NHS Staff Council proposals to amend Agenda for Change

Frequently Asked Questions

These FAQs answer some common queries about the proposals and UNISON’s consultation and should be used in conjunction with the UNISON Briefing Document. The FAQs are also published online and will be added to.

Go to: http://www.unison.org.uk/healthcare/a4c/consultation.asp

If you have a question about the proposals that isn’t answered here, email us at h.group@unison.co.uk

General

1. What changes are being proposed to Agenda for Change?
The proposals contain some changes we don’t like (e.g. changes to sick pay) with those we need (like policies to limit downbanding). Find out more about the changes so you can see how they would affect you. Visit www.unison.co.uk/AfC to download the full UNISON briefing including the proposal document.

2. Why do these changes only affect England?
English trusts have a different legal status than the NHS organisations in Scotland, Wales and Northern Ireland. Added to this, the Governments in the three countries have made clear that they do not have plans to change Agenda for Change and will continue to compel NHS organisations to use the agreement as it stands.

3. What is the position of the other NHS staff side trade unions?
The proposals were agreed for consultation unanimously at the Staff Council on 9 November. The Staff Council consists of all the trade unions including: RCN; RCM; CSP; BAOT; SoR; SCP; Unite; GMB. Unite and GMB have made clear that they will be rejecting the proposals. Other unions have said they intend to accept them but most – UNISON included – have said they want to consult members before accepting or rejecting. This is why your views are needed.
4. Some people are saying these proposals are from UNISON and RCN only—is this correct?
Absolutely not. These proposals are joint proposals from the NHS Staff Council. All the NHS trade unions participated in the final negotiations on the proposals and all the unions agreed they would take the proposals back to their executives.

5. How has UNISON made the decision to consult on these proposals?
Members of UNISON have been involved in the negotiations and decision-making on the proposals from the outset. UNISON’s Health Service Group agreed in the Autumn to stay in negotiations, based on the fact that most staff sides supported this approach. In November, Service Group members voted to support a consultation of members based on their view that reaching an agreement on these proposals was the best way to maintain the AfC agreement as a national agreement and a better alternative to fighting potentially significant numbers of individual employers who might try to break away.

Alternatives to changing AfC at national level

6. What is the likely outcome if these proposals are rejected?
Over the last year, a number of NHS trusts in England have tried to ‘break away’ from Agenda for Change. Members in these trusts have had to organise, campaign and take industrial action to try and stop the employers reducing terms and conditions and moving to local contracts. If members reject these proposals it is likely that the number of these attacks would increase significantly, requiring more members to take action to defend their conditions.

7. Could we organise a national dispute to defend Agenda for Change?
It is unlikely that there would be a ‘big bang’ approach with all employers trying to change contracts in the same way and at the same time. This would make it very difficult to take lawful action on a national basis. The most likely situation is that we would need to organise industrial action campaigns on a trust by trust basis.

8. What kind of changes would employers make if we don’t agree these proposals?
Based on evidence from ‘breakaways’ to date, we anticipate that moving new starters to the NHS onto non AfC contracts would be the first move made by many employers. In addition, a Trust in the Northern Region has become the first Trust to issue notices to dismiss and re-engage staff on worse terms and conditions. Changes to sick leave entitlements, premium payments and annual leave allowances have also been signalled by Trusts attempting to move away from AfC.

9. How does the ‘South West Cartel’ fit in?
The cartel is a group of trusts acting together to try and implement a regional breakaway from Agenda for Change. The chair of the Cartel (along with Health Minister and regional MPs) has said he anticipates that the trusts would implement these national AfC proposals rather than trying to introduce regional changes. If the proposals are rejected then the Cartel will continue with its original plans and withdraw from Agenda for Change.
10. The proposals state that the changes to AfC will contribute to ensuring that AfC ‘continues to be used by NHS organisations’. Will this mean AfC will be the preferred choice of contractors?

The definition of an NHS organisation is any organisation that is covered by the NHS constitution. Any contractor that provides NHS services through the NHS standard contract is expected to adhere to the NHS constitution as a term of business. Although, AfC is not underpinned by legislation, meaning contractors are not bound to use AfC terms and conditions. This still gives UNISON a strong non-statutory grounding in arguing for AfC as the preferred choice in setting terms and conditions.

11. Are Foundation Trust and Clinical Commissioning Groups (CCGs) NHS organisations and are they expected to use AfC?

Foundation Trusts and CCGs are covered by the NHS constitution and are therefore NHS organisations. No NHS organisation in England is compelled by legislation to apply AfC. The NHS staff council has produced these proposals in order to encourage all NHS organisations to stick with AfC. In reality many GP surgeries currently do not employ their non clinical staff on AfC terms and conditions

Incremental Pay Progression

12. What will Annex A4 on local pay progression schemes contain?

The new AfC annex A4 on pay progression will set out the principles for locally agreed appraisal objectives and criteria that can be a used in addition to KSF. Annex A4 will provide provisions for the agreement of principles with local staff sides as well as the right of appeal for any individual deemed not to meet these criteria. The draft Annex has been circulated with the proposals for consultation (see UNISON’s Briefing on the Proposals).

