

Annex A

Draft principles for harmonised on-call arrangements

The principles outlined in the table below have been agreed in partnership by the NHS Staff Council’s on-call sub group and approved in partnership, for consultation, by the NHS Staff Council on 8 July 2010.

Once finalised, they are intended to provide a framework for employer negotiations with local partnerships to ensure that revised on-call arrangements are in place from April 2011, when the current arrangements end. We are now asking employers and the NHS trade unions for their views – in partnership – on the draft principles, using an on-line response form on NHS Employers website, on the on-call web pages at www.nhsemployers.org.

Issue	Principle/s
1. Definition	<ul style="list-style-type: none"> • On-call systems exist as part of arrangements to provide appropriate service cover across the NHS. A member of staff is on-call when, as part of an established arrangement with his/her employer, he/she is available outside his/her standard working hours – either at the workplace, at home or elsewhere – to work as and when required.
2. Equal pay	<ul style="list-style-type: none"> • Guiding principle should be that the harmonised arrangements should be consistent with the principles of equal pay for work of equal value <p>The effect of this should be that schemes agreed by local partnerships should provide consistent payments to staff at the same pay band available on the same on-call pattern</p> <ul style="list-style-type: none"> • We will need to Equality Impact Assess (EIA) our own work • Will need to include the principle that all employing organisations will need to undertake an EIA of their proposals

	<p>Implementation guidance will identify areas that local partnerships should consider in undertaking EIAs of their potential arrangements.</p>
<p>3. Commitment or availability payment</p>	<ul style="list-style-type: none"> • There needs to be a payment to reflect the availability for being called. There are three distinct types of on-call availability: <ol style="list-style-type: none"> 1. At home ready to be called out or to undertake work at home 2. At work ready to undertake work 3. Sleeping in at work <p>Payment for these different types of availability – options include:</p> <ul style="list-style-type: none"> • flat rate available for all staff • flat rate by grade • percentage of salary <p>If the partnership decides to use a flat rate they will need to agree arrangements for uprating this payment when pay increases. This payment will vary according to the frequency of commitment – the principle being that higher payments are set for greater commitment.</p> <p>In setting the availability payment, local partnerships will need to take account of the commitment to work weekends and public holidays.</p> <p>Where tiered on-call systems are required, there should be no distinction between levels of commitment when setting the availability/commitment payment.</p> <p>Reference paragraph 2.26-7 in the NHS terms and conditions of service handbook, to allow the option of prospective calculation of the payments.</p>
<p>4. Frequency</p>	<ul style="list-style-type: none"> • The week should be divided up into appropriate standard periods (outside the hours of the standard working week) for the purposes of calculating the frequency of on-call availability. The nine periods described in paragraph 2.34 of the NHS terms and conditions of service handbook provide a useful model.

5. Work done	<ul style="list-style-type: none"> • Payment for work done, including work done at home, should be made at the appropriate hourly rate with reference to Section 2 in the NHS terms and conditions of service handbook. • Local partnerships may agree an appropriate minimum payment period for work done.
6. Time of in Lieu (TOIL)	<ul style="list-style-type: none"> • Staff should have the option to take TOIL rather than payment for work done in line with paragraph 3.5 in the NHS terms and conditions of service handbook.
7. Compensatory rest	<ul style="list-style-type: none"> • Individuals will receive compensatory rest for work done, in accordance with Section 27 of the NHS terms and conditions of service handbook.
8. Travel to work	<ul style="list-style-type: none"> • As per current arrangements. Travel time should be paid at the rate agreed for on-call work done and local partnerships will need to identify if there is a minimum and/or maximum time claim identified. • Where travelling expenses are reimbursed, Section 17 in the NHS terms and conditions of service handbook will apply.
9. Public holidays (PH)	<ul style="list-style-type: none"> • Covering a PH will attract a day in lieu in accordance with paragraph 13.4 of the NHS terms and conditions of service handbook, irrespective of work done. <p>Work done on public holidays would attract payment at the appropriate rates as identified in paragraph 13.4 of the NHS terms and conditions of service handbook.</p>
10. Sleeping in	<ul style="list-style-type: none"> • A sleeping-in session will often incorporate the following elements: <ul style="list-style-type: none"> – Hours of wakefulness – Sleep – Work done • The term “sleeping-in” does not refer to individuals who are on-call from the workplace and are able to sleep between periods of work.

	<ul style="list-style-type: none"> • Legal situation – if required to be at place of work, then it is working time. • If asleep, this working time does not count for the purposes of the minimum wage. • Legally, the availability fee should be at least the same as a calculation for (hours of expected wakefulness x minimum wage). Local partnerships will need to consider if it is more appropriate to base this calculation on the bottom point of the Agenda for Change pay scales, as described in Annex C of the NHS terms and conditions of service handbook. • In those situations where a sleeping-in session includes elements of what the National Minimum Wage (NMWA) would classify as work, or when the individual is woken during a sleeping-in duty, this should be paid as work done at the appropriate hourly rate. • Local partnerships may agree a minimum payment period for work done.
11. Pensions	<p>Local partnerships should always seek advice from the NHS Pensions on any questions relating to the NHS Pensions Scheme and on-call payments. It is the responsibility of the employer to determine which payments are pensionable, according to the criteria provided by NHS Pensions. Guidance on “<i>pensionable pay</i>” can be found on NHS Pensions website at www.nhsbsa.nhs.uk/pensions</p>
12. Section 2	<ul style="list-style-type: none"> • Arrangements agreed under the current Section 2 of the NHS terms and conditions of service handbook are consistent with the framework above.
13. Transition	<ul style="list-style-type: none"> • There are currently a range of payments for on-call, which form a regular part of income for some individuals. Local partnerships will therefore need to agree transitional arrangements for the movement of staff from current to future on-call payment systems. This includes all on-call arrangements within the scope of the review of on-call. • Such transitional arrangements could include one or more of the following elements: <ul style="list-style-type: none"> - introduction of increased payments in one or more stages over a fixed period of time

	<ul style="list-style-type: none">- introduction of reduced payments in one or more stages over a fixed period of time- postponement of increased and/or reduced payments for a fixed period- movement to reduced payments over a period on a “mark time” basis- payment of a one-off lump sum to staff if their on-call payments are reduced. <ul style="list-style-type: none">• As an example of some of the above elements in practice, Section 2 and Annex X of the NHS terms and conditions of service handbook set out how transition was approached when new unsocial hours provisions were introduced.
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