

# SOUTH WEST PAY, TERMS AND CONDITIONS CONSORTIUM

## ADDRESSING PAY, TERMS AND CONDITIONS

### BACKGROUND

The South West Pay, Terms and Conditions Consortium [“SWC”] was established in June 2012 with sixteen participating NHS employers. The SWC now has twenty participants involving NHS foundation and NHS trusts from acute, teaching, mental health and community health care sectors. The SWC has been set up to produce a full business case by the end of the calendar year in order to quantify the current and future economic, financial and service challenges, and in turn consider how best to create a “fit for purpose” set of pay, terms and conditions. This discussion paper has been produced as part of SWC’s wider scoping exercise in producing a business case and to assist considerations about how best to address current and future pay, terms and conditions for all NHS staff groups. The SWC does not have the authority, responsibility nor mandate to engage in negotiations, as sovereignty rests with the individual participating trusts.

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## **1. INTRODUCTION**

This discussion paper has been written for the SWC Steering Group in order to assist it in its production of a full business case. This paper does not include any recommendations and does not represent any proposals or decisions regarding pay, terms and conditions. It has been designed to be read alongside the accompanying paper which quantifies the economic, financial and service challenges facing the participating NHS employers. While this paper is wide-ranging, any mention of potential changes does not mean that decisions have been taken to pursue them or that an assumption has been made that they will be pursued by the individual member trusts. The SWC remains committed to achieving a “fit for purpose” set of terms and conditions through national negotiations.

This paper will also be considered alongside further papers on the legal issues related to potential positions which the SWC might take in the future and an assessment of the options on how best to manage any potential changes. A further paper will examine the long list of options which will be included in the full business case. No decisions will be taken until the finalisation of the full business case.

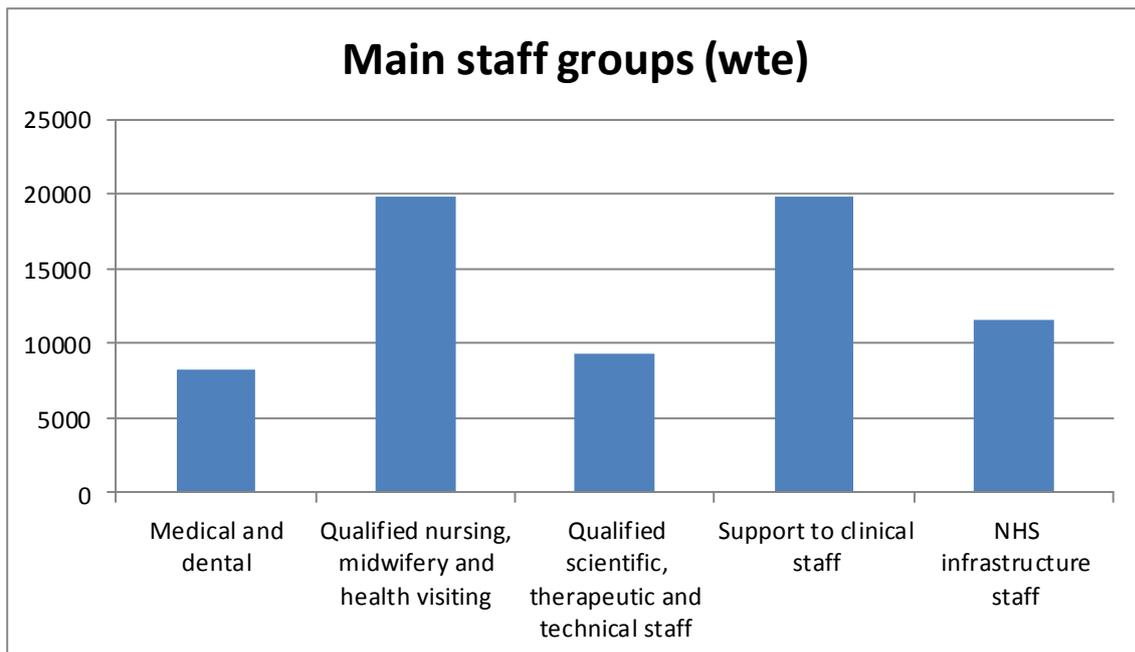
This paper addresses the context related to NHS pay and conditions, constructs the principles which will determine the SWC’s approach to future pay reform, considers a long list of potential labour cost compressors, examines the potential costs and timelines related to individual compressors, poses a series of questions and compiles a list of useful references.

## **2. SWC WORKFORCE PROFILES**

Twenty NHS employers have joined the SWC, representing the vast majority of NHS staff working in the South West region. Set out below is a summary of the principal staff groups which make up the well over 68,000 employees and a graph setting out the numbers of staff by individual participating NHS employer, split between medical and non-medical staff. Assuming an average full employer cost of £40,000 per employee, the total cost of this workforce is £2.8bn. This represents around 7% of the total NHS workforce in England.

The NHS workforce as a whole across the South West region has grown by over 20% in the period 2001-2011 (on average by 2.3% per year). During 2010/11 the total workforce was reduced by 1.1%.

