BRANCH NEGOTIATING GUIDE:

2013 MILEAGE ARRANGEMENTS

for staff on Agenda for Change terms and conditions

June 2013

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INTRODUCTION

This briefing has been drawn up as a guide for members and representatives who have an interest in NHS mileage allowances.

Agenda for Change (AfC) mileage allowances apply to all NHS staff employed on AfC, and non-AfC staff that have Section 17, Annexes L and M contained in their terms and conditions of employment.

Payment for using your vehicle for work is reimbursement for the extra costs incurred in using your vehicle on your employers business. It should be noted that there is not normally any requirement for you to use your car for your employers business, unless this is explicit in your contract.

New arrangements for the reimbursement of business travel will commence in July 2013 for all AfC staff in the UK. Trade unions in Northern Ireland are still working with employers in the region to assess options around implementation.When these arrangements were first negotiated the current Annex L payment rates were 'protected' for the period 2010-2013. This protection will cease on 1 July 2013.

The key element of the new arrangements is that there will be regular checks on the cost of motoring undertaken by the NHS Staff Council. The level of reimbursement will reflect the cost of motoring.

NHS mileage allowances are covered by Agenda for Change Section 17. Details of mileage rates are in Annex L and information specifically related to lease cars is contained in Annex M.

The briefing includes frequently asked questions with some examples and tables to help make clear the new mileage system and the implications for members.

The NHS Pay Circular that relates to this issue can be found at:
http://www.nhsemployers.org/Aboutus/Publications/PayCirculars/Pages/pay-circular-AforC-3-2013.aspx

Key elements of the new Section 17 effective from July 1 2013

- 67 pence per mile for all car users irrespective of engine size up to 3500 business miles and 24p a mile thereafter
- An annual calculation of motoring costs and a twice yearly calculation of fuel costs. If the cost of motoring rises by +5% over the previous twelve months the mileage rate would rise and if it falls below 5% the rate would reduce
- Removing the Public Transport Rate (currently 24p) and replacing it with a Reserve Rate which would be 50% of the single rate (33p in July 2013)
- The full mileage rate to be paid on journeys for training
- Pedal Cycle rate to rise to 20p a mile
- Motor Cycle rate rises to 50% of the single rate (33p)
- Carrying bulky equipment 3p a mile
- Passenger allowance 5p a mile
- The single rate calculation will also be used for reimbursing staff for attendance at required training courses. Currently this travel is reimbursed at the lower Public Transport Rate.

Rates of reimbursement from1 July 2013

Column 1	Column 2	Column 3	Column 4
Type of vehicle/allowance	Annual mileage up to 3,500 miles (standard rate)	Annual mileage over 3,500 miles (standard rate)	All eligible miles travelled (see paragraph 17.15 and Table 8)
Car (all types of fuel)	67 pence per mile	24 pence per mile	
Motor cycle			33 pence per mile
Pedal cycle			20 pence per mile
Passenger allowance			5 pence per mile
Reserve rate			33 pence per mile
Carrying heavy or bulky equipment			3 pence per mile

BACKGROUND AND CONTEXT

Mileage is changing as a new harmonised system of payments is being brought in from 1 July 2013. The new scheme was developed following a detailed Review of mileage allowances. The purpose of the mileage review was to move to a system for payment which responded to fluctuations in fuel prices, met the green agenda and was a simplified and harmonised allowance system.

The harmonised scheme was agreed in 2010 following consultation. It was developed via the Mileage Review Group which is a formal sub group of the NHS Staff Council. UNISON, along with the other NHS trade unions was represented on the Review Group. After consultation, the new scheme was signed up to by all the NHS unions in 2010 for implementation in 2013.

Mileage Allowances have always been open to local negotiation. In the absence of a new agreement there is no guarantee that employers would continue with the current AfC arrangements. Were AfC Section 17 to be retained as currently drafted there would be little likelihood of employers agreeing to increase mileage rates (or lump sums) on a national basis in the future. It is important for a mileage reimbursement system to continue to form part of the AfC arrangements.

Mileage reimbursement has been an important issue for car drivers for many years. There has been no in built process to look at motoring costs for NHS staff and changes to NHS rates have only occurred sporadically over the years (the last one a 10% rise in July 2008). Drivers are usually concerned over the most visible indicator of motoring costs; fuel prices. NHS rates have risen in the past (but never fallen) triggered in the main by sharply rising fuel costs.

Where fuel costs have subsequently fallen (and the cost of motoring may also have reduced) the reimbursement rate has remained unchanged. Members regularly complained that the current system is not responsive to changes in the overall cost of motoring. The current system also gives higher reimbursement to larger engine cars driving more miles. This does not support the services commitment to reducing its carbon footprint or to an employer’s responsibility in respect of public liability.

