

# **BRANCH NEGOTIATING GUIDE:**

## **The Living Wage in Agenda for Change: winning for low-paid staff in the NHS**

**November 2015**



# The Living Wage in Agenda for Change: winning for low-paid staff in the NHS

For: **Health branches in England and Northern Ireland**

## Summary

It is possible to pay the Living Wage for the lowest paid staff within the parameters of Agenda for Change, and many employers in the NHS in England have already taken this step. The UNISON position is clear: the Agenda for Change pay scales should reflect the Living Wage as a minimum. However, until that change is achieved nationally branches will be supported to win for their members through reaching local agreements. Although some employers have embarked on a wider exercise of job evaluation, role enhancement and re-banding, employers could also simply implement a pay uplift to lowest paid staff.

Actions for branches:

1. Find out how many people in your organisation are paid less than the Living Wage
2. Work out the costs of implementing the Living Wage
3. Agree a claim with your staff-side and present to your employer

## Contents

Summary .....	2
Background .....	3
Wales and Scotland.....	3
London.....	3
What is the Living Wage? .....	3
The “National living wage” .....	4
The living wage: a winnable campaign .....	4
Success stories .....	4
Campaigning for the Living Wage.....	5
1 – Identify roles paid less than the Living Wage .....	5
2 - Cost the Living Wage in your workplace .....	5
3 - Agree a claim and present to employer .....	6
Further campaign resources .....	6
Other UNISON campaigns (as of November 2015) .....	6
Annex .....	7
UNISON general principles of campaigning and bargaining for the Living Wage.....	7

## Background

The principle of equal pay for equal work is a core principle of all negotiating and bargaining on pay and terms and conditions, including Agenda for Change. But below a certain level of earnings it is challenging to fully participate in society and lead a fulfilling home life.

The UNISON position is clear: the Agenda for Change pay scales should reflect the Living Wage as a minimum. That case has been put strongly to the NHS Pay Review Body and will be taken forward in the Agenda for Change refresh discussions.

However, until that change is achieved nationally branches will be supported to win for their members through reaching local agreements. Hard work by activists across the country has proven that Agenda for Change is flexible enough for an employer to pay the Living Wage whilst sticking to the principles of the pay framework and collective bargaining.

UNISON continues to campaign for fairer pay in the NHS and wider public sector, working towards a £10 minimum wage. Information in this document supplements more detailed information on campaigning for the Living Wage previously published by UNISON in the briefing “Campaigning, organising and negotiating for a Living Wage.”<sup>1</sup>

## Wales and Scotland

Both Welsh and Scottish Governments have committed to the NHS becoming a living wage employer<sup>2</sup>, though they have taken different approaches. In Scotland, the Government increased spine points in Band 1 to take pay over the Living Wage. In Wales, the Government has applied an uplift to all staff paid below the living wage. In both cases, further increases will have to be made to pay from 2016-17 in order to meet the new Living Wage level.

## London

In London the application of the Higher Cost Area Supplement, at both Inner and Outer levels, lifts the lowest Agenda for Change spine point over the London Living Wage<sup>3</sup>. This means the Living Wage will **not** be better than Agenda for Change for directly employed staff. However, the Living Wage might represent an improvement in pay for some contracted staff.

## What is the Living Wage?

<b>UK: £8.25 an hour</b>	<b>London: £9.40 an hour</b>
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The Living Wage is worked out by independent experts every year, based on the basic costs of living in the UK. Two rates are set, one for London and one for the rest of the UK.

The rate is published in November, and the Living Wage Foundation recommends employers implement it immediately, however there is a six-month grace period for accredited employers to comply, with an absolute deadline of 1<sup>st</sup> May.

Although the Living Wage Foundation do not publish an annual salary equivalent, UNISON and other trades unions work on the basis of 52.14 weeks multiplied by a weekly shift of 37.5 hours. From

<sup>1</sup> <https://www.unison.org.uk/content/uploads/2015/09/Campaigning-organising-and-negotiating-for-a-Living-Wage.pdf>

<sup>2</sup> As of the 2015-16 pay agreement

<sup>3</sup> As of the 2015-16 pay agreement

November 2015, that equates to a full-time equivalent salary of **£16,130.81**<sup>4</sup>. In London, that equates to **£18,379**.

More information on the Living Wage is available from the [Living Wage Foundation](#)<sup>5</sup>.

### **The “National living wage”**

The Government has instructed the Low Pay Commission that the minimum wage premium for over 25s should reach 60 per cent of median earnings by 2020. This will play a part in reducing wage inequality, but the calculation is unrelated to actual cost of living. UNISON has published an A4 [factsheet](#) on the real living wage,<sup>6</sup> although this was produced before the Living Wage was increased in November 2015.

## **The living wage: a winnable campaign**

Branches across England have campaigned successfully for the Living Wage, working with employers to demonstrate it is possible to implement the Living Wage within Agenda for Change.

