



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

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HSE HR Circular 003/2009

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**To: Each Member of Management Team, HSE;
Each Assistant National Director, PCCC, HSE;
Each Assistant National Director, NHO, HSE;
Each Employee Relations Manager, HSE;
Each LHO Manager, PCCC, HSE;
Each Hospital Network Manager, NHO, HSE.**

Matching Working Patterns to Service Needs
(Extended Working Day / Week Arrangements)
Framework for Implementation of Clause 30.4 of Towards 2016

Dear Colleague

Agreement has been reached with the health service trade unions on arrangements to facilitate the introduction of an extended working day / week in the HSE and HSE funded agencies. The Agreement will enable the delivery of services outside of traditional 9 – 5 pattern to an extended span of the working day (typically 8am – 8pm) and at weekends.

The Agreement, referred to as the Framework Agreement, is concluded in accordance with the provisions of Clause 30.4 of Towards 2016.

The Framework Agreement provides a process for the introduction of an extended working day / week on a structured / planned basis within the basic weekly contracted working hours of employees.

Eligibility

The terms of the Framework Agreement will apply to new entrants, staff appointed to promotional posts and staff on renewed temporary contracts, on or after the 16 December 2008.

The participation of existing employees (employees in situ on 15 December 2008) on the extended working day / week arrangement will be on a voluntary basis.

Contract of Employment

New entrants to the HSE and HSE funded agencies from 16 December 2008 and employees promoted to a promotional post, including the renewal of temporary contracts from the same date, will have the following wording inserted into contracts of employment / letters of upgrade:

“You will be required to work the agreed roster / on call arrangements advised to you by your line manager. Your contracted hours of work are liable to change between the hours of 8am – 8pm over

seven days to meet the requirements for extended day services in accordance with the terms of the Framework Agreement.”

The pay and other terms and conditions of employment will be those which apply at local and national level in respect of their category at the time of their appointment, subject to changes agreed through collective bargaining.

Category Based Discussions

A key component of the Framework Agreement concerns category based discussions. The purpose of category discussions is to give an indication to the trade unions of the type of services which could be the subject of an extended service and to provide clarification on matters at a national level that would have relevance to local discussions as they relate to a particular category / categories.

At the time of the Framework Agreement, some category discussions were still continuing or nearing completion.

Process

The Framework Agreement will require local managers to inform the joint secretaries of the Health Service National Joint Council (NJC) of their intention to begin discussions with trade union representatives on agreeing an extension of the working day / week for a category / categories of staff in accordance with the provisions of the Framework Agreement.

The joint secretaries of the NJC will require evidence of category based discussions at a national level.

The Framework Agreement also provides for a dispute resolution process to assist the timely introduction of an extended working day / week.

Finally, the Framework Agreement is attached including a summary guideline for ease of reference. It is important that the process outlined within the Framework Agreement is strictly adhered to and any enquires or assistance should be addressed to the Industrial Relations Division of the HSE – Employers Agency, 63-64 Adelaide Road, Dublin 2; telephone 01-6626966.

Yours sincerely,



Sean McGrath
National Director of Human Resources

Encl

Working Arrangements for Implementation of Clause 30.4 of T2016

The terms of Clause 30.4 of T2016 are as follows:

Matching Working Patterns to Service Needs

It is agreed that the need for change in existing work patterns (i.e. the working day/week) is essential in the case of the Health Sector given the nature of services and the need to maximise the usage of facilities, thereby enabling the delivery of services outside the traditional patterns which are more accessible to patients and other users.

It is accepted that different working patterns will be required in different parts of the Service. While the standard working week of many health staff will remain unchanged it is accepted that there is a need to move from the traditional 9-5 “office hours” based service to an extended span of the working day across all disciplines in certain areas. These needs can be met by a combination of existing staff opting to work new arrangements, flexible working and the recruitment of new entrants on the basis of the extended working day.

Discussion will be held between the parties to give effect to this commitment. These discussions will commence immediately and the parties have agreed to have them concluded by 31st March 2007, in order to make possible the progressive introduction thereafter of the extended working day where required and as the numbers become available from serving staff opting to work the extended day and new entrants.

The Public Service Monitoring Group and the Public Service Sub-Group of the National Implementation Body will be available to assist the parties.

The parties agree to explore how any implications of such changes might be accommodated with particular regard to the incoming work of the Public Service Benchmarking Body and the operation of this Agreement.