It is usually the cost of fuel that triggers members’ concerns over their level of reimbursement for using their vehicle for work. The cost of fuel has generally risen over the past few years albeit with some occasional falls. While fuel is only a part of the cost of motoring it is understandably the issue that initially causes most concern. In line with this, the level of reimbursement for motoring costs for NHS staff were not related to fluctuations in the overall cost of motoring (fuel, depreciation, insurance, tax etc) and there was no agreed process by which regular discussions could take place.

The mileage allowance discussions first commenced in 2008 prior to the current economic crisis and before any public sector pay freeze increases in pension contributions.

PRINCIPLES

Mileage Reimbursement

Mileage allowances are paid to cover the extra costs of using a vehicle, which you own and maintain, on your employers business. They do not reimburse for fuel costs alone nor are they a payment towards the purchase of a vehicle to undertake work. As the reimbursement is made irrespective of the type or age of the vehicle it is intended to reimburse the average car and driver. It cannot be guaranteed that reimbursement will cover all the extra costs incurred by drivers. However, reimbursement will continue to be a meaningful contribution towards the extra costs of using a vehicle for work. This means that, as now, for some people reimbursement could be above the actual extra cost incurred. In some cases it will be equal to the extra cost and in some cases it might be below.

Over many years member concern has been that there has been no process to accurately reflect the changing cost of motoring and consequently changes only took place occasionally. The new agreement ensures that all motoring costs are considered annually and fuel costs twice a year.

If the overall cost of motoring rises by 5% or more then the reimbursement will rise. If it reduces by more than 5% then the reimbursement would reduce. If motoring costs behave as members expect them to, i.e. that costs will keep rising over time, then the reimbursement will continue to rise over time. The +/- tolerance of 5% ensures that rates do not change with every slight movement up and down in the cost of motoring.

This means that the allowance remains stable unless there are meaningful changes in costs. All examples in this document are based on the 67/24p figures as set in May for implementation in July 2013. If the rate formula had been implemented in 2010 it would have been 54p and 18p a mile. This gives an indication that members are correct that the cost of motoring has been rising and also that the formula is sensitive to changes in those costs.

How members are affected by the new proposals needs to be considered in relation to what proportion of their current mileage is paid for at the present Standard or Regular User Rates and how many miles you might be paid for at Public Transport Rate (PTR).

For example, in some cases the total level of reimbursement for ‘normal mileage’ might be reduced but mileage related to undertaking training or coming in to work for ‘on-call’ will be increased for all. In the case of PTR (now called the Reserve Rate), the July rate will be 37% more than the original level of 24p.

If you believe that the level of reimbursement you receive, after considering all the costs you have incurred, and balanced against the effect of any tax relief received results in you being out of pocket, then a discussion needs to take place with your manager about how work can be organised to ensure that you are not undertaking excessive travel in the course of your work.

The first principle for employers should be to ensure that work is organised in such a way that it limits as much as possible the need for people to use their own vehicle for work. Some employers are now developing arrangements where some travel can be undertaken by public transport, hire vehicle or through the use of a pool car system operated by the employer.

The Public Transport Rate will cease and be replaced by a ‘Reserve Rate’ which would be set at 50% of the single rate.

The new single rate will replace the current Standard and Regular User rates.

The new proposals seek to address a number of issues found to be problematic in the previous system:

- The incentive to travel maximum miles for maximum reimbursement
- The wide range of reasons why someone might be on regular, standard or public transport rates
- The fact that larger engine vehicles, travelling more miles, get greater reimbursement compared with that of greener (or smaller engine) vehicles travelling less miles
- The wide range of reimbursement: For example a Regular User in a 1600cc vehicle driving 4000 miles receives 63p a mile while a Standard User in a 1000cc vehicle driving the same distance receives 35p a mile – a difference of £1122 a year.
- The ‘reactive’ nature of looking at reimbursement rates only when fuel costs rise

THE COST OF FUEL

Understandably concerns are raised when the cost of fuel rises and the rise then feeds through into an increase in the cost of motoring. However, fuel is only one element in the cost of motoring. It is possible for fuel costs to rise but if other costs reduce then the ‘cost of motoring’ could decrease.

Likewise, it is possible for fuel costs to decrease and for other costs to rise thus making driving more expensive. While fuel is important so are the other major costs, such as the depreciation cost of the vehicle, tax, insurance and the cost of capital used to purchase a vehicle.

Fuel costs are governed by a number of factors; the cost of crude oil, world supply, the level of taxation, the operation of the international oil markets, the UK Government’s ‘fuel escalator’, who you buy your fuel from and where you live. In the UK nearly 60% of the price of a litre of unleaded fuel is taken as tax. The effect of this is that if you were to buy 60 litres of fuel at £1.37 a litre you will be paying £50 in indirect tax.

The UK has the tenth highest petrol price and the third highest diesel price in Europe (AA Fuel Price report April 2013). Throughout 2012 petrol cost on average 2.75p a litre more than in 2011 while diesel was 3.5p more expensive.

