**NHS Pay Review Body**  
**Special remit on seven-day services in the NHS**  
**Written evidence from NHS Providers (formerly the Foundation Trust Network)**

**KEY MESSAGES**

- We welcome the delivery of more NHS services over seven days (seven-day services) as it means better, consistent care for patients.
- At present, Agenda for Change is not fully fit for purpose. Most providers of NHS care see a national agreement on pay, terms, and conditions as a potential enabler for seven-day services, but only if sufficient flexibility to meet local circumstances and to deliver new models of care (like seven-day services) is built in.
- Even setting aside seven-day services, reform of Agenda for Change is required to promote a flexible and affordable workforce.
- Most providers will not be able to deliver more seven-day services within the existing spend without reform of Agenda for Change.
  - In particular, more hours in a day and more days of the week need to be defined as core hours (rather than unsocial hours).
  - In addition, the premiums paid for unsocial hours need to be reviewed (and overall reduced).
- There are barriers to more seven-day services outside of Agenda for Change, notably the consultant doctor contract.
- We suggest that the implementation of reforms should be phased, in recognition of the impact they will have on NHS staff, while maintaining the necessary scale and pace of change.

**THE CONTEXT IN WHICH PROVIDERS OF NHS CARE ARE DELIVERING SERVICES**

NHS Providers (formerly the Foundation Trust Network) is the membership body for NHS foundation trusts and trusts. We have 226 members, representing 94% of the sector. Our members provide acute, mental health, community, and ambulance services.

As has been widely reported, for five years providers of NHS care have consistently met increasing demand for services despite rising costs and a flat budget. And now, as set out in the Five Year Forward View (FYFV), they face the important challenge of transforming the way that care is delivered, including delivering more seven-day services.

Of course, the people who make up the NHS workforce are an essential part of this change. Over a million people in England work for the NHS, providing high quality care every day. As the FYFV said, “We can design innovative new care models, but they simply won’t become a reality unless we have a workforce with the right numbers, skills, values, and behaviours to deliver it”.

We, on behalf of providers of NHS care, have for several years highlighted the need for an overhaul of NHS pay, terms and conditions. As we set out in our programme for the next parliament, the pay bill is becoming unaffordable, while the current terms and conditions do not adequately match reward with performance, or enable smooth transitions between health and social care. With pay accounting for between 60% and 85% of an NHS provider’s expenditure, a sustainable balance must be found, where the national staff costs of delivering new models of care, including more seven-day services, are adequately resourced and quality of patient care can be maintained.

Again, as the FYFV said, “NHS employers and staff and their representatives will need to consider how working patterns and pay and terms and conditions can best evolve to fully reward high performance, support job and service redesign, and encourage recruitment and retention in parts of the country and in occupations where vacancies are high.”

Providers of NHS care are under no illusion that the required reform will be challenging, but the prize of more effective and sustainable care for patients throughout the week is worth pursuing. Indeed, we and the trusts we represent are keenly aware of how important it is that any reform of Agenda for Change ensures the NHS can continue to be able to recruit and retain the people needed to deliver services for the benefit of patients.

**SEVEN DAY SERVICES AND AGENDA FOR CHANGE AS A POTENTIAL ENabler**

The clinical case for seven-day services has been, and is being, made by NHS England and others; delivering more services seven days a week “would improve clinical outcomes, with the added benefit of providing a much more patient focussed service”. We will not repeat the evidence and arguments here. Suffice to say, we welcome the delivery of more NHS services over seven day as it means better, consistent care for patients. Proper account of local context, including demand will be important, and for some services, as a potential enabler for seven-day services, but only if sufficient flexibility to meet local circumstances and to deliver new models of care (like seven-day services) is built in.

At present, Agenda for Change does not provide for this and is therefore not fully fit for purpose. While a small number of providers are in favour of an end to national agreements, to be replaced by the negotiation of local agreements, the majority support having a national agreement (27 of 34 selected ‘an end to collective bargaining’ as the worst of three...
options for the way forward), on the grounds that is currently more efficient than providers negotiating their own agreements with staff and unions locally, and also mitigates against a bidding war between providers in which staff costs would be pushed up.

