Introduction
NHSBT has identified that some staff may not have received some or all of their Agenda for Change (AfC) absence payments that should have been paid when they were on annual leave. NHSBT has identified which staff have been underpaid and have sought to reach agreement with staff side as to how this can be rectified.

This mistake arose from a change in the National terms and conditions of service and how this information was reported through our various systems to the Payroll Department. Unfortunately not all the data was input on to the system consistently in all areas of the country meaning that staff entitled to their average pay over the previous 12 weeks, when on annual leave, did not receive it. This was not the fault of individual members of staff who had booked leave quite properly – but it became clear that we did not have in place robust enough systems and checks to highlight when people did not receive their correct payments.

It has proved difficult to identify exactly the missing payments and outlined below is our agreed proposal to correct the payments owed to staff. This issue was first brought to our attention in 2015 and since then there has been a thorough investigation and analysis of the data available. Since this problem was identified staff have been paid correctly owing to a communication campaign to all managers to make sure that the correct data is added to the systems to ensure payments are received.

Since then – and in discussions with the trade unions – we have been working to see how we can compensate staff for these losses which vary between individuals and teams.

Whilst we believe the offer below is a reasonable one we wish to make absolutely clear that any member of staff who believes that their underpayment exceeds the calculation being made and is able to produce their own appropriate evidence of this (including payslips and evidence of annual leave taken for the period in question which could be back to April 2010) – then subject to validation, further payments for the period in question will be made so that the exact amount of loss is calculated and paid back to the individual member of staff

Background
Prior to April 2010 NHSBT paid Working Time Directive (WTD) Payments at the set rate of 12.5%. The purpose of the WTD payment was to ensure that staff were ‘compensated’ for losses of certain enhancements which they were unable to claim when they were on annual leave. The Working Time Directive provided for staff to receive the same regular pay on annual leave as if they had been at work. This was done by multiplying the enhancements that they did earn by 12.5% and paying this each month. The figure of 12.5% was considered not accurate and the NHS staff council agreed to change the calculation from a fixed 12.5% payment to an average over an agreed reference period of 12 weeks.

In April 2010 Electronic Staff Record (ESR) was enhanced so that NHS employers could more accurately calculate payments that were due during annual leave based on a reference period rather than paying the WTD percentage. To reflect this the NHS Terms and Conditions of Service Handbook was updated to read:

Pay during annual leave will include regularly paid supplements including recruitment and retention premia, payments for work outside normal hours and high cost area supplements. Pay is calculated on the basis of what the individual would have received had he/she been
at work. This would be based on the previous three months at work or any other reference period that may be locally agreed.

Therefore in April 2010, NHSBT stopped paying the 12.5% WTD, and moved over to the NHS Employers average method described above.

To generate the AfC absence payments when staff take annual leave, managers enter their teams/department annual leave into our EASY system (prior to this managers were requested to record this in the Expenses system). After investigation it is now apparent that not all managers have entered this annual leave onto the EASY system and as a result a number of staff have not received the AfC absence payments due.

Proposal
The calculations necessary to accurately assess what staff are owed, in comparison to what they could have already been paid are extremely complex. We can however determine whether a member of staff has received a payment for AfC Annual Leave each year and therefore we can determine those that have received no payments in the same period. For the purposes of this agreement we have assumed that if a member of staff has received payment in a year it is very likely that all of their annual leave would have been entered and correct payments made.

In order to calculate the payment using the correct reference period it would require NHSBT to enter the annual leave dates taken by each individual affected for the past six years. As this is not possible or indeed practical NHSBT has proposed that for staff who have not received an AfC absence payment we will revert back to using the 12.5% WTD calculation and the loss will be calculated using this figure for each year we have agreed a payment will be made.

This proposal therefore suggests payments are made to staff as follows:-

2014/15
Data shows that there are staff who have not received any AfC absence payments in 2014/15.

All staff who have not received an AfC absence payment in 2014/15 will receive a payment based on 12.5% of the annual total of the qualifying enhancements.

2013/14
For staff who have not received an AfC absence payment in 2013/14 they will receive a payment for this year using the payment calculated for 2014/15 (i.e. 12.5% of the total amount of enhancements). In effect a doubling of the allowance in 2014/15 for staff who have not received a single payment in these two years.

No AfC absence payments made at all
There is, in addition, a proportion of individuals where it appears that they have never received an AfC absence payment. For these staff the calculation arrived at for the 2014/15 year will be trebled.

Staff will not be expected to provide any evidence for these payments, if the proposal is agreed then Pay Support will be instructed to make the payments as detailed in this proposal.
AFC Absence Payments Proposal
October 2016

Each individual member of staff entitled to a payment will receive a letter detailing the amount they will be paid and an explanation on what this payment has been based on. If this proposal is agreed then staff should expect this to be paid to them in December 2016.

Future Assurance

NHSBT does not wish to see a repeat of these errors and since this issue came to light a series of communications have been distributed reminding managers that they must record their staff’s annual leave in EASY otherwise staff who receive pay enhancements, will not receive their AfC absence payments. In these communications it made it clear that all annual leave taken since 01/04/2015 should be recorded in EASY. Therefore all annual leave taken since 01/04/2015 should be recorded and all payments made. A check will be made to ensure that this has happened and if necessary further targeted communications will be carried out.

It is our intention that we will shortly introduce requesting of annual leave in our EASY system so that all leave will be recorded ensuring that no repeat of this situation can occur in the future.

Katherine Robinson
Deputy Director of Workforce
NHS Blood and Transplant

Signed: ........................................... Dated: 20 October 2016