Her Majesty’s Revenue and Customs (HMRC) regularly assess the cost of fuel in order to set Advisory Fuel Rates for those being reimbursed fuel costs per mile while using a company car. This is an indicator of fuel costs per mile, for petrol, LPG and diesel. The last HMRC calculation was undertaken effective from 1 June 2013. These rates are reviewed quarterly. The table below gives some indication of fuel costs per mile. Information on advisory fuel rates before March 2013 can be found at: http://www.hmrc.gov.uk/cars/advisory_fuel_current.htm

Engine Size	Petrol per mile	LPG per mile	Diesel per mile
1400cc or less	15p	10p	12p
1401cc to 2000cc	17p	12p	14p
Over 2000cc	25p	18p	18p

THE NEW AFC SYSTEM: JULY 2013

NHS Employers and Trade Unions have agreed a new set of proposals that should be seen in terms of their long term appropriateness rather than just the effect on the date of implementation. The new system contains an element of ‘risk sharing’ between employer and employee in that if car costs rise this will be reflected in the rate paid to NHS employees. If the costs of motoring fall it will result in a reduction of the rate paid to employees. In this both employer and employee share some of the risks involved in the fluctuating cost of motoring.

In the new arrangements some drivers will see an increase in the level of reimbursement. For example, based on 67/24p all Standard users will see a rise in reimbursement as will all those who are paid all or some of their mileage at Public Transport Rate. A number of regular users would also see an increase in reimbursement. However, where some Regular Users do little annual mileage, or where they do above average NHS mileage, there could be reduction in reimbursement compared to pre-July 2013 levels.

THE TAX POSITION

An employer can reimburse an employee for the extra costs incurred in using their own vehicle for work. There is no limit as to the level of reimbursement that can be received from an employer. However the HMRC operate the Approved Mileage Allowance Payment (AMAP) system. AMAP enables tax free reimbursement of 45p a mile for the first 10,000 miles and 25p a mile thereafter (cars).

Any payment above the AMAP level is taxed on the excess. A payment below may attract Mileage Allowance Relief on the shortfall. There are also AMAP rates for motorcycles and cycles. Employers are not obliged to pay employees at AMAP rates.

The application of the AMAP thresholds by employers will depend upon whether that employer is applying a “Tax at Source” principle in the reimbursement of expenses. If they are then calculation of tax/NI liability will be automatically performed by the employer. If they are not then there will be no tax/NI being taken on the amount above the AMAP rate. The employer would then report at year end the “profit” involved to HMRC who would in turn amend personal tax codes to recoup any tax due.

Retrospective claims for tax relief can be made and you can discuss this with your local tax office.

Type of Vehicle	**Tax year 2013/14**
Cars up to 10,000 miles	**45p a mile and 25p a mile thereafter**
Motorcycle	**24p a mile**
Bicycle	**20p a mile**

HOME TO WORK MILEAGE

Employees cannot claim the cost of home to work mileage unless they are a designated home worker. Where excess miles are travelled due to a change of base excess miles can be paid for up to 4 years, dependent upon local agreement based on the new Section 17.17 which states:

> 17.17 A reserve rate of reimbursement, as in Table 7, will apply to employees using their own vehicles for business purposes in the following situations:
>
> - when a claim for excess mileage is made in situations where there is a compulsory change of base, either permanent or temporary, resulting in extra daily travelling expenses. The period of payment will be for local partnerships to determine, subject to a maximum period of 4 years from the date of transfer. (For those employees using public transport see paragraph 17.25);

Mileage reimbursement is a 'payment' from your employer that can be subject to tax and national insurance deductions on the whole amount. However, if the payment is made clearly for costs incurred in the performance of your duties than tax relief can be obtained (See AMAP earlier).

HMRC audits NHS organisations to ensure that all mileage paid for by the employer are subject to the correct application of tax and National Insurance. HMRC is clear that for the purposes of tax relief:

'an employee cannot turn what is really an ordinary commuting journey into a business journey simply by arranging a business appointment somewhere on the way just to get relief. To get relief the employee must be able to show that the attendance at that particular place on that occasion was necessary – in a real sense – for the performance of the duties of that employment and was not just a matter of personal convenience'……..'similarly, an employer cannot turn an ordinary commuting journey into a business journey by requiring an employee to stop off on the way to carry out business tasks such as making phone calls'.

If work related visits (or other such tasks) are undertaken on the commute to or from your workplace tax relief can only be gained on the cost of that journey if it is clear to HMRC that it is in the performance of the employee's duties.

If visits have to be made on the commute to or from work then the employer should be clear that these are 'required' both to ensure that they are covered by the employer's liability and that the reimbursement for the journey attracts tax relief.

If you are reimbursed for travel that is not considered to have been undertaken in the course of your duties then there will be no tax relief available and the full amount will be considered as income and subjected to tax and national Insurance accordingly.