### **Success stories**

The following employers within the NHS are accredited as paying the Living Wage by the Living Wage Foundation - paying the living wage to both directly employed staff and contracted staff.

Barnet, Enfield and Haringey Mental Health NHS Trust\*  
Barts Health NHS Trust\*  
Greater Manchester West Mental Health NHS FT  
Great Ormond Street Hospital for Children NHS Foundation Trust \*  
NHS Hardwick Clinical Commissioning Group  
North Derbyshire Clinical Commissioning Group  
Northamptonshire Healthcare NHS Foundation Trust  
Northumberland Tyne and Wear NHS Foundation Trust  
Solent NHS Trust  
Sussex Community NHS Trust

UNISON freedom of information requests in September 2015 also revealed the following employers paying the living wage to their directly employed staff without accreditation by the Living Wage Foundation:

5 Boroughs Partnership NHS Foundation Trust  
Aintree University Hospital NHS Foundation Trust  
Birmingham and Solihull Mental Health NHS Foundation Trust  
Central London Community Healthcare NHS Trust  
Derbyshire Community health Services  
East of England Ambulance Service NHS Trust  
Guys and St Thomas' NHS Foundation Trust\*  
Hounslow & Richmond Community Healthcare NHS Trust  
Lincolnshire NHS Partnership Foundation Trust  
Liverpool Women's NHS Foundation Trust  
Moorfields Eye Hospital NHS Foundation Trust\*  
Peterborough and Stamford Hospitals NHS Foundation Trust  
Royal Free London NHS Foundation Trust  
Royal Surrey County Hospital NHS Foundation Trust  
Sheffield Health & Social Care NHS Foundation Trust  
South London and Maudsley NHS Foundation Trust  
South West Yorkshire Partnership  
Sussex Partnerships NHS Foundation Trust  
Tavistock and Portman NHS Foundation Trust  
University College London Hospitals NHS Foundation Trust\*

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<sup>4</sup> (52.14 x 37.5) = work hours in a year x Living Wage of £8.25

<sup>5</sup> <http://www.livingwage.org.uk/>

<sup>6</sup> <https://www.unison.org.uk/content/uploads/2015/10/The-Real-Living-Wage.pdf>

\*London trusts: AfC bands higher than London Living Wage, however LW may still represent an uplift for contracted staff

**Have a case study?** If you have an example of a living wage campaign in your workplace let us know by contacting [health@unison.co.uk](mailto:health@unison.co.uk)

## Campaigning for the Living Wage

Our view is that Agenda for Change rates can be supplemented to bring lowest pay up to Living Wage standards.

A UNISON survey of NHS employers over summer 2015 found over 28 per cent of NHS Employers across England paid staff at least the Living Wage. The Living Wage campaign is principally a moral one, but this shows Agenda for Change is not a barrier to success.

### Campaign checklist – three steps to the living wage

1. Find out how many people in your organisation are paid less than the Living Wage
2. Work out the costs of implementing the Living Wage
3. Agree a claim with your staff-side and present to your employer

### 1 – Identify roles paid less than the Living Wage

Spine points 2, 3 and 4 currently pay below the annual equivalent of the living wage (as of November 2015). That is the entirety of Band 1 and the lowest two points in Band 2. Unless the numbers of staff are low enough that personal identification of individuals is possible there should not be a problem with employers sharing the number of FTE staff per spine point.

Indirectly employed staff, contracted through other employers, may also be paid less than the Living Wage.

### 2 - Cost the Living Wage in your workplace

Calculating a rough idea of the increase to the salary bill will help in preparing the Living Wage pay claim, and provide a firm starting point for negotiation.

AfC salary point	Salary (2015-16)	Shortfall (as of November 2015)	Number of staff FTE <i>(insert)</i>	Total wage increase ( <i>shortfall x staff</i> )
2	£15,100	£1,030.81		£
3	£15,363	£767.81		£
4	£15,786	£344.81		£
			Total	£

### 3 - Agree a claim and present to employer

There are a number of different ways of approaching implementing the Living Wage. Two of the main ones are:

- **Route 1: Cash supplement**  
Make a claim for a local element to pay, applying a cash uplift to all staff paid less than the Living Wage. This would supplement – not replace – Agenda for Change rates to bring annual salary up to Living Wage levels.
- **Route 2: Job re-design**  
In some organisations it may be appropriate to call for a wider review of job roles. An organisation could decide, as a matter of policy, to redesign jobs (or fairly evaluate existing jobs) jobs to ensure there were no roles at Band 1.
- **Previous routes: Removing spine points below Living Wage**  
It had previously been possible to pay staff the Living Wage by accelerating the progression of Band 1 staff to the highest available spine point. However, the current Living Wage is £16,130.81 (equivalent), which means there is not a high enough grade within Band 1 for this to work. However, this mechanism may still be of use for Band 2 staff paid less than the Living Wage.

In all cases, it is important to follow the usual locally-agreed joint staff-side and staff council protocols and processes on negotiation, as well as usual processes such as equality impact assessment.

