 is: “Accrual of annual leave”. It is changed to **“Annual leave and public holidays”**

Paragraph 15.49 is:

“Annual leave will continue to accrue during maternity leave, whether paid or unpaid, provided for by this agreement.”

It is changed to:

“Employees on paid and unpaid maternity leave retain their right to the annual leave and public holidays provided by Section 13.”

Paragraph 15.50 is:

“Where the amount of accrued annual leave would exceed normal carry over provisions, it may be mutually beneficial to both the employer and employee for the employee to take annual leave before and/or after the formal (paid and unpaid) maternity leave period. The amount of annual leave to be taken in this way, or carried over, should be discussed and agreed between the employee and employer. Payment in lieu may be considered as an option where accrual of annual leave exceeds normal carry over provisions.

It is changed to

“Where unused annual leave and public holidays exceed local provisions for carry over to the next leave year it may be beneficial to the employer and employee for the employee to take the unused annual leave and public holidays before and/or after the agreed (paid and unpaid) maternity leave period. The amount of annual

leave and public holidays to be taken in this way, or carried over, should be discussed and agreed between the employee and employer. Payment in lieu may be considered as an option where accrual of annual leave and public holidays exceeds normal carry over provisions.”

Annex A

The entry “National Institute for Health and Clinical Excellence” is changed to “**National Institute for Health and Care Excellence.**”

Health Education England is added to the list of NHS Employers in England.

Annex G: Good practice guidance on managing working patterns

Paragraph 4 is:

“NHS Staff Council guidance on Improving Working Lives (IWL) is at:

<http://www.nhsemployers.org/HealthyWorkplaces/ImplementingBoorman/Pages/Improvingworkinglives.aspx>

It includes a good practice database, which provides examples of how flexible working is used to cover both normal hours and the provision of care outside normal hours. There are comparable initiatives providing similar information in each of the other countries (e.g. the PIN policies in NHSScotland).”

It is changed to:

“**NHS Staff Council guidance on Improving Working Lives (IWL) is at:**

<http://www.nhsemployers.org/your-workforce/retain-and-improve/staff-experience/health-work-and-wellbeing/protecting-staff-and-preventing-ill-health/partnership-working-across-your-organisation/partnership-working-on-health-safety-and-wellbeing/hswpg-publications-advice-and-resources>

This substantial database of jointly agreed advice and guidance includes information on the importance of effective partnership working on health, safety and wellbeing, guidance on the prevention and management of stress at work and on the prevention and management of sickness absence. There are comparable initiatives providing similar information in each of the other UK countries (e.g. the PIN policies in NHSScotland).”

Annex A2: guidance on frequently asked questions

“Part 3: Terms and conditions

Part 3: Section 12: Contractual continuity of service

Paragraph 4

Footnote number 1

When calculating entitlements to annual leave should I take account of a single period of previous service or should I aggregate several periods?

An employer must include all reckonable service when calculating annual leave entitlement (12.3). 12.2 gives discretion to employers to decide what previous (non-NHS) employment can count towards annual leave entitlement.”

Is changed to:

“Part 3: Terms and conditions

Part 3: Section 12: Contractual continuity of service

Paragraph 4

Footnote number 1

When calculating entitlements to annual leave should I take account of a single period of previous service or should I aggregate several periods?

An employer must include all reckonable NHS service when calculating annual leave entitlement (12.1 and 12.4). Paragraph 12.2 gives discretion to employers to decide what previous (non-NHS) employment can count towards annual leave entitlement.”