

27th November 2019

Chair
Mr Sam Pollock OBE

Chief Executive
Dr Anne Kilgallen

Joan Corrigan
[request-609263-d21dbba7@whatdotheyknow.com]

Our ref.: FOI/19/341 – Internal Review

Dear Ms Corrigan

RE: FOI Internal Review – Agency staff pay rates for unsocial hours

I refer to your email received on 31st October 2019 and request for an Internal Review of the Trust's Freedom of Information response which had been issued to you on 28th October 2019.

You had requested information about the rates of pay for agency health care staff between the hours of 20.00 and 08.00.

The Trust advised that Health Care Assistants are paid at the appropriate pay band and rate in line with Agenda for Change Terms and Conditions of Service. Agency Health Care Assistants are paid in line with the Health and Social Care (HSC) Business Services Organisation (BSO) Framework for Nurses and Healthcare Support Workers and this includes unsocial hours.

In requesting an Internal Review of this response, you commented as follows:

“You have made statements relating to the topic I wrote about but you have not answered either of my questions and especially in number one it seems you are saying agency workers are not being paid the same as WHSCT staff for night rates. Please answer the questions put to you directly and do not skirt around yes / no answers.”

The Trust has carried out an Internal Review of the initial response and I can advise as follows.

You have a right under the Freedom of Information Act 2000 to request a copy of any 'recorded information' held by the Trust and this will be provided to you unless it is exempt from release under the Act. Your information request can be in the form of a question, so long as it relates to information already held in recorded format and does not require the creation of new information including giving opinion, comment or judgment. In addition, under the FOI Act we cannot provide any information or comment that would in any way relate to you personally.

Having considered your request further, I can provide the following additional response and clarification based on information available to the Trust.

1. Are WHSCT Health Care Assistants paid a consistent 'one rate only' rate between the hours of 20:00 and 08:00? (And if so why, are agency staff paid differently i.e. less ?)

Health Care Assistants are paid unsocial hours payments in addition to their basic rate of pay to cover services at night and at weekends in accordance with the Agenda for Change (AfC) Terms and Conditions of Service Handbook as outlined below in the table taken from the Handbook. The rates shown in column 2 of the table will be paid for all unsocial hours worked on a Saturday (midnight to midnight) and on weekdays between 8pm and 6am. The rate shown in column 3 of the table will be paid for all hours worked midnight to midnight on Sundays and Public Holidays (paragraph 2.10 AfC Handbook). Where a continuous night shift or evening shift on a weekday (other than a Public Holiday) includes hours outside the period of 8pm to 6am the enhancements in column 2 should be applied to the whole shift if more than half the time falls between 8pm and 6am (paragraph 2.11 AfC Handbook).

Unsocial Hours Payments		
Column 1	Column 2	Column 3
Pay band	All time Saturday (midnight to midnight) and any week day after 8 pm and before 6 am	All time on Sundays and Public Holidays (midnight to midnight)
1	Time plus 50%	Double Time
2	Time plus 44%	Time plus 88%
3	Time plus 37%	Time plus 74%
4 – 9	Time plus 30%	Time plus 60%

Agency workers are employed by the agency and it is the responsibility of the agency, as the employer to ensure that its rates of pay comply with the Agency Workers Regulations (Northern Ireland) 2011 and the Agenda for Change pay structure as outlined in Section 2 of the NHS Terms and Conditions of Service Handbook . Therefore, the Trust is not in a position to answer your question in relation to why agency staff are paid differently.

2. Why is the variant hours of pay which currently exist (and has long existed) in payment of an agency worker's night shift at odds with what is stated in the NHS Employee Handbook?

As outlined above agency workers are employed by the agency and it is the responsibility of the agency, as the employer to ensure that its rates of pay comply with the Agency Workers Regulations (Northern Ireland) 2011 and the Agenda for Change pay structure as outlined in Section 2 of the NHS Terms and Conditions of Service Handbook. Therefore, the Trust is not in a position to answer your question in relation to the variant hours of pay.

I trust this provides further clarification on this matter.

I would advise that if you remain dissatisfied with the Trust response, you can refer your complaint to the Information Commissioner at the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely



DR ANNE KILGALLEN
CHIEF EXECUTIVE