13. In what circumstances can incremental pay progression be withheld?

Under paragraph 1.8 of the existing AfC provisions it states that staff will progress through their pay bands or range on an annual basis “provided their performance is satisfactory and they demonstrate the agreed knowledge and skills appropriate to that part of the pay band or range”. These proposals allow for explicit use of this provision – effectively opening a gateway at each pay point.

14. Could incremental progression be withheld where there is no local appraisal scheme in place?

No. If the employer does not put in a proper appraisal scheme as described in Annex A4 then they can’t stop people from moving up the pay scale.

15. Could individuals have pay progression withheld due to behavioural issues at work?

Schemes must be transparent and pay progression could only be withheld over issues of knowledge, skills and performance.

16. Would I be able to challenge a decision that I hadn’t passed my appraisal?

Yes, your employer would have to tell you in plenty of time that you are likely to have incremental progression withheld and give you the chance to appeal this decision.

17. Which bands of staff could lose increments under these proposals?

This would affect staff approaching the top points of bands 8c, 8d and 9 who would have have to ‘annually earn’ the top two increments, meaning that an increment could be removed if they do not pass their appraisal. The first pay point which would be ‘annually earned’ in this way would be £65,270.
18. What about staff already on the top points of 8c, 8d and 9?
These staff would not drop below their current pay point.

19. Flexibility on senior posts - How would staff above 630 job evaluation points be removed from agenda for change?
Employers would need to do this in a way that is transparent and consistent with equal pay legislation. If these proposals were accepted, joint guidance would be produced on an appropriate process.

Accelerated Pay Progression

20. Who currently receives accelerated pay progression?
Technically all new entrants to Band 5 are within scope of the current provisions. However, most employers apply this to professionally registered staff only.

21. What happens to preceptorship as a concept? Is it still in place?
Preceptorship will remain in place but the current provision for accelerated pay progression, two increments in year one, will be removed under these proposals.

22. Do these proposals change arrangements for bands 5/6 run through?
No, these proposals do not relate to the development of professional roles laid out in AfC Annex T and would not, for example, change the way that Midwives automatically progress to band 6 after their first year of supervised practise.

Management of Sickness Absence

23. Who would be exempt from changes to the unsocial hour’s sickness absence payments?
These proposals will not affect staff on pay points 1-8. This includes staff in bands 1 and 2 and up to pay point 3 of band 3. There is also commitment to exclude staff that are injured or contract a disease as a result of their work.

24. How will these proposals affect staff who work unsocial hours under the prospective scheme set out in annex E?
There has been no discussion of changes to Annex E of the handbook which describes how the prospective schemes operate. It is our view that these proposals would not apply to these schemes.

25. What guidance will be produced on how sickness and injury is judged to be work related?
The wording in the proposals links with those periods of sickness which are excluded from the sickness record of an individual and with the Injury Benefit scheme.

Workforce Re-profiling

26. What would the new Annex contain?
The Annex would set out principles to follow to protect against downbanding. It identifies that Trusts would need to work with trade unions at local level on planned changes to skill mix and that they must put revised jobs through the job evaluation scheme.
27. Would this stop downbanding?
Employers will always be able to make decisions about re-structuring and changing the skill mix of departments. However, the proposals on ‘re-profiling’ would mean that this would have to happen in a way that is consistent with the Job Evaluation scheme, done in partnership and which makes sure that staff whose banding changes are not simply expected to perform the same job for less money.

Future changes to AfC

28. Will employers come back for more?
Employers may well come back in the future asking for further changes. Making this agreement does not prevent this, but it doesn’t tie the trade unions in to any commitment to make those changes, or to stop us from proposing our own amendments in the future.

29. How do we know if employers would stick by this?
UNISON thinks that it will be worth accepting these proposals if they encourage employers to continue to use Agenda for Change. Your region and branch have asked your employer for a formal commitment to Agenda for Change and will be letting you know what they said before you make a decision about these proposals.

Consultation

30. What is the timeline for the consultation?
Branches will need to give regions details of their consultation process and outcome by 24 January 2013. Contact your organising team or regional office to find out more.

31. How should the branch consult members?
Standard materials are available for you to customise and use to run a ballot, survey, membership meeting or e-campaign. Contact your region to talk through the options and decide how best you can make members aware of the proposals and the alternatives.

32. When would these changes come into force?
The proposed changes to the Agenda for Change agreement would come in on the 1 April 2013.