While there were a range of views as to how much local flexibility should be built into a national agreement, overall there was a desire and support for more local flexibility than is available at the moment. One NHS provider specifically suggested that there should be no provision such as that found Annex K of Agenda for Change, requiring that any alternative packages of benefits offered by employers must be of equivalent value to the standard benefits set out in Agenda for Change. It was pointed out that it was practically very difficult to measure whether or not a package is equivalent. The job evaluation component of Agenda for Change is also valued by many providers of NHS care, as it allows for the creation of new roles which can support the transformation of the way that care is delivered.

It is also clear to us that, although the remit set by the Government for the review body requires us to look at Agenda for Change through the lens of seven-day services, even setting aside seven-day services, reform of Agenda for Change is required to promote a flexible and affordable workforce. This has been clearly communicated to us by providers at our network of HR directors and other network meetings (for example, our network for strategy leads) in recent years, and we have reflected it in our written evidence to the NHS Pay Review Body for 2013/14 and 2014/15. The same message was reinforced in the HSJ/NHS Employers Barometer of HR Directors earlier this year, when 87% of responders said a further review of Agenda for Change is needed. Of these, 71% wanted action on sick pay, 60% on unsocial hours, 60% on pay structure, 37% on annual leave entitlements, and 37% on redundancy provisions. So, while the seven-day services lens has led us to focus to a large extent on unsocial hours, we, on behalf of providers of NHS care, continue to hold that wider reform of Agenda for Change is required, irrespective of the need to deliver more services seven-days a week.

**BARRIERS WITHIN AGENDA FOR CHANGE TO DELIVERY OF MORE SEVEN-DAY SERVICES**

Despite the potential for a national agreement to act as an enabler for delivery of more seven day services, just under three-quarters of providers responding to our survey suggest they will not be able to deliver more seven-day services within the existing spend without reform of Agenda for Change (see figure 1).

When viewing Agenda for Change through the lens of seven-day services, it is clear that, for providers of NHS care, while there are several barriers, in particular, more hours in a day and more days of the week need to be defined as core hours (rather than unsocial hours). In our survey 94% of respondents said it was ‘very’ or ‘fairly important’ to narrow the definition of unsocial hours, if we are to deliver more seven-day services without increasing the existing spend. Strikingly, none said it was unimportant (see figure 2). Quite simply, more seven-day services will require more staff working outside of core hours. More staff working these unsocial hours will mean higher spend by providers on premiums for unsocial hours. And higher spending on premiums for unsocial hours will mean that more seven-day services cannot be delivered within the existing spend.

Unsocial hours were also an overwhelming theme of free text responses to our survey. There was a broad consensus that evenings Monday to Friday and all day Saturday need to be redefined as core hours. While providers of NHS care acknowledge that this will
require a big cultural change, such a shift needs to happen if the NHS is to meet the needs and expectations of today’s patients. As one provider put it “there needs to be demonstrable value for money with colleagues recognising that working in a modern NHS will require an element of flexibility in work patterns”. There was less of a consensus as to whether nights Monday to Friday and all day Sunday need to remain as unsocial hours, with providers making different suggestions. For example, one provider said, “I would like to see a dramatic reduction, particularly Saturday and Sunday working”, while another supported unsocial hours as “night, late evenings, and a lower unsocial hours rate for Sunday”. One provider suggested unsocial hours of “8pm (possibly 10pm) to 8am Monday to Saturday”, which implies Sunday would remain as unsocial hours, while another said “the only unsocial hours should be… a night shift - maybe 10pm to 6am”, implying Sundays during the day should be core hours. A small number of providers supported a complete end to unsocial hours, “to have just plain time rate 24/7”. This is an issue which would benefit from further exploration and discussion. But what is clear is that there is a consensus that more hours in a day (perhaps say 6am to 10pm) and more days of the week need to be defined as core hours.