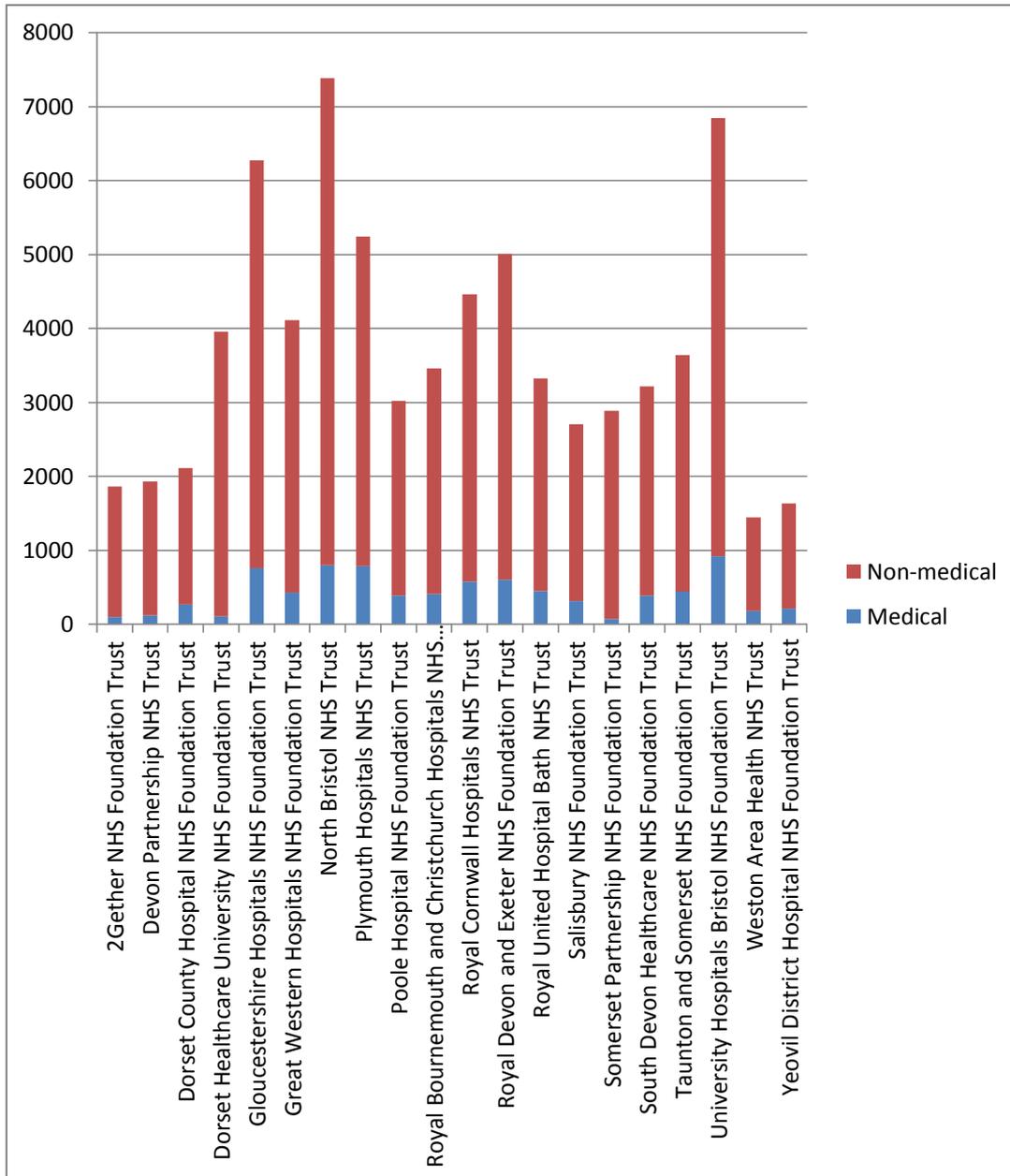
Figure 1: SWC workforce profile



Source: DH Information Centre – Medical staff: January 2012, Other staff groups: October 2011 (January 2012 not available)

Total non-medical staff = 68,719 wte.

Figure 2: SWC Participating NHS employers' workforce profiles (wte)



Staff employed by participating NHS employers represents 91% of medical, and 67% of non-medical, NHS staff working in the South West region. The lower percentage of non-medical staff is due to the fact that - together with some NHS employers which have chosen not to join the SWC - SHA and PCT staff (who predominantly employ non-medical staff) have all been excluded as they are going through substantial organisational transition.

The SWC Steering Group has agreed that all staff groups are included in the scope of the work of the SWC, which are:

- Agenda for Change
- Consultants (medical and dental)
- Associate Specialists/staff grade/specialty doctors
- Junior medical staff

- Very senior managers (VSM)
- Board directors
- Temporary staff – bank, NHS Professionals, agency
- Interims
- Locally (employer-level) contracted staff.

There may also be implications for contracted out staff for whom the NHS has funding in order to fulfil the previous commitment (NHS Employers/trade unions/DH/private sector) which make sure that these staff have similar pay and conditions to those directly employed in the NHS.

### **3. CONTEXT**

This section provides an update on the relevant pay and conditions context within which the SWC is operating as background.

#### **DECADE 2000+ PAY REFORMS**

The two main pay and conditions systems which are relevant to those staff employed by NHS employers in the SWC have now been in place for nearly a decade. The new consultants' contract and Agenda for Change were implemented from 2003, after a significant period of consultation and negotiation. Both systems were implemented without being fully tested in advance (despite efforts to do so with Agenda for Change) and replaced previous systems designed and implemented in the 1940s and 1950s respectively. It is not the place of this discussion paper to undertake a full evaluation of the performance and practice of these two pay systems. There is considerable experience across the SWC with regard to the benefits and limitations of these systems.

It has been stated that there have been twenty-four changes to Agenda for Change since 2004, all of which have been favourable to employees. While the pay system for junior medical staff has now matured, the other two have not, which means that annual increases in payroll costs are more pronounced as staff make their way up the pay spine headroom. It is estimated that the annual cost of incremental and pay drift is on average +2%.

It was agreed when Agenda for Change was established that there would be a comprehensive review in 2011, which has not taken place. Criticisms of these two pay systems are based on the views that they have not completely fulfilled the original ambitions underpinning their design, that implementation has raised unintended consequences, and that they are not "fit for purpose" going forward, especially given the very challenging financial future.

#### **NATIONAL PAY REFORM NEGOTIATIONS**

While there are no national discussions between staff-side and NHS Employers with regard to the consultants' contract and junior medical staff, four proposals are out to consultation by the trade unions to modify Agenda for Change. Discussions have been underway over the past eighteen months, with different opinions on whether these represent the first or only stage in making changes to Agenda for Change. The consultation includes proposals to:

- Remove unsocial hours rates of sick pay

- Introduce new pay and conditions for managers (evaluated as in posts on more than 731 points)
- Remove the fast-track increments for staff under preceptorship
- Establish a closer connection between increments and performance.