BACKGROUND AND THE CONSULTATION RESEARCH

NHS reimbursement is designed to reimburse the extra costs for those who use a vehicle that they already own, tax and insure on their employers business. The costs associated with new vehicles will be different to old ones, cars bought new will be different to cars purchased second-hand, higher engine CC different to lower, petrol different to diesel and LPG, and unleaded different to super unleaded. To that end it should be seen as reimbursing the average car user for the additional costs incurred. Individual members (as they do now) will assess to what extent the level of reimbursement covers the extra costs incurred.

Between 2008 and 2010 two pieces of research were undertaken to look at the amount of miles travelled by NHS staff. The first study looked at a small number of organisations in England (rural and urban). The second took place as part of the service wide consultation on the new proposals. This study invited Trusts to send in details of their miles travelled and at what rate. Both pieces of work delivered a similar outcome in respect of data.

- 65% of Standard Users (SU) travel less than 1000miles compared to 31% of Regular Users (RU)
- 94% of SU travel 3500 or less compared to 82% of RU
- 6% of SU travel over 3500 compared to 18% of RU
- 13% of RU travel over 4000 and 7% over 5000
- 4% of SU travel over 4000 and 2% over 5000

The mileage allowance discussions first commenced in 2008 following increased member concerns over the rising cost of fuel. Fuel costs are one element in the overall cost of motoring. Other costs include; vehicle depreciation, insurance, tax and the cost of capital. Of these costs depreciation (the decrease in the value of the vehicle) can be a key element in the costs of motoring.

Mileage rates were last negotiated in 2008 when there was an increase in rates of 10% and have been protected at this level for the last three years contingent upon a new system being implemented in July 2013.

PUBLIC LIABILITY

Increasingly, employers are taking steps to ensure that employees who use their own vehicles for business use, sometimes referred to as 'the Gray Fleet', are fit to drive, that the vehicle is road worthy and that the driver possesses the correct insurance. This involves checking that the employee possesses a valid driving licence, MOT certificate and had motor insurance that covers business travel. The new arrangements ensure that managers undertake appropriate checks when authorising business miles to be travelled by an employee.

Before the use of a private car is agreed there must be a consideration of whether or not the travel is necessary and if so can it be more efficiently undertaken by public transport or by some other form of travel.

LEASE CARS

PRE 2013 CHANGES TO AFC SECTION 17, ANNEX L AND ANNEX M

As part of the same negotiations, changes to Section 17 and Annex L (Mileage rates) and M (Lease cars) have already been made contingent on the new arrangements coming into force in July 2013. In particular, there has been the introduction of a requirement that when a lease car is offered there needs to be a joint consideration of whether a lease car is the most appropriate approach and a fairer consideration of the grounds upon which an employee might reasonably refuse such an offer.

The arrangements allow a lease car to be accepted as a 'lease car' for business miles only or as a 'pool car' (see new Annex M 1.iii) i.e. for business use only. There was also an increase in the passenger rate from 2p to 5p a mile and an increase in Public Transport Rate from 23p to 24p as well as cycle allowances being increased from 6.2p to a minimum of 10p a mile. The pay circular relating to lease cars was also clearer on the need for employers to regularly check the HMRC Advisory Fuel Rates for lease (company) car fuel reimbursement to set local mileage rates for lease cars which will be determined by local agreement.

www.hmrc.gov.uk/cars/advisory_fuel_current.htm

REFUSAL OF LEASE CARS

As mentioned above – the ability for a member of staff to refuse a lease car will be judged on the reasonableness of the offer. The situation which may arise is where organisations use the refusal of a lease car to apply the Reserve rate instead of the Standard rate. Section 17 states the following:

> 17.17 A reserve rate of reimbursement, as in Table 7, will apply to employees using their own vehicles for business purposes in the following situations:
>
> - if an employee unreasonably declines the employers' offer of a lease vehicle:
>   - in determining reasonableness the employer and employee should seek to reach a joint agreement as to whether a lease vehicle is appropriate and the timeframe by which the new arrangements will apply. All the relevant circumstances of the employee and employer will be considered including an employees' personal need for a particular type of car and the employers' need to provide a cost effective option for business travel;

Annex M states the following:

4. These schemes should take into account the following principles:

   - schemes should provide for lease cars to be accepted on the basis of business only use or a combination of business and private use. Where cars are accepted for business use only these cars should be classed as “pool” cars;

“Pooled vehicles”

10. Sometimes local partnerships find it convenient to have one or more vehicles readily available for business use, by a number of employees. These vehicles are owned by the employer. They are not allocated to an individual employee and they are only available for business use. Provision of “pooled” vehicles is an important part of local travel policies. The arrangements are for local determination, in partnership.

