



SCOTTISH EXECUTIVE

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Our ref:

10 December 2004

Dear Gordon and Ian

AGENDA FOR CHANGE: IMPLEMENTATION OF OVERTIME RATES

Thank you for your letter of 9 December 2004 offering advice on approaches to implementation of *Agenda for Change* (AfC).

I welcome SPRIG's commitment to the full implementation of AfC. As you know I regard it as absolutely essential that this Agreement, which was negotiated over five years and has received approval from a clear majority of staff across the UK, is delivered. I am therefore concerned and perplexed that, despite months of preparation and planning, there are some aspects of the new system which seem to have taken staff by surprise and are therefore causing difficulties more than a week after the known commencement date of 1 December.

You identified two issues which you believe require specific transitional arrangements in order to ensure the smooth implementation of AfC.

With regard to rates paid for staff engaged in working overtime, I note the difficulties which have been experienced in applying these new rates over the last week given the time gap between the reduction in these rates and the receipt of enhanced basic pay for staff following assimilation onto new pay bands.

You propose to defer the introduction of AfC overtime rates until and including 31 December 2004 and I note your intention to deliver to that deadline by working in partnership over the next two weeks to put in place the necessary strategies to effect a transfer onto the new rates from that time. I also note your assessment that difficulties may still arise in seeking to transfer staff on that date, given that a gap will still exist before assimilation onto enhanced pay bands.

Since your advice was received guidance on this matter has been jointly agreed today at UK level by both management and staff sides, for application across the UK. This is attached at Annex A.

The guidance helpfully provides for the flexibility which you have been seeking by allowing staff to continue to be paid on pre-AfC rates for any period from 1 October 2004 up to personal assimilation, on the basis that any overpayment incurred in that period will be offset against the arrears of basic pay received (if these remain positive after offsetting.) This effectively addresses the problem of the 'gap' between reduction in rates and receipt of enhanced basic pay by making the *operational* date for these rates the assimilation date, if so preferred by staff.

I am also aware that this is guidance with a UK application agreed today by all parties to the Agreement. I would therefore ask all parties in Scotland to work to the guidance and to deploy any appropriate measures within that guidance to migrate staff onto AfC rates between now and personal assimilation.

Given that SPRIG has already communicated an agreed position in Scotland for staff working overtime during October and November, the overtime payments made for this period will be honoured and therefore will not be affected by the offsetting guidance - the guidance will therefore apply in Scotland from 1 December, *not* 1 October. This means 1 December is the *effective* date for these rates.

With regard to the treatment of waiting times initiatives, I must make it clear that there can be no other option than that all staff engaged in such work will migrate to AfC. However I also note, reluctantly, your assessment of the need to effect this migration over a longer timeframe than stipulated under the Agreement in order to retain stability of service delivery in this area throughout that migratory period. Under no circumstances will this transition be interpreted as, or regarded as, establishing any form of precedent.

I therefore accept your advice on this point, while mindful again of the extra cost pressure this places on the Service. To be clear, I agree to a regularisation and continuation of current arrangements for staff undertaking these activities for an extended period of time up to 30 June 2005 at the outside, but conditional upon the submission of action plans from Boards demonstrating how this work will be brought under AfC terms within that timeframe, without detriment to the delivery of agreed targets on waiting times or being seen as establishing a precedent.

NHS Board Chief Executives will be held personally to account by their Chairs for delivering these plans and monitoring their progress. An important aspect of this process will be for all Boards to move beyond the concept of 'Waiting Times Initiatives' as a programme of activity which is treated separately to other forms of overtime working. I would expect therefore that by 30 June this separation will no longer occur and this activity will be badged either as overtime working or, I hope increasingly, as part of core hours.

Finally, I want to make clear that these arrangements can only have credibility if all parties honour them to the letter and commit to them not setting a precedent of any kind. I am writing separately today to all relevant trades unions on these matters, and I have asked Ian Gordon, the Acting Chief Executive of NHSScotland and Head of Department, similarly to write to Chief Executives.

Yours
Andy

ANDY KERR

Agenda for Change Executive Guidance – Total Pay During Assimilation Period

We have been asked for guidance on the application of Paragraph 9.8 of the final Agreement of AfC in relation to overtime and rest day working payments.

Where partners agree locally to implement the new AfC overtime rates at the same time as assimilation the following method should be applied:

A calculation commencing on 1 October 2004 should take the total earnings for an individual under the original conditions and a similar calculation for total earnings that would have applied had AfC been operational:

- A) total earnings from 1 October 2004 to personal assimilation date under original conditions;
- B) total earnings under AfC conditions from 1 October 2004;
- C) $B - A =$ positive or negative figure.

Subject to the above calculation a positive figure will be returned to the employees as arrears. A negative figure would not be recovered, unless it was as a result of any cause other than the implementation of AfC.

Note: In Scotland the calculation should be made back to 1 December 2004, *not* 1 October 2004.