Consultation on these proposals was due to end by 27<sup>th</sup> July 2012 – and the trade unions have indicated that they will take decisions on whether to accept all, some, or none of these proposals in September 2012. The trade unions have also stated, amongst other criticisms, that the SWC's actions have undermined national negotiations.

An attempt will be made later in this paper to evaluate what savings could be derived from each of these proposals. Criticisms of the nature of these proposals are based on the uncertainty about the subsequent prospects for the consideration of further reforms and that they are enabling agreements which mean that each NHS employer would still need to consult and reach agreement at a local level, on the practical arrangements to deliver them. The recent experience regarding the local establishment of on-call arrangements has frustrated both employers and trade unions with regard to the time and effort involved in such endeavours.

### **NHS WORKFORCE AND PAY DYNAMICS**

The NHS workforce and remuneration are neither static nor simple. After a long period of NHS workforce growth, especially during the 2000s decade, it is now shrinking, albeit not by a high level at this point. In the period March 2011 to March 2012, the whole time equivalent number of NHS staff in England reduced by 1.5%. The number of staff providing NHS services is growing with the increasing introduction of commercial, social enterprise and voluntary service providers. Foundation trusts forecast in 2011 that their workforces would reduce by 6% during 2012-14.

While the national sets of terms and conditions dominate the means by which NHS staff are remunerated and the terms of their contracts, there are a number of actual and potential developments, which include:

- Pensions reform – immediate increase in employee contributions and other changes from 2015
- Review of Clinical Excellence (local employer) Awards – due for implementation after the Government has announced (and negotiated) its position in 2013/14
- Pay Review Bodies have been asked by the Treasury (and relevant Government departments) to consider market facing pay (regional pay)
- Job re-evaluations/re-grading at a local level
- Consultant job planning being more rigorously implemented by some trusts
- Extensive discussions (although incomplete) regarding on-call arrangements
- Ending of the Cabinet Office “Two Tier Workforce” code in December 2010
- VAT added onto temporary staffing
- Improved pay and conditions for agency/temporary staff (EU Agency Directive)
- Ten thousand community NHS staff transferred to social enterprises
- Staff being employed by new organisations responsible for clinical commissioning.

There are also changes to employment regulations already implemented or proposed by the current Government. Actual changes include the qualifying period to claim unfair dismissal extension of employment rights from one to two years and financially-controlled access to employment tribunals.

The trend in pay levels across the UK workforce in recent years will be examined in further analysis to be undertaken at a later stage of the SWC's work. This trend will be analysed as part of an examination of labour market issues. Since 2008, private sector pay levels have fallen behind the public sector – although it appears that this gap is closing as the private sector recovers and public sector pay restraint occurs. There needs to be caution about generalised comparisons between the two sectors given the different characteristics of these two workforces. It is worth noting that NHS pay continues to rise, despite a freeze on pay due to the immaturity of the relatively new pay systems (creating additional headroom) and the nature of the annual increments.

### **LOCAL PAY ARRANGEMENTS AND FREEDOMS**

There is one NHS foundation trust which is frequently cited as having moved away from Agenda for Change, using the freedoms available within the pay system. It is worth highlighting what the position actually has been. Southend Hospital NHS FT had a long history of local pay prior to 2004, driven by its location being outside London weighting. In 2004 Employees were originally given the option to choose new local terms or Agenda for Change – 95% chose the former. While the Trust now has a lower cost pay system, having not paid national uplifts and shorter pay spines up until a few years ago it was more expensive than Agenda for Change. Their local terms do not apply to medical staff, and broadly mirror the arrangements for job evaluation and pay spines in Agenda for Change. One particularly interesting feature of these arrangements is the introduction of a trust-wide bonus scheme where the over-achievement of the planned annual surplus has been shared between employees and the Trust (40:60) on a non-pensionable, unconsolidated basis.

Annex K in Agenda for Change is widely cited as giving freedoms to FTs to set their own local terms and conditions. In fact, the Annex only allows changes which are the same (in cost) or more expensive than Agenda for Change and in agreement with staff-side. Since the pay reforms of the early-2000s, no trust has moved completely away from the national pay and terms system.

Many trusts have local pay arrangements – and did so before the pay reforms of the past decade. In the main, these have been used for remuneration for extra clinical activity (waiting list initiatives) and for posts which do not fit Agenda for Change and require (often) higher remuneration in order to compete in the labour market. The use of interims and temporary staff has produced a very wide (if not in volume) range of variations from national terms and conditions.

It appears that some trusts (working outside of a coordinated regional network) are considering or have launched local consultation to change terms and conditions (on a limited basis). There is some indication that trusts across England are following very closely what the SWC is doing and have made similar assessments regarding the financial gap facing them as those trusts which have set up the SWC.

## **GOVERNMENT POSITION**

The Government's White Paper ("Excellence and Equity: Liberating the NHS") made references to the future for pay negotiations. These key references (section 4.35-4.36) are:

- "The need for fiscal consolidation is paramount and this will require sustained pay restraint across the public sector"
- "Pay decisions should be led by healthcare employers rather than imposed by the Government. In future, all individual employers will have the right, as foundation trusts have now, to determine pay for their own staff"
- "It is likely that many providers will want to continue to use national contracts as a basis for their local terms and conditions"
- "In the longer term, we will work with NHS employers and trade unions to explore appropriate arrangements for setting pay"
- "While ministers will retain responsibility for determining overall resources and affordability, we would expect employers to take the lead in providing advice on staffing and cost pressures"
- "Employers would also be responsible for leading negotiations on new employment contracts"
- In line with our aim of a decentralised system, the main incentives for financial management and efficiency will in future come from tariff-setting and a transparent regulatory framework – not from central government controls on providers' pay and internal processes".