It is important therefore to consider including what grounds are reasonable in a local lease car policy agreement. You should consider the following points:

- Lease car schemes are voluntary
- There must be a genuine offer of a lease car for this to be refused
- Salary sacrifice schemes for lease cars are separate from more traditional lease car schemes and can be refused without affecting the employee’s mileage rate (this is due to the impact of deductions from wages for these schemes which could affect redundancy or pension contributions)
- The employee should not be out of pocket for travel costs on the employers business
- The time frame that the car is needed for
- The regular miles that are expected to be travelled (in excess of 3500 miles)
- The employee’s personal need for a car
- Reasonable recognition of the individual circumstances of the employee
    - Consideration of reasonable adjustments
    - Family circumstances involving caring responsibilities or associated disability
    - Any agreed flexible working arrangements
- Can the lease car be provided for business miles only as a “pool” car?
- Is there a way to reorganise work to avoid the necessity of travel?
- Each decision should be reached on a case by case basis
- Consideration should be given to the process of reaching agreement and the steps to be taken in response to an appeal against a decision
- What action can take place in the event of a failure to agree a system or where an employer seeks to force lease cars as a way to reduce the mileage claim rate unreasonably?

Case Study: UNISON Northumbria Healthcare Branch Mileage Dispute

UNISON Northumbria Healthcare Branch was involved in a mileage dispute last year resulting in Industrial Action. In total 6 days of strike action were taken between June and September 2012; not about the miles driven but around the issue of whether it was "reasonable" to take a lease car or not.

The National Agenda for Change agreement states that the public transport rate (soon to be replaced with the Reserve Rate) will apply if an employee unreasonably refuses the employer's offer of a lease car and, in determining reasonableness, the employer and employee should seek to reach a joint agreement as to whether a lease car is appropriate.

The branch and employer had not reached agreement on what constituted "reasonableness" and staff in the Trust were told that if they didn't accept the offer of a lease car then they would be moved on the public transport rate. This greatly affected their members in the Community Business Unit, many of whom cover a large number of miles each week, performing their role across a vast rural area.

Members that were already using their own cars to do their jobs were faced with reduced reimbursement for their travel visiting sick and vulnerable patients in their own homes. Staff were being told by the Trust that if they didn't accept a lease car, their mileage would drop to the public transport rate (24p per mile), less than half previously received.

Annex M contains the policy on lease car schemes and clearly states "the scheme is voluntary" and "where cars are accepted for business use only, these cars should be classed as "Pool Cars". The branch had members who were expected to take on a second car meaning additional costs just to be paid the appropriate mileage for carrying out their role.

The Trust refused to jointly refer this to the NHS Staff Council and after 6 days of rolling industrial action senior officers finally negotiated an offer which was accepted by 97% of the members backdated to May 2012 and lasting until July 2013 when the new national agreement comes into effect.

This case study underlines the importance of identifying the test of reasonableness early, and in partnership, with the employer to ensure staff are clear about what grounds they can use and the implications of refusal.

RESOURCES

Agenda for Change (Sections 17, Annex L, Annex M)
http://www.nhsemployers.org/SiteCollectionDocuments/AfC_tc_of_service_handbook_fb.pdf

HMRC
http://www.hmrc.gov.uk/cars/advisory_fuel_current.htm

NHS Employers
http://www.nhsemployers.org/PayAndContracts/AgendaForChange/mileage/Pages/Reimbursementofstaffbusinesstravelcosts.aspx

http://www.nhsemployers.org/Aboutus/Publications/PayCirculars/Pages/pay-circular-AforC-3-2013.aspx

FREQUENTLY ASKED QUESTIONS

Q. Why is mileage changing?
A. Mileage is changing as a new harmonised system of payments is being brought in from 1 July 2013. The new scheme was developed following a detailed review of mileage allowances. The purpose of the mileage review was to move to a system for payment which responded to fluctuations in fuel prices, the cost of motoring, met the green agenda and was a simplified and harmonised allowance system.

Q. What is the alternative to the new Section 17?
A. Mileage Allowances have always been open to local negotiation. In the absence of a new agreement there is no guarantee that employers would continue with the current AfC arrangements. Were AfC Section 17 to be retained as currently drafted there would be little likelihood of employers agreeing to increase mileage rates (or lump sums) on a national basis in the future. It is important for a mileage reimbursement system to continue to form part of the AfC arrangements.

Q. How was the harmonised scheme developed?
The harmonised scheme was agreed in 2010 following consultation. It was developed via the Mileage Review Group which is a formal sub group of the NHS Staff Council. UNISON, along with the other NHS trade unions was represented on the Review Group.

Q. Who do the new arrangements apply to?
A. It applies to all staff on Agenda for Change terms and conditions and those staff that have AfC mileage allowances built into their own arrangements.

Q. Why did we agree the new scheme?
A. After consultation, the new scheme was signed up to by all the NHS unions in 2010 for implementation in 2013, with a caveat that we wanted to pursue further talks about the impact on staff who drive significantly over 3500 miles and who are currently in receipt of the regular user payment.