What also emerged, again from free text responses, is that NHS providers consider that the premiums paid for unsocial hours need to be reviewed (and overall reduced). There is also some support for having a consistent premium for any hours defined as unsocial hours. Again, providers of NHS care are conscious of the need to carefully work through the implications. As one put it, there is a need for a “balance… between the cost of paying for unsocial hours and the ability to attract staff to work”.

### BARRIERS OUTSIDE OF AGENDA FOR CHANGE TO MORE SEVEN-DAY SERVICES

The providers of NHS care we have spoken to were clear that, there are barriers to more seven-day services outside of Agenda for Change. We feel it is important to note some of these here by way of context. While only 9% of providers, who responded to our survey, see Agenda for Change as ‘the main source of barriers’ to the delivery of more seven-day services within the existing spend, 46% see it as ‘a source of some barriers’ and 40% ‘a source of a few barriers’ (see figure 3). When we put this finding in the context of the results of the rest of our survey, which also covered the consultant doctor and junior doctor contracts, it becomes clear that trusts view the consultant doctor contract as the biggest contractual source of barriers to delivering more seven-day services within existing spend, in particular the right to decline non-emergency work outside of core hours. Of course, as already explained, Agenda for Change is still seen by providers of NHS care as a significant source of barriers.

![Figure 3 - To what extent is Agenda for Change a source of barriers to the delivery of more seven-day services within existing spend?](image)

<table>
<thead>
<tr>
<th>The main source of barriers</th>
<th>9%</th>
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<tbody>
<tr>
<td>A source of some barriers</td>
<td>46%</td>
</tr>
<tr>
<td>A source of a few barriers</td>
<td>40%</td>
</tr>
<tr>
<td>Not a source of barriers</td>
<td>3%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>3%</td>
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Even if Agenda for Change and doctors’ contracts were appropriately reformed, there are other potential barriers that must be considered. Impact assessment work commissioned by NHS England has identified factors including cultural considerations and workforce availability and training. There is a need for a fundamental change, whereby providers of NHS care and their staff see the NHS as a 24/7 service, not a 9am till 5pm Monday to Friday service, with only emergency services outside of those hours. As one provider put it, “Staff attitude is a key issue in terms of changes to quality of life and work life balance issues”. Also crucially, it will not be possible to deliver seven-day services within the existing spend if the right number of staff with the right skills are not available. We include these examples to illustrate that, while reform of Agenda for Change is necessary if providers are to deliver more seven-day services within the existing spend, this alone is not sufficient and must not be seen as a magic bullet.

### THE WAY FORWARD

Finally, we suggest that the implementation of reforms to Agenda for Change should be appropriately phased, in recognition of the impact they will have on NHS staff, while maintaining the necessary scale and pace of change. Non-basic pay, including unsocial hours premiums, makes a significant contribution, on top of basic pay, to many staff’s actual pay. For example, for qualified nursing, midwifery, and health visiting staff, (the mean) average non-basic pay per person represents 13% of (the mean) average actual earnings per person. vi Of course, this almost certainly masks differences between people who already work and are paid premiums for many unsocial hours and those who currently work few unsocial hours. But it illustrates the need, to work through the implications for recruitment and retention of essential reform of Agenda for Change. A phased approach might help mitigate the risks, allowing the definition of unsocial hours and the premiums paid to be gradually be changed. However, there is a balance to be struck as the need for change is clear and momentum must be generated and maintained. The NHS Pay Review Body, in its 2014 report observed, “Progress on a wider seven-day service is urgently needed. The parties should now rapidly negotiate and agree changes to Agenda for Change alongside negotiations for medical staff.” vii It is fair to say that progress has not been rapid. Yet even with reform of unsocial hours payments, it is more than likely that NHS staff will continue to be well rewarded relative to workers in other sectors who provide seven-day services. As such, we hope that the NHS Pay Review Body will give due weight to the evidence and arguments we have
presented here. And on behalf of providers of NHS care, we look forward to contributing further to the review, and discussions as to the way forward, in the New Year.

References

vi Health and Social Care Information Centre (Nov 2014), NHS Staff Earnings Estimates to August 2014 - Provisional statistics, Leeds.