Since the creation of the SWC, the Government has had the opportunity to state its position in an Opposition allotted debate (16<sup>th</sup> July 2012) and health questions (17<sup>th</sup> July 2012) in the House of Commons, with regard to what the twenty trusts are doing. In summary, the Government's headline statements include:

- It is for employers, not the Government, to lead negotiations on terms and conditions of their staff
- The Health Act 2006 gives trusts powers to set their own terms and conditions
- Pay systems must evolve
- Trusts must work with trade unions to agree changes
- Government should do everything possible to support NHS employers to have flexibility in pay, terms and conditions to motivation, recruitment and retention
- Secretary of State is not overruling the South West Consortium – the Consortium is clear it wants the national A4C framework to offer flexibilities
- The flexibility the consortium needs can be delivered by the national negotiations
- Proposals to reduce base pay or dismiss and re-engage staff are neither necessary nor desirable.

It should be noted that both Opposition and Liberal Democrat politicians have expressed concerns about what the remit and role of SWC made commitments to maintain the current system of national pay and conditions.

## UK LABOUR MARKET ISSUES

Since 2008, there is considerable commentary about the recent, current and future state of the UK labour market. While it is necessary to be cautious about generalisations they provide a useful way to sum up what has, is and could be happening in the context of the world-wide economic crisis.

The CIPD produces a quarterly summary of the labour market outlook across the principal sectors – private, public and voluntary. In its summary in Spring 2012, it noted the trends set out in the table below. In headline terms, with regard to intentions to make redundancies the public and voluntary sectors are forecasting a downturn and the private sector an increase. With regard to recruitment intentions, both the public and voluntary sectors are intending to increase activity compared with the previous quarter, and the private sector is expecting to continue to reduce recruitment.

Figure 3: Redundancy intentions

### Redundancy intentions by sector

Base: Spring 2012, all LMO employers, public n=233, private n=647, voluntary n=125

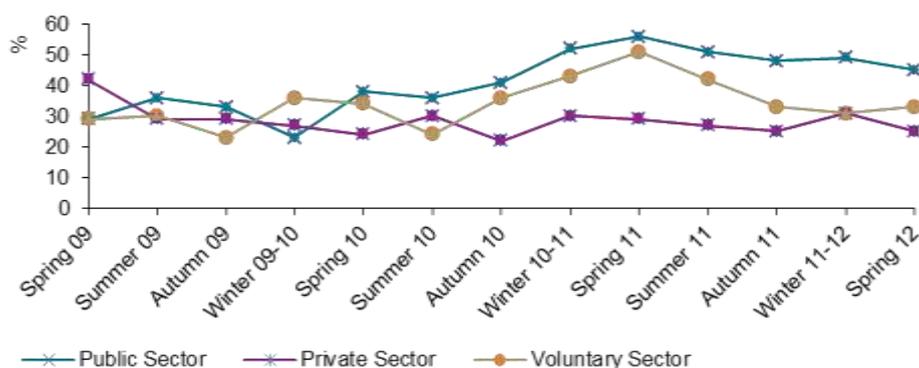
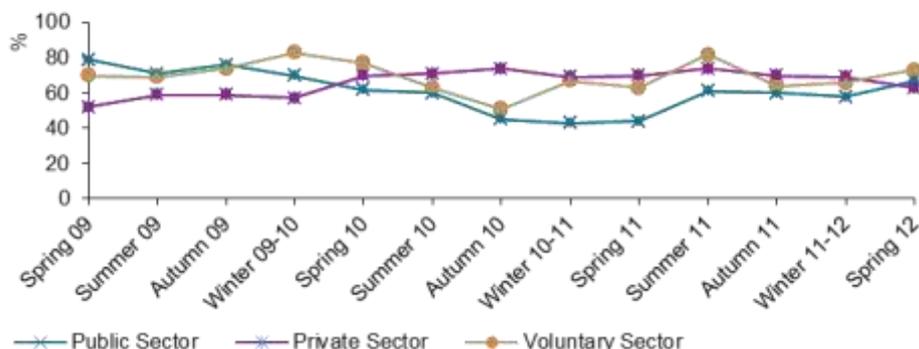


Figure 1: Recruitment intentions

### Recruitment intentions by sector

Base: Spring 2012, all LMO employers, public n=233, private n=647, voluntary n=125



Source: CIPD labour market outlook, Spring 2012

Pay levels across the UK labour force have remained static since a reduction in the private sector after the 2008 economic crash. Unemployment is at its highest levels since the mid-1990s – with

some indication that it is not growing in line with expectations, given the lack of growth in the UK economy over the past year. The most recent reported level of unemployment shows a decrease on the previous quarter. Increasingly, the gap is growing between those workers with skills and those without (or less) in terms of gaining employment.

To some extent the impact of the economically constrained times have only just started to affect the NHS in 2012/13, after a sustained period of financial growth since the early 2000s. The private sector and other parts of the public sector have had to take actions with regard to their workforce costs prior to this current period. Those companies which were able to survive the initial shock of the economic crisis were able to do so by reducing the value of terms and conditions in order to save jobs (and the organisation as a whole). This was also pursued as part of a deliberate strategy to “hoard jobs” (e.g. BT) whereby high and disruptive redundancy costs and the loss of talent were avoided on the basis that future growth would enable the reengagement of temporarily displaced staff. Local government has had its financial reductions front-loaded since 2010, and some have taken (controversial) steps to reduce the value of pay and conditions.

The Chartered Institute of Personnel and Development (CIPD) has reported (13<sup>th</sup> August 2012) that a number of private sector companies have deliberately kept on more staff than they can immediately afford in order to retain valuable skills and capability, on the basis that future improved economic performance will make this affordable. This report indicated that should economic circumstances not improve then some of these staff will need to be made redundant.

#### **4. GOVERNING PRINCIPLES**

The SWC will need to establish what principles will govern the proposals and recommendations which it will take in the full business case. The principles which underpinned the production of Agenda for Change stand the test of time. Set out below are these principles – which it seems do not need modification for today’s challenges, although they have not been fulfilled and their application needs to be reassessed in the light of experience and the challenges ahead.