Q. Why were we concerned about those regular users driving over 3,500 miles?
A. Whilst it is expected that the harmonised scheme delivers a beneficial or neutral impact on most car-users, staff on regular user allowance driving over 3,500 miles who are not given a car for work use by their employer are likely to have a loss resulting from the move to the new scheme. This is likely to have most impact on community health staff and union reps. Although the numbers of these staff are relatively small, we by no means underestimate the impact that these changes will have.

Q. What has happened as a result?
A. Discussions with the employers on this issue did not deliver any improvement. The Employers' position was that they would not move on the 3,500 mile threshold without re-opening the whole agreement. The view of the NHS Staff Council trade unions was that re-opening discussions on the agreement would be likely to lead to a worse settlement for the majority of members and could also have risked leaving no new scheme in place, with mileage rates failing to keep pace with the rising cost of fuel.

Q. Why do we still support the harmonised arrangements?
A. From 1 July 2013 this agreement will form part of NHS Terms and Conditions. Employers also have the flexibility within Agenda for Change to negotiate locally on mileage. Many employers have already used this flexibility to move staff on to the standard HMRC mileage rates (currently 45p) which delivers significantly worse outcomes for the majority of car-users. Other employers have started putting pressure on staff sides to do the same. It was for these reasons that the staff side of the NHS Staff Council agreed to move ahead with implementing the harmonised arrangements, to respond to increases in petrol costs and introduce a system which delivers a better outcome for the majority of car users.

Q. What is wrong with the current system?
A. Mileage reimbursement has been an important issue for car drivers for many years. There has been no in built process to look at motoring costs for NHS staff and changes to NHS rates have only occurred sporadically over the years (the last one a 10% rise in July 2008). Drivers are usually concerned over the most visible indicator of motoring costs; fuel prices. NHS rates have risen in the past (but never fallen) triggered in the main by sharply rising fuel costs.

Where fuel costs have subsequently fallen (and the cost of motoring may also have reduced) the reimbursement rate has remained unchanged. Members regularly complained that the current system is not responsive to changes in the overall cost of motoring. The current system also gives higher reimbursement to larger engine cars driving more miles. This does not support the service's commitment to reducing its carbon footprint or to an employer's responsibility in respect of public liability.

It is usually the cost of fuel that triggers members' concerns over their level of reimbursement for using their vehicle for work. The cost of fuel has generally risen over the past few years albeit with some occasional falls. While fuel is only a part of the cost of motoring it is understandably the issue that initially causes most concern. In line with this, the level of reimbursement for motoring costs for NHS staff were not related to fluctuations in the overall cost of motoring (fuel, depreciation, insurance, tax etc) and there was no agreed process by which regular discussions could take place. The mileage allowance discussions first commenced in 2008 prior to the current economic crisis and before any public sector pay freeze increases in pension contributions. In the old mileage allowance system provision was made for engine size i.e. different payments for a 1000cc vehicle and a 1600cc. The new scheme has one payment for all cars regardless of engine size. The payment structure ensures that there is no incentive to drive extra miles. The new arrangements ensure that costs are monitored regularly and follow changes in the overall cost of motoring.

Q. My NHS organisation says that the new arrangements will cost them more and want the unions to negotiate different arrangements – what do you advise?
A. The new agreement is about setting in place a fair and long term system for the reimbursement of the extra costs associated with using your vehicle for your employers business. The key element of the new arrangement is the regular check on fuel and motoring costs undertaken within the NHS Staff Council. This ensures that the reimbursement keeps a relationship with the costs of motoring and will rise if costs rise in the future.

This is something that members wanted and was a central part in our discussions with employers nationally. It should also be remembered that NHS staff are now accepting some risk in the new arrangements by agreeing that if motoring costs fall the rate of reimbursement will fall also. There is no benefit in agreeing an alternative system that does not keep a direct link between the costs of motoring and the level of reimbursement – that is the position we have now. We believe the new arrangements are the best for the future and that they should be implemented as agreed. Staff side organisations do not support local agreements.

Q. Will the payments change when the fuel costs change?
A. Motoring costs (such as depreciation, tax, insurance and the cost of capital) will be reviewed annually with the cost of fuel being reviewed twice a year. The reviews will follow the publication of AA fuel price reports which are published twice a year. In April/May and October/November. Mileage allowance payments will keep in line with changes in the overall cost of motoring. If the cost of motoring rises above 5% (over a twelve month period) the rate will rise and if below 5% the rate will reduce. It could be the case that fuel costs might rise but this might be equalled out by other costs decreasing.

Q. What is the tax relief I can claim for using my own car for work?
A. If you use your own car (van, motor cycle, or bike) for work purposes and are reimbursed at a level below the approved HMRC Approved Mileage Allowance Payments (AMAP) they you are able to receive mileage allowance tax relief on the shortfall. If you are reimbursed above AMAP levels you will be taxed on the excess amount. This is an annual tax issue. For further information contact your tax office. Your payroll department will be able to give you the details of your tax office and how the tax situation will work in your organisation.