Terms of Framework Agreement

General Principles Governing the use of Clause 30.4

The critical purpose put forward by management for extending the hours of service to provide additional hours of planned or identified cover in any sphere of the Health Services is to make the best use of available resources, staff and capital, to meet the needs of the users of the service. There are many examples where, through local discussions, working patterns have already been altered to

meet service needs and to achieve a better distribution of attendance patterns to match operational requirements. Some of these local arrangements, including examples related to pilot development projects, resulted in hours of work which have extended the norm within the sector in terms of the working day and/or the working week. Other changes were related to the streamlining of resources rather than an extension of service cover.

It is clear at this point, that there are a number of significant changes required and imminent in the delivery of services in the HSE which are at such a level in terms of the potential consequences for service delivery and staff, that the patchwork approach of normal local discussions will be insufficient to deal with the issues. Equally, the Radiographers existing agreement for extending core hours of service cover to 8-6, demonstrates that the extent to which extended hours agreements are taken up at local level can vary considerably, even when the opportunity to extend cover on a planned basis is agreed nationally.

The need for pilot projects which test models of service provision will continue. The need for re-alignment of existing rostering arrangements for a particular category or group in a location will continue to arise from time to time. National agreements such as the reduced working week agreement for nurses will result in discussions around attendance patterns. People opting in and out of on-call systems results in local and ongoing adjustment and change, and will continue to do so.

The difference between the process of ongoing, albeit sometimes contentious change as exemplified above and the terms of Clause 30.4 is the necessity, in some cases urgent, to put in place working patterns which support the implementation of specified strategies for change, which are Nationally determined and locally delivered.

In the current round of discussions these have been identified as :

Implementation of the Transformation Programme

Implementation of the National Cancer Strategy

Implementation of the Revised Consultants Contracts

Implementation of Health Legislation

It is recognised that this list may be extended as change continues in the HSE.

It is also recognised that from time to time an emergency or crises situation will arise and such unforeseen and unplanned events will continue to be addressed in the normal manner at local or national level, as the case may be, and without recourse to the protocols set out for the implementation of planned measures for extending services under Clause 30.4.

The first Principle governing the use of Clause 30.4 in all negotiations, locally and nationally, will be that the application of the Clause will be to support the implementation of HSE Strategies,

Government Policies, Collective Agreements and Health Legislation which has the aim of improving access to, availability and quality of services to the Public.

In spite of assurances from management representatives during these discussions, employee representatives continue to express a real concern that local planning will be driven by local managers and key senior staff, for purposes which are not based on sustainable planning and which will not be related to any tangible improvement in service provision. This is a concern that can only be met by defining the context of the local planning and negotiating processes which will follow on from the implementation of the Framework Agreement at local level.

The second Principle will be that in bringing forward proposals for the implementation of Clause 30.4, nationally and locally, management must be able to link the proposals to a specific HSE Strategy, Govt Policy, Collective agreement or Health Legislation, and to demonstrate that the particular initiative is designed, when implemented, to achieve the aim of improving access to and availability and quality of services to the Public.

Much has been made of the correct interpretation of the terms of Clause 30.4 in respect of the service hours which can be included in any service planning to extend service provision to meet the needs of users i.e. the public in the context of the various drivers of change. There can be no doubt that the unions did not sign up for a universal 5 over 7 model of service delivery across all of the services. Such a development could have huge implications across the Health Services and raise unnecessary anxiety among whole categories of employees. Nonetheless, it is not reasonable or feasible to say that all service access improvements can only be planned on a Monday to Friday basis. The terms of Clause 30.4 are entitled 'Matching service needs'. The opening sentence of the agreed Clause states: 'It is agreed that the need for change in existing work patterns (i.e. the working day/week) is essential...' Illness and client support demands cover when it is needed. The terms of the Clause set the context for the Agreement and must have some meaning. Equally, the extension of planned and even some on call cover to provide weekend availability will almost certainly lead to a need for increased resources. And in some instances, the demand for increased access at weekends will be real but will be at a level which can be adequately met through on call arrangements.

The third Principle is that planning for extending service provision beyond Monday to Friday is not precluded by Clause 30.4 but any planning process which includes the extension of cover to weekends must have particular regard to resource implications and any consideration of roster

arrangements should be flexible in terms of addressing real service demand and not be confined to fixed roster patterns such as 5/6 or 5/7.