##### **Agenda for Change principles**

- Pay system which leads to more patients being treated, more quickly and higher quality
- Assist new ways of working – promoting efficiency and effectiveness, meeting needs of patients
- Achieving a quality workforce with the right numbers, right skills and diversity, organised in the right way
- Improve recruitment, retention and morale
- Improve all aspects of equal opportunities and diversity
- Meet equal pay for equal value
- Implement new pay system within the management, financial and service constraints

March 2003

The SWC will want to consider whether it wishes to recommend a fresh start to pay and conditions with a brand new pay system – or to make modifications to the current system. The SWC has

declared that it is totally committed to working with the trade unions and staff in this endeavour – and wishes to support any changes (at a national or local level) through extensive consultation and voluntary agreement.

## **5. CHANGE IN EXCHANGE**

There is evidence that employers who have managed to secure voluntary agreement to a reduced value of terms and conditions (on a temporary or permanent basis) which have reduced the overall cost of the pay bill, have done so by offering a genuine exchange. Exchanges are where employees can receive tangible benefits in return for reductions in the value of their remuneration packages. Such a position is of course in the mutual benefit of both the organisation and employees – especially where it means that the organisation can afford to survive and continue to deliver on its service offerings. Examples of exchanges that may be offered in these circumstances include:

- a) **Job security through organisational viability** – where the organisation is capable of remaining viable, in turn it can give a greater degree of job security which is significantly reduced if it cannot afford its existing workforce costs.
- b) **Overall commitment to the structure and maintenance of national terms and conditions** – relatively minor modifications can be compatible with maintaining a commitment to the overall structure, principles and processes of the existing structure of pay and conditions, making it less likely that there will be a complete move away and creation of a brand new system.
- c) **Opportunity to repay lost value through a bonus scheme at the end of the financial year once service and financial targets have been achieved** – where changes to pay levels (in whatever form) are made at the start of the financial year, it could be possible to create a scheme whereby some or all of its value is given at the end of the year once financial and service objectives have been met (and the cost is affordable).
- d) **Guaranteed no redundancy deals (compulsory and/or voluntary)** - in some cases real job security can be in the form of a guarantee that there will be no compulsory redundancies given the confidence that the organisation has to plan and forecast. This has been done in both the private sector and the NHS.
- e) **Avoidance of arbitrary job freezes based on which posts become available** – a more stable approach to managing workforce costs can mean that immediate, less-planned actions to reduce and control costs (such as job freezes) can be avoided. Job freezes are inevitably fairly arbitrary, driven by when vacancies occur, not which posts are most appropriate for removal. Job freezes make it more difficult to manage service developments and change – and can leave teams depleted.
- f) **Reduced remuneration for temporary staff (especially agency) which is often comparatively favourable** – where there are changes to the pay and conditions to permanent staff it is possible to reduce the cost of temporary staffing (as this tends to mirror them). This enables the organisation to release resources for investing in permanent staff.

- g) **Investment in the skills and capability of staff to enable them to make progress up the career structure (and therefore financial gain)** – with greater financial and service certainty, the organisation is in a better position (and will wish) to invest in specific training and education programmes to enhance skills and promote career-development.
- h) **Reduced need to outsource (and therefore TUPE staff)** – alternatives to addressing pay, terms and conditions include the procurement and sub-contracting of services from the private and voluntary sectors where they can deliver the right quality of services at a reduced cost. Avoiding these options makes it less likely that staff will be transferred to new employers, which is frequently not preferred by employees (even though there is a degree of short-term protection).
- i) **Less likely that other providers will win tenders on the basis that they are more competitive on financial grounds** – inevitably where costs are reduced (through whatever means) this helps the organisation to be more competitive enabling it to maintain its current provision of (and secure new) services.

## **6. STAFF COST REDUCTION POTENTIAL OPPORTUNITIES**

While absolutely no proposals have been put forward regarding any proposed changes to pay, terms and conditions, this section addresses the full set of options in order to inform the production of the full business case.

The table below sets out the range of elements from which a selection could be chosen in line with the SWC’s commitment to produce a “fit for purpose” set of terms and conditions which meets the principles identified above. This table summarises the financial implications of an example of each opportunity. This assessment does not address the period of consultation which would be required and desired.

The financial assessment is based on a sample typical trust which employs 3,500 staff with an annual turnover of £220m. It would be misleading for the reader to take this list and add up each of the savings to produce a total.

<b>LABOUR COST COMPRESSOR</b>	<b>SAMPLE SAVINGS</b>
<b>1. Additional Programmed Activities (APAs)</b>	Reduce APA rates – or focus their usage on a frequent renewable basis – PA rate valued at £10k plus employer costs
<b>2. Annual leave</b>	Per day of reduced annual leave = £150 per day employment cost plus cover for 50% of staff 2 days of annual leave where capacity can be reduced in 50% of jobs and cover avoided in 50% of jobs = £750k
<b>3. Bonus scheme (all staff)</b>	Self-funding has paid for on an unconsolidated basis from over-achieved surplus
<b>4. Clinical Excellence (Local Employer Based) Awards</b>	CEA points valued at c£3k which could be more connected to desired service activities