Q. Do I have to use my car for work?
A. No, there is not normally any requirement for you to use your car for your employers business, unless this is explicit in your contract. You should check with your branch about refusing to use your car for work. Alternative arrangements can be looked at including the use of pool cars, hire cars or lease cars for business use only (also referred to as “pool” cars).

Q. I am a standard car user and have a car with a 1300cc engine; will this make a difference to my mileage payments?
A. In the new mileage allowance scheme there is no variation of payments between smaller and larger engine sized cars. All vehicles will be treated the same. From July there will be no 'Standard' or 'Regular' User rates. Based on rates for July 2013 all previous standard users would see an increase in reimbursement.

Q. Why is there no Lump sum in the new mileage allowance scheme?
A. In 2009 feedback from members across the UK stated that the fixed lump sum scheme was unfair as all NHS staff who had to use their vehicle at work should be treated the same irrespective of engine size or miles travelled.

Q. How do you expect me to run a car on 24p a mile?
A. The reduced (reserve) rate only applies after 3500 business miles have been travelled, before that you should be reimbursed 67p per mile. That means that the individual will already have received reimbursement for 3500 miles at a higher rate (£2345 gross) for using their vehicle for work. Any reimbursement after 3500 miles should be considered along with the reimbursement for the first 3500 miles when considering whether or not the NHS reimbursement covers the additional costs on a car owner in using their vehicle for work. These rates are not fixed and can rise if costs rise and fall if costs reduce.

Q. Why has the figure of 3,500 miles been used as a cut off point between the lower and higher payments?
A. 3,500 miles has historically been the difference between the standard and regular user. 3,500 miles is also the point where the employer has been able to offer a staff member a lease car. Irrespective of the mileage 'cut-off' the key issue is to what extent the total reimbursement received by the driver covers the extra cost of using their vehicle for work. Someone driving 3500 annual business miles will receive (based on the 67/24p assumption) £2345 gross for the extra costs in using their car for work.

Q. When does the 3,500 miles per annum run from, April to April or July to July?
A. The 3,500 miles calculation year should start on 1 July 2013. It's not practical or fair to pro rata this (and may lead to unforeseen consequences), but if an employer wants to tie the calculation in with the tax year, they can re-start the allowance from 01 April 2014.

Q. I have a lease car, how does the new deal affect me?
A. The new reimbursement rates do not relate to pool cars, lease car users or company car users who have taken a lease car through a salary sacrifice scheme. If you have a lease car you are reimbursed usually for the cost of fuel used. The new Annex M makes clear that employers should refer regularly to the "HMRC advisory fuel rates" for lease (company) car fuel reimbursement to set local mileage rates for lease cars which will be determined by local agreement.

Q. I am a designated home worker how am I affected?
A. Paragraph 17.15 in the new agreement requires the employer and employee to agree the normal work base and the home to base return mileage. When the line manager and employee agree that the employee is based at home for the purposes of mileage claims the employee is reimbursed for all business miles travelled from his/her home to the places visited and back to home.

If you are a home worker and use a lease (company) car you will usually be paid a mileage allowance related to the cost of fuel used (see Annex M).

Q. How will the new scheme make a difference to me as a "Standard" user?
A. At present all Standard Users (based on the 67/23p) will see an increase in reimbursement across all engine sizes from July.

Q. How will the new deal affect me as current "Regular" car user?
A. For those on regular user, the issue is more complicated as they currently receive a lump sum plus a rate per mile. There is no fixed lump sum in the new arrangements.

Under the new proposals all users would just get a fixed rate for the first 3500 and a reduced rate thereafter. They would receive this reimbursement for miles travelled and would not receive a regular lump sum. For some regular users this will mean an increase in reimbursement while for others they may see a reduction in reimbursement compared to what they currently receive. As mileage allowance is a reimbursement of the extra costs incurred regular Users will wish to consider to what extent the new reimbursement covers the extra costs in using their vehicle for work.

Alternatives to using your own car for work should be looked out, including using a pool car or a lease car for business miles only.

Q. Can my employer insist that I take on a lease car?
A. No. However, there may be a reduction in mileage reimbursement if you unreasonably decline such an offer. The agreement requires that the employer and employee discuss the offer of a lease car and seek an agreement as to whether a lease car is the most appropriate option for business travel – a test of 'reasonableness' - taking into account need and cost (see Section 17.17). Only if a lease car is turned down unreasonably would the new Reserve Rate (50% of the single rate) be applied. Under the 67/24 rates this would mean that the Reserve Rate would be 33p rather than the current 24p on the Public Transport Rate.