New Entrants:

Existing contracts across all categories generally do not specify the hours of attendance but do contain the weekly hours of work. Many contracts contain a provision to the effect that the hours of attendance will be those advised by the appropriate line manager. In some locations, as a result of negotiations, dual rosters apply i.e. as between staff pre and post a local agreement and in such cases the contract for the newer employees is likely to contain a provision requiring them to work patterns that include, for example, 5/6 or 5/7 rostering.

What is required in the case of all new entrants to the HSE in the future is a provision which requires them to work the rosters necessary to deliver the extended services as set out in the Principles Clause. This does not prohibit managers at local level seeking to revise existing work patterns for existing and new employees through the normal dialogue and procedures which have applied at local and national level for many years e.g. in the context of eliminating overtime.

With effect from 16 December 2008, contracts for all new employees of the HSE, including those on renewed temporary contracts, will contain the same provision as for current permanent employees in the particular category and location, with the added stipulation that the particular employee will be liable to work such roster and on call arrangements as may be necessary to fulfil service needs on a 24/7 basis, including hours outside of 9 – 5 (generally 8 to 8 – am to pm) and at weekends. The roster arrangements will be those that are required at the time of their employment or at the time of renewal of their contract, and any subsequent rosters as are agreed from time to time at local or national level, and are liable to change, with due notice.

Pay and terms of employment – new recruits

The pay and other terms of employment for new recruits will be those which apply at local and national level in respect of their category at the time of their appointment, subject to changes agreed through collective bargaining.

Existing employees as at 15 December 2008

The terms of Clause 30.4 draw a clear distinction between existing and new employees, in terms of the voluntary nature of their participation in any revised working arrangements which follow from the implementation of the Clause. Nonetheless, it is clear that without the participation of a sufficient number of existing staff in revised work patterns, progress on the provision of extended services on a planned basis will be slow, primarily due to the projected slow rate of recruitment and low turnover of staff for the foreseeable future. The reassurances to existing staff regarding the voluntary nature of their participation, does not prevent managers including the existing staff in the planning process and seeking their participation in revised working arrangements in order to provide the numbers necessary to facilitate the changes in service provision.

Some clarification is required regarding the obligations of existing staff (as of 15th December 2008) to work extended hours under the terms of Clause 30.4 together with those appointed to promotional positions after 15th December 2008 as well as those who transfer in recruitment grades:

The participation of staff in all grades in the employment of the HSE on 15 December 2008, (including temporary staff on existing contracts) in working arrangements following on from the implementation of Clause 30.4, will be on a voluntary basis with the following exceptions:

- a. Those covered by an overriding local or national collective agreement e.g. previously locally agreed roster arrangements and Consultant contracts
- b. Those employed on new temporary contracts on or after 16 December 2008. The inclusion of an extended hours commitment in a renewed temporary contract, will not, of itself, be used as grounds to deny a person a CID where they would otherwise qualify for the CID by application of the provisions of the Fixed Term Work Act, 2003.
- c. Those who are appointed to a promotional post in a location where there are agreed local/operative arrangements for providing an extended hours service
- d. Those who are appointed to a promotional post in any location in the HSE and take up their post after 15 December 2008 will have a liability to participate in an extended hours service, where agreement is reached on the provision of such services after their appointment and where a need for their participation in such revised rosters is identified.
- e. The terms of clause D will not apply to those employed by the HSE who move at the same grade within 26 weeks to another location within the HSE except in circumstances where there are agreed local/operative arrangements for providing an extended hours service already in place.*

Pay and conditions of employment of existing staff.

The terms and conditions of existing employees will be those that exist through local and collective agreements at the time of their moving to revised working arrangements in line with Clause 30.4

Local Discussions

While there are national policies, strategies and legislative requirements, which when implemented, will improve the access of the public to vital services, the translation of these services into reality is the function of local management and planning with the support and influence of practitioners and staff representatives.

Discussions and negotiations at local level must take place in the context of the service requirements as determined nationally and the terms of the Framework Agreement.

Following any necessary consultation with practitioners, including line managers, the relevant management will present a plan to staff for the extension of services outside of the current working patterns, or by extension of existing agreed working patterns. At the same time the relevant HR practitioner will notify the appropriate union official/s of the intention to utilise Clause 30.4.

Each plan will contain:

The strategic/policy/legislative basis for the plan.

Any analysis of need/demand which underpins the plan.