<b>5. Consultant on-call supplements</b>	Reduce paid time allocated to on-and off-site on-call thereby reducing PA and supplementary rates – PA rate valued at £10k plus employer costs
<b>6. Extra hours</b>	1 hour on top of 37.5 hours (AfC) would create a 2.66% efficiency gain worth £2.6m (also increasing plain rate time therefore reducing overtime rate working)
<b>7. Flexible benefits</b>	Best to set a target to achieve given complexity – say £100k – where staff exchange salary for increased annual leave
<b>8. Flex-release (voluntary hours reduction)</b>	25 staff give up 25% of working hours (and income) and 50% capacity is not replaced = £125k
<b>9. Increments</b>	Each increment valued at 3% of pay 10% of total increments withheld = £420k on a prospective basis
<b>10. Junior medical staff (juniors)</b>	Limited working employment contract which is mostly education without access to the current % enhancements  Up to 50% saving on 1000 staff in SWC
<b>11. Locum and retired consultants</b>	End offer of guaranteed SPA time – unknown number in this position, likely to be c10 consultants therefore savings or capacity creation = £140k. Sufficient SPA time still required for revalidation.
<b>12. Knowledge and Skills Framework (KSF) reform into KS Performance Framework</b>	See increments savings profile (opportunity number 9)
<b>13. New consultant roles – direct clinical care</b>	Establishment of initially static consultant roles where output is predominantly DCC PAs (90%)  15% saving or capacity creation on the typical consultant role. For 15 new posts = £250k
<b>14. New employer models – a two-tier workforce</b>	This requires special analysis to come up with new terms and conditions – which could be up to 20-25% less than current costs for posts where there is sufficient labour supply
<b>15. Pay inflation (uplift)</b>	Pay cash limit = 0% except very low paid until 2013 – 1% for 2013-14
<b>16. Pay levels</b>	0.5% = £700k 1% = £1.4m
<b>17. Pay protection policy</b>	The typical level of pay protection is between 2 and 3 years. One trust has established 9 months for relatively new staff

<b>18. Preceptorship incremental fast-track</b>	For 50 new band 5 appointments = £60k (deferred benefit as pay progression will ultimately be reached unless promotion occurs)
<b>19. Premium sick pay</b>	Sickness absence paid a plain rate = £100k
<b>20. Recruitment and retention premia (RRP)</b>	Removal of RRP after protection = £50k
<b>21. Reduction in working week (and income)</b>	10% reduction in working week - equivalent to 250 staff = 3.75 hours for non-medical staff; notional 4 hours per consultant Total pay cost value = £14m
<b>22. Redundancy payments</b>	Current position where redundancy costs average between 1 to 2 years of salary costs given typical length of service plus early-retirement financial commitments
<b>23. Remuneration for extra clinical work</b>	Charges for undertaking extra clinical work (eg Waiting List Initiative)
<b>24. Sickness absence (short term)</b>	2 days of sickness benefit unpaid where average 8 days per person per year @ £150 per day = £750k Assumes no change in sickness rate – where it reduces, savings made on reduced cover
<b>25. Sickness absence (new staff and long term)</b>	Reduce sick pay for new staff and long term benefits from 6 months full and 6 months half pay after 5 years' service to 50% of the value  On the basis of 10% turnover – 250 new staff who currently take 10 days sick pay (£0.5m) and 30 staff on very long term sick (£400k)
<b>26. Supporting Professional Activities (SPAs)</b>	Reduce time spent on SPA activity – PA rate valued at £10k plus employer costs  SPA average = 2.5 PAs therefore savings or capacity creation of 0.5 PAs x 150 consultants = £1.8m
<b>27. Temporary staffing rates</b>	10% reduction in £10m total spend = £1m
<b>28. Unsocial hours allowances</b>	Estimated total unsocial hours payments = £4m 10% reduction in unsocial hours payments - £400k

**Notes:**

- The currency has been modelled on a sample typical trust employing c3.5k staff with average levels of HR KPIs (10% vacancy and turnover, 4% sickness absence, 10% of workforce spend on temporary staff rates)
- Extended hours, reduced annual and sick leave, and increased attendance all reduce the need for cover for a proportion of staff (mostly clinical).

With regard to the national negotiations on Agenda for Change (and assuming that it is possible to negotiate local arrangements to deliver them) the sample typical trust employing 3,500 staff could make the following savings (optimistic evaluation and requires verification) on an annual recurring basis:

PROPOSAL	SAVINGS
<b>Unsocial hours sick pay</b>	£100k
<b>Managers' terms and conditions</b>	Unquantifiable at this stage – savings to be made
<b>Preceptorship</b>	£50k (cash flow benefit)
<b>Increments and performance</b>	£200k
<b>TOTAL</b>	£350k (including cash flow benefit)

The SWC has indicated that it could save over 6,000 jobs through a more “fit for purpose” system of pay and conditions and thereby deliver on trusts’ service obligations. Inevitably some changes which involve increasing workforce productivity through reducing unit labour costs would also involve reducing the need for posts (not recruited). Any changes could also be on a temporary basis, while time is taken to develop and implement strategic interventions – such as service rationalisations and M&A – which deliver financial as well as service benefits.

## **7. THE POTENTIAL CASE FOR CHANGE**

This discussion paper does not in itself advocate any specific changes – and the accompanying paper will help quantify whether and/or to what extent changes to pay, terms and conditions are necessary. Set out below is the overall proposition to outline what case could be made at national or any other level to change terms and conditions:

- a) Provides an opportunity to create the right flexible pay system which can reward those that perform and promote recruitment and retention
- b) Recognises that the classic approach of reducing payroll costs through marginal activity is a diminishing return
- c) Allows an open and transparent discussion with staff about the financial and service challenges ahead
- d) Provides an opportunity to establish a system for whole organisation bonuses
- e) Gives greater job security and enhanced investment in professional development and skills
- f) Makes NHS employers more competitive – and therefore more viable and successful in the interests of staff and patients
- g) Supports the NHS in continuing to offer comprehensive healthcare, free at the point of use
- h) Means that “fit for purpose” NHS employee benefits which do not jeopardise recruitment and retention
- i) Provides an opportunity to accommodate trade unions’ concerns about the current pay systems in line with the governing principles
- j) Recognises that the current system has not fulfilled the ambitions and governing principles originally intended
- k) Provides an opportunity to rectify the unplanned and unintended consequences from the originally designed pay reforms – lessons learnt from implementation.

## 8. QUESTIONS FOR DISCUSSION

- A. Do the Agenda for Change principles still stand as those governing the SWC's approach?
- B. Does the SWC want to propose a model for a brand new set of pay and conditions or make specific proposals to change the existing national terms and conditions whilst maintaining its broad structure and value?
- C. Does the SWC want to consider recommending making changes on a temporary basis?
- D. What could NHS employers offer in exchange for changes to terms and conditions?
- E. Are there any other labour cost compressors which could be considered in the long list?
- F. How can the SWC's commitment to undertake an equality impact assessment be fulfilled?
- G. Could the SWC address other workforce issues, such as the allocation of education and training funding or the procurement of staffing supply (e.g. agency staffing) where possible in partnership with the trade unions and professional associations?
- H. What criteria (over and above the principles) should be used to select what to recommend if the economic, financial and service case states that it is necessary?