If an employer rejects your claim you can contact UNISON for further advice: [health@unison.co.uk](mailto:health@unison.co.uk)

#### Further campaign resources

- UNISON Living Wage campaign page: <https://www.unison.org.uk/our-campaigns/the-living-wage/>
- UNISON Living Wage campaigning, organising and bargaining guide: <https://www.unison.org.uk/content/uploads/2015/09/Campaigning-organising-and-negotiating-for-a-Living-Wage.pdf>
- UNISON organising space: share your campaigns and ideas with other activists: <https://organisingpace.unison.org.uk>

#### Other UNISON campaigns (as of November 2015)

- One Team for patient care <https://www.unison.org.uk/our-campaigns/one-team-for-patient-care/>
- Tax Credits cuts: a penalty on work <https://www.unison.org.uk/our-campaigns/drop-the-2015-tax-credit-cuts/>

## Annex

### **UNISON general principles of campaigning and bargaining for the Living Wage**

1. A national rate with London Weighting: The Living Wage rate is set on a UK-wide basis with London weighting using research provided by Loughborough University and GLA Economics. UNISON branches campaigning for a Living Wage should use these official Living Wage figures (updated annually) as their negotiating target. UNISON representatives should not campaign for localised —Living Wage figures which are not backed up with robust research.
2. Negotiated with Trade Unions: The implementation of a Living Wage in a particular employer will always require the agreement of certain details and principles. UNISON reps should seek to ensure these changes are negotiated with the recognised trade union(s), rather than unilaterally implemented by the employer.
3. A Living Wage should not be funded by cuts to services or terms and conditions: Paying a Living Wage to the lowest paid is a significant ethical statement about the value of all workers within an organisation. The additional costs of paying a Living Wage should not be funded by attacks on the quality of services or the terms of conditions of other workers. UNISON negotiators should keep this in mind when discussing the implementation of a Living Wage with employers. Any package of cuts which also contains the Living Wage should be assessed for its overall value and for equality considerations.
4. A Living Wage should not result in job losses: As with services and terms and conditions, a Living Wage should not be funded by job losses. The employer is making a commitment to invest in a workforce which is not subject to poverty wages. This is a positive decision which should be funded through additional investment, not reductions in the workforce.
5. Equal Pay: The introduction of a Living Wage must never undermine pay structures which have been designed to deliver equal pay or compromise equal pay agreements such as Single Status or Agenda for Change. UNISON believes that the introduction of a Living Wage makes a positive contribution to tackling pay inequalities, but negotiators must always be vigilant with regard to equal pay and the introduction of a Living Wage. Advice can be sought from Unison national office regarding any impact on national agreements such as Single Status and Agenda for Change.
6. As a recruitment tool: UNISON representatives should seek to use Living Wage campaigns as a focus for recruiting new members. Highly visible and well-organised campaigns to end poverty pay send a very strong message about UNISON's values and effectiveness as a union. The campaign should be used to recruit low paid workers and other supporters of the campaign.
7. Interaction with benefits, tax credits and Universal Credit: UNISON representatives should be mindful of the interaction between low pay levels and state benefits. During the campaign UNISON reps should ensure that members are aware that there may be some off-setting of benefits as a result of a rise in wages. However, UNISON firmly believes that a Living Wage will almost always lead to a net benefit for low paid workers and that state benefits are not a substitute for reasonable wages.
8. Inclusion of contracted-out staff: Most of the sectors in which UNISON organises and negotiates contain both staff employed directly by public sector employers and those whose jobs have been or can be contracted-out. In-keeping with the approach of the Living Wage Foundation UNISON's aim is to include all staff within a Living Wage Agreement/Policy. The union accepts that the process of including contracted-out staff may, on occasion, be slow – due to contract length and renewals. But our aspiration is that all staff are recipients of at least a Living Wage, irrespective of the status of their employer. It is important that contracts in which the majority of workers are low paid women and/or black and ethnic minority workers – such as social care – are not at the end of the 'queue' for the Living Wage.

9. UNISON supports full Living Wage Employer accreditation: The Living Wage Foundation has an Advisory Council which includes both employers and unions. This council oversees an accreditation process which ensures that employers claiming to be Living Wage Employer do indeed meet that criteria. This includes issues such as covering contracted-out staff mentioned in point 8. UNISON fully supports this process and would encourage all existing and prospective Living Wage Employers to apply for accreditation.

10. National Agreements: UNISON Negotiators seeking to deliver a Living Wage should be mindful of all applicable national/sector wide agreements, including those on pay. The Living Wage should be seen as a supplement to national agreements, not a replacement for them.

11. Notifying the wider union: Health branches campaigning for and negotiating for a Living Wage should advise their Region, Service Group and/or UNISON Bargaining Support of any successful LW negotiations.

12. Community campaigning: UNISON representatives should use Living Wage campaigning as a way to work with groups in the broader community, which may be sympathetic to the campaign and may be able to assist in achieving a Living Wage for our members.