Local staff sides should work with employers to develop a consistent approach in how they determine if a rejection of a lease car is reasonable or not in the circumstances. In determining reasonableness, section 17.17 of the Agenda for Change handbook states, the employer and employee should seek to reach a joint agreement as to whether a lease vehicle is appropriate and the timeframe by which the new arrangements will apply. All the relevant circumstances of the employee and employer will be considered including an employees' personal need for a particular type of car and the employers' need to provide a cost effective option for business travel. On the basis of working in partnership employers should not impose their version of reasonableness.

Q. Can I be forced to take on a Lease Car through 'salary sacrifice'?
A. No. Neither should a rejection of a salary sacrifice option be seen as a 'refusal of a lease car' and there should be no reduction in mileage reimbursement. A salary sacrifice scheme involves regular deductions from salary to pay for the car and can affect pensionable pay so, on this basis, it would be reasonable to refuse a lease car on a salary sacrifice scheme.

Q. Are there alternatives to accepting or refusing a lease car?
A. As stated in Annex M, lease car schemes should provide for a lease car to be accepted on the basis of business miles only. Where cars are accepted for business miles only they should be classed as "pool" cars. It is expected that staff wouldn't be put on a reserve rate without first being offered a lease car on the basis of business miles only.

FUEL COSTS

Q. When will there be an increase in my mileage reimbursements?
A. The first calculation of the reimbursement rate was in May 2013 for implementation in July 2013. After that rates will be calculated twice a year in April/May and October/November. The reimbursements will fluctuate in line with the fuel costs. Fuel costs may increase or decrease depending on the prices at the time of the AA evaluation.

Q. I don't have a car and use public transport; with the new travel payments include me?
A. Legitimate expenses incurred on business travel will continue to be reimbursed under the employers' travel policy.

Q. I currently receive Public Transport Rate for coming back into work on-call. Will this payment be retained?
A. The Public Transport Rate (PTR) will cease and will be replaced by the 'Reserve Rate' the reserve rate will be set at 50% of the single rate. The immediate effect of this will be a rise in reimbursement from 24p a mile to 33p a mile.

Q. How do I know if the NHS reimbursement will cover the extra costs I incur in using my car for work?
A. This is not always a straight forward thing to assess. However, one way of looking at it could be in relation to the total miles you travel in a year. For example, you already own and pay for a car for personal use. Let's say you drive 15,000 miles a year and of this 5,000 miles (33%) are business miles. You will already be bearing the full cost of your 10,000 personal miles. Under the new arrangements you will receive £2,705 in NHS reimbursement. If each mile travelled for work cost you 16p in petrol (£800) then you could say that the remaining £1905 goes towards all of the other non fuel costs that you have incurred in undertaking the extra miles. You can now consider to what extent the NHS reimbursement of £2,705 covers the extra cost of using your car 50% more (the extra 5,000 miles) than you had planned.

Q. Why not just reimburse at the AMAP level?
A. AMAP is a figure set by Government and subject to possible change by the Government. Whilst there is usually a pressure from business drivers to increase the level of tax relief available (AMAP currently 45p for the first 10,000 miles and 25p a mile thereafter) there is also a lobby to reduce that level. This is because some consider that AMAP either encourages people to drive to the maximum number of miles available in the allowance while others feel that the level of allowance overestimates the cost of motoring. The new system, while less than AMAP for some people, does ensure that rising costs will be reflected in the level of reimbursement and not subject to unilateral change. Where NHS reimbursement is less than the HMRC AMAP levels tax relief can be obtained.

EXAMPLES OF AMAP AND SECTION 17

*Driver A drives 3000 business miles a year, under **AMAP** they would receive*

3000 x £0.45 = **£1350** total net reimbursement

Under the new **Section 17** they would receive

3000 x £0.67 = £2010. Tax would be payable on every mile reimbursed above 45p
3000 x £0.22 = £660 (tax applied at 20%) total tax £132.
£2010 **-** £132 = **£1878** total net reimbursement

*Driver B drives 6000 business miles a year, under **AMAP** they would receive*

6000 x £0.45 = **£2700** total net reimbursement

Under the new **Section 17** they would receive

3500 x £0.67 = £2345
2500 x £0.24 = £600. Tax would be payable on every mile reimbursed above 45p
3500 x £0.22 = £770 (tax applied at 20%) total tax £154.
£2345 **-** £154 = **£2791** total net reimbursement

CHECKLIST

☐	Update local policies to reflect the changes to mileage rates
☐	Look at redesigning work to avoid and reduce overall travel within your organisation – Green Agenda
☐	Develop a local policy on lease cars
☐	Ensure local policies are consistent with the principles in Annex M
☐	Include a definition covering reasonable refusal of lease cars
☐	Discuss the provision of "pool" cars for staff to use rather than their own
☐	Agree to a review period in line with the NHS Staff Council annual reviews of mileage rates (April/May and October/November)
☐	Send any policies for advice to health@unison.co.uk