## 9. REFERENCES

These references have been collated in support of both this paper and the accompanying one which addresses the economic, financial and service challenges.

<b>PUBLICATION</b>	<b>SOURCE</b>	<b>DATE</b>	<b>LINK</b>
<b>Forecasts for the UK economy</b>	HM Treasury	July 2012	<a href="http://www.hm-treasury.gov.uk/d/201207forcomp.pdf">http://www.hm-treasury.gov.uk/d/201207forcomp.pdf</a>
<b>NHS Staff engagement guidance and on-line toolkit</b>	NHS Employers	2012	<a href="http://www.nhsemployers.org/EmploymentPolicyAndPractice/staff-engagement/Pages/Staff-Engagement-And-Involvement.aspx">http://www.nhsemployers.org/EmploymentPolicyAndPractice/staff-engagement/Pages/Staff-Engagement-And-Involvement.aspx</a>
<b>NHS and social care funding – the outlook to 2021/22</b>	Nuffield Trust	July 2012	<a href="http://www.ifs.org.uk/publications/6228">http://www.ifs.org.uk/publications/6228</a>
<b>NHS foundation trusts: consolidated accounts 2011/12</b>	Monitor	July 2012	<a href="http://www.monitor-nhsft.gov.uk/home/browse-category/reports-nhs-foundation-trusts/nhs-foundation-trusts-review-and-consolidated-acc">http://www.monitor-nhsft.gov.uk/home/browse-category/reports-nhs-foundation-trusts/nhs-foundation-trusts-review-and-consolidated-acc</a>
<b>Securing the financial sustainability of the NHS</b>	National Audit Office	July 2012	<a href="http://www.nao.org.uk/publications/1213/nhs_financial_sustainability.aspx">http://www.nao.org.uk/publications/1213/nhs_financial_sustainability.aspx</a>
<b>The economic impact of local and regional pay in the public sector</b>	TUC/NEF	July 2012	<a href="http://www.tuc.org.uk/tucfiles/345.pdf">http://www.tuc.org.uk/tucfiles/345.pdf</a>

<b>Fiscal sustainability report</b>	Office for Budget Responsibility	July 2012	<a href="http://budgetresponsibility.independent.gov.uk/fiscal-sustainability-report-july-2012/">http://budgetresponsibility.independent.gov.uk/fiscal-sustainability-report-july-2012/</a>
<b>The austerity debates</b>	Reform	July 2012	<a href="http://www.reform.co.uk/resources/0000/0435/120718_The_Austerity_Debates.pdf">http://www.reform.co.uk/resources/0000/0435/120718_The_Austerity_Debates.pdf</a>
<b>Pay circular (medical and dental) 1/2012</b>	NHS Employers	June 2012	<a href="http://www.nhsemployers.org/Aboutus/Publications/Documents/Pay-Circular-MD-1-2012.pdf">http://www.nhsemployers.org/Aboutus/Publications/Documents/Pay-Circular-MD-1-2012.pdf</a>
<b>NHS staff earnings estimates – Jan to March 2012</b>	NHS Information Centre	June 2012	<a href="http://www.ic.nhs.uk/webfiles/publications/010_Workforce/nhsstaffearningsjanmar2012/Earnings_Bulletin_Jun_12.pdf">http://www.ic.nhs.uk/webfiles/publications/010_Workforce/nhsstaffearningsjanmar2012/Earnings_Bulletin_Jun_12.pdf</a>
<b>Monthly NHS hospital and community health service – workforce statistics March 2012 (provisional)</b>	NHS Information Centre	June 2012	<a href="http://www.ic.nhs.uk/statistics-and-data-collections/workforce/nhs-staff-numbers/monthly-nhs-hospital-and-community-health-service-hchs-workforce-statistics-in-england-march-2012-provisional-statistics">http://www.ic.nhs.uk/statistics-and-data-collections/workforce/nhs-staff-numbers/monthly-nhs-hospital-and-community-health-service-hchs-workforce-statistics-in-england-march-2012-provisional-statistics</a>
<b>Proposals to change Agenda for Change</b>	NHS Staff Council	June 2012	<a href="http://www.nhsemployers.org/PayAndContracts/AgendaForChange/Pages/NHSTradesUnionsConsultonProposalonAgendaforChange.aspx">http://www.nhsemployers.org/PayAndContracts/AgendaForChange/Pages/NHSTradesUnionsConsultonProposalonAgendaforChange.aspx</a>
<b>Rising to the Nicholson challenge</b>	Reform	June 2012	<a href="http://www.reform.co.uk/resources/0000/0405/120616_Slides.pdf">http://www.reform.co.uk/resources/0000/0405/120616_Slides.pdf</a>
<b>Thinking about rationing</b>	King’s Fund	May 2012	<a href="http://www.kingsfund.org.uk/publications/rationing.html">http://www.kingsfund.org.uk/publications/rationing.html</a>
<b>Labour market outlook – Spring 2012</b>	CIPD	May 2012	<a href="http://www.cipd.co.uk/hr-resources/survey-reports/labour-market-outlook-spring-2012.aspx">http://www.cipd.co.uk/hr-resources/survey-reports/labour-market-outlook-spring-2012.aspx</a>
<b>Education, training and workforce planning report</b>	Health Select Committee	May 2012	<a href="http://www.publications.parliament.uk/pa/cm201213/cmselect/cmhealth/6/602.htm">http://www.publications.parliament.uk/pa/cm201213/cmselect/cmhealth/6/602.htm</a>
<b>Healthy efficiency: the NHS and public service reform</b>	Reform	May 2012	<a href="http://www.reform.co.uk/content/13769/research/health/healthy_efficiency_the_nhs_and_public_service_reform">http://www.reform.co.uk/content/13769/research/health/healthy_efficiency_the_nhs_and_public_service_reform</a>
<b>Leadership and engagement for improvement in the NHS</b>	King’s Fund	May 2012	<a href="http://www.kingsfund.org.uk/publications/leadership_review_12.html">http://www.kingsfund.org.uk/publications/leadership_review_12.html</a>

