



Background note - NHS contractor staff deserve a pay rise

Staff working in outsourced companies delivering services to the NHS can fall into various categories. Although carrying out similar roles within an employer, there may be several complex contracts of employment including TUPE protected terms to consider and review. It will be important to identify which contracts staff are on, as this can impact negotiations on pay.

Undertaking a mapping exercise to identify members within contractors will allow your branch to gain an accurate picture of where we may be able to recruit and organise. Doing so successfully, will allow us to improve our collective power when engaging with the NHS Trust/Board.

1. Retention of Employment (RoE)

This model was developed by the Department of Health to limit the number of non-clinical staff forced to transfer to the private sector from the NHS under private finance initiative (PFI) schemes. Although staff under the retention of employment scheme were seconded to work in private companies, they remained directly employed by the NHS trust/board and are covered by AfC bargaining and pay outcomes.

2. Outsourced NHS staff where AfC rates have been agreed as part of the Contract

The NHS Contractor **must** 'mirror' AfC pay awards and rates. This group will have the entitlement to the nationally negotiated pay award applied as part of the terms of the outsourced contract.

3. Outsourced NHS staff where AfC rates have been agreed but this is NOT part of the contract

The NHS Contractor **does not have** to 'mirror' the AfC pay award or pay rates. This group will have achieved this locally - often following political campaigning or an industrial dispute leading to negotiations between UNISON, the NHS Contractor and the NHS Trust. This mirroring may be time limited.

4. Outsourced workers being paid below Agenda for Change rates

This group of workers are employed by an NHS contractor and they **do not** have a contractual right to AfC annual pay awards, and the NHS Contractor is not obliged to pay AfC pay rates. Staff could be employed on rates as low as the National Living Wage.

UNISON has national relationships with some large NHS Private Contractors and seats on national company forums – including some European Works Councils. However, **pay is often not negotiated**.

Some of these large private contractors may increase staff pay annually on a company wide basis as a result of:

- A unilateral decision on pay uplift by the NHS Private Contractor
- NHS Private Contractors forced to increase pay as a result of national minimum wage legislation.

If you are unsure whether pay is negotiated locally by UNISON with an NHS Private Contractor then you should liaise with your regional organising staff or email UNISON's Private Contractor's Unit private.contractors@unison.co.uk

If you have a UNISON recognition agreement with your local NHS Private Contractor please send a copy to UNISON's Bargaining Support Group.

It is important to establish when the NHS Contract is up for renewal.

This will support any pay campaign and/or insourcing strategy. Other support for any local pay campaigns can be obtained from:

- UNISON's Bargaining Support Group can provide up to date financial information for the purpose of pay bargaining or to support any campaign to bring contract back 'in-house'.
- UNISON's Private Contractor's Unit can provide additional information for NHS Private Contractors where we have a national relationship to support local campaigns.