<b>Budget 2012</b>	Treasury	March 2012	<a href="http://www.hm-treasury.gov.uk/budget2012_documents.htm">http://www.hm-treasury.gov.uk/budget2012_documents.htm</a>
<b>Chancellor's letter to Pay Review Bodies and Government economic evidence</b>	Treasury	March 2012	<a href="http://www.ome.uk.com/Article/Detail.aspx?ArticleUId=a782b32d-b08b-423b-8061-361211188711">http://www.ome.uk.com/Article/Detail.aspx?ArticleUId=a782b32d-b08b-423b-8061-361211188711</a>
<b>Budget 2012 and the NHS workforce</b>	NHS Employers	March 2012	<a href="http://www.nhsemployers.org/PayAndContracts/Pages/Budget2012AndTheNHSWorkforce.aspx">http://www.nhsemployers.org/PayAndContracts/Pages/Budget2012AndTheNHSWorkforce.aspx</a>
<b>Submission to the Pay Review Body on market facing pay</b>	NHS Employers	March 2012	<a href="http://www.nhsemployers.org/Aboutus/Publications/Documents/Submission-to-the-NHS-Pay-Review-Body-on-market-facing-pay.pdf">http://www.nhsemployers.org/Aboutus/Publications/Documents/Submission-to-the-NHS-Pay-Review-Body-on-market-facing-pay.pdf</a>
<b>Pay circular (Agenda for Change) 2/2012</b>	NHS Employers	March 2012	<a href="http://www.nhsemployers.org/Aboutus/Publications/PayCirculars/Documents/Pay_Circular_AfC_2-2012.pdf">http://www.nhsemployers.org/Aboutus/Publications/PayCirculars/Documents/Pay_Circular_AfC_2-2012.pdf</a>
<b>NHS terms and conditions of service handbook (Agenda for Change)</b>	NHS Staff Council	Feb 2012	<a href="http://www.nhsemployers.org/SiteCollectionDocuments/AfC_tc_of_service_handbook_fb.pdf">http://www.nhsemployers.org/SiteCollectionDocuments/AfC_tc_of_service_handbook_fb.pdf</a>
<b>Delivering sustainable cost improvement programmes</b>	Monitor/Audit Commission	Jan 2012	<a href="http://www.monitor-nhsft.gov.uk/cips">http://www.monitor-nhsft.gov.uk/cips</a>
<b>Public expenditure</b>	Health Select Committee	Jan 2012	<a href="http://www.publications.parliament.uk/pa/cm201012/cmselect/cmhealth/1499/149902.htm">http://www.publications.parliament.uk/pa/cm201012/cmselect/cmhealth/1499/149902.htm</a>
<b>Total reward in the NHS</b>	NHS Employers	Nov 2011	<a href="http://www.nhsemployers.org/Aboutus/Publications/Documents/Total_reward_101111.pdf">http://www.nhsemployers.org/Aboutus/Publications/Documents/Total_reward_101111.pdf</a>
<b>Location based pay differentiation</b>	Unison/IDS	Sept 2011	<a href="http://www.unison.org.uk/file/IDS%20research%20paper%20for%20UNISON%20FINAL%2016%2009%2011%20(2).pdf">http://www.unison.org.uk/file/IDS%20research%20paper%20for%20UNISON%20FINAL%2016%2009%2011%20(2).pdf</a>
<b>A decisive decade – mapping the future NHS workforce</b>	RCN	July 2011	<a href="http://www.rcn.org.uk/_data/assets/pdf_file/0004/394780/004158.pdf">http://www.rcn.org.uk/_data/assets/pdf_file/0004/394780/004158.pdf</a>
<b>Equity and excellence: liberating the NHS White Paper (“Valuing Staff” pages 40-41)</b>	Department of Health	July 2010	<a href="http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_117353">http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_117353</a>
<b>Terms and conditions:</b>	Department of	Sept	<a href="http://www.nhsemployers.org/PayA">http://www.nhsemployers.org/PayA</a>

<b>Consultants (England)</b>	Health	2009	<a href="#">ndContracts/MedicalandDentalContracts/ConsultantsAndDentalConsultants/Pages/Consultants-Homepage.aspx</a>
<b>Effect of Agenda for Change on career progression of the radiographic workforce</b>	Society of radiographers	July 2009	<a href="http://www.sor.org/learning/document-library/effect-agenda-change-career-progression-radiographic-workforce-2009">http://www.sor.org/learning/document-library/effect-agenda-change-career-progression-radiographic-workforce-2009</a>
<b>NHS pay modernisation in England: Agenda for Change</b>	Audit Commission	Jan 2009	<a href="http://www.nao.org.uk/publications/0809/nhs_pay_modernisation.aspx">http://www.nao.org.uk/publications/0809/nhs_pay_modernisation.aspx</a>
<b>NHS workforce planning – limitations and possibilities</b>	King’s Fund	2009	<a href="http://www.nhshistory.net/NHS_Workforce_Planning[1].pdf">http://www.nhshistory.net/NHS_Workforce_Planning[1].pdf</a>
<b>Pay Modernisation: A new contract for NHS consultants in England</b>	National Audit Office	April 2007	<a href="http://www.nao.org.uk/publications/0607/pay_modernisation_a_new_contract.aspx">http://www.nao.org.uk/publications/0607/pay_modernisation_a_new_contract.aspx</a>
<b>Assessing the New NHS Consultant Contract - A something for something deal?</b>	King’s Fund	May 2006	<a href="http://www.kingsfund.org.uk/publications/assessing_the.html">http://www.kingsfund.org.uk/publications/assessing_the.html</a>

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