The objective of the plan in improving access to service

Any information on cost benefits

Costings for the plan

Impact on human resources-numbers/rosters/earnings across all disciplines

How the plan will be resourced

The minimum number of staff required in each grade to facilitate implementation of the plan

The terms of the plan will then be subject to negotiation and agreement at local level. Once a plan is implemented, it shall be subject to review at local level after 1, 2 and 3 years using the following criteria:

Effectiveness relative to objectives

User satisfaction

Costs

Assessment of continuing need and/or adaption of the agreed arrangements

The outcome of each review shall be presented to staff / staff representatives and may provide a basis for further discussions with staff, if required by management or staff.

Affirmation/Dispute Resolution

It is agreed that a focussed system for dispute resolution, outside of normal procedures would be beneficial. There are previous models at national level. To deal with these particular disputes it is proposed that there be a local negotiation stage, and if necessary a central mediation stage involving practitioners from the specific speciality, and finally, if necessary, a formal decision making stage

The Secretary of the Staff panel and a person designated by the HSE shall be informed by the relevant manager of the intention to trigger the terms of Clause 30.4 in line with the Framework Agreement and shall also be advised when local agreement is reached. If local agreement is not reached within twenty one days either party may seek the intervention of the Joint Review Group.

Where agreement is not reached at local level, either side may seek the intervention of a Joint Review Group comprising two management and two staff representatives (with flexibility to extend the number where more than one union is involved.) Each side shall include at least one person from the relevant discipline.

The joint review group will assess the proposals and endeavour to assist the parties to reach an agreement within twenty one days of referral.

In the event that the joint review group decides that they cannot resolve the matters in dispute, they shall refer those issues to an agreed third party who shall hear the dispute and issue proposals to both sides within twenty one days of the referral. Co-ordination arrangements for the referral stages shall be put in place through the HSE-EA. The adjudicator may seek the views of the joint review group prior to issuing any recommendations.

* The terms of this Framework Agreement will apply to the Voluntary Hospitals.

Category Discussions

Category discussions have completed stage two in respect of Therapists, Medical Laboratories, Radiographers and Community General Nurses. Second stage meetings are planned for Psychiatric Nurses, Social Workers and Pharmacists and Biochemists. Other

categories identified for special consideration where they do not currently have a practice of working rostered extended hours will be included in this process at the request of their Unions(s) and / or management.

These meetings are examining models for implementing extended service provision and implications for each category. This information, including the National issues raised at the category meetings is to be reviewed by management representatives with a view to deciding how best to move forward with each category. From the analysis in respect of each category it is clear that some categories will benefit financially from a move to premium earnings while others would experience losses if their system for payment were to be streamlined to coincide with the standard premium arrangements which apply nationally to grades who do provide a 24/7 service.

With a view to enabling the framework discussions to move to local level, it is recommended that the process of category discussions continues, with a view to reaching conclusions in respect of each category no later than December 15th 2008. The issue of loss of earnings will be examined in each category where it arises and may be referred back to the staff panel/management forum at a meeting on 15th December, at the discretion of the facilitator. Any other issue which is common to more than one grade and which remains unresolved will also be referred to that meeting.

Janet Hughes

15 December 2008

Matching Working Patterns to Service Needs (Extended Working Day / Week Arrangements)

Framework for Implementation of Clause 30.4 of Towards 2016

These guidelines should be read in conjunction with the Framework Document ‘*Working Arrangements for Implementation of Clause 30.4 of T2016*’

Context

The need to match working patterns to service needs was as set out in Clause 30.4 of *Towards 2016*.

The terms of this clause committed the parties to agreeing changes in the existing work patterns of staff, thereby enabling the delivery of services outside the traditional 9-5 pattern to an extended span of the working day and working at weekends.

Following a period of facilitated discussions held over a number of months the parties have now reached an overarching Framework agreement, which sets out a protocol governing the principles (*see pages 3/4 of the Framework Agreement*), processes and time frame for discussion at local level on changing existing work patterns in order to match service needs. A dispute resolution procedure has also been agreed where agreement cannot be reached locally.

The agreement does not prohibit managers seeking to revise existing work patterns for existing and new employees in the normal manner at local or national level, as the case may be and without recourse to the protocols in this agreement.

Applicability

With effect from 16 December 2008, contracts for all new entrants, existing staff appointed to a promotional post and staff on renewed temporary contracts in the HSE and Voluntary Hospitals should include the following stipulation (*See pages 4/5 of the Framework Agreement*): -

‘You will be required to work the agreed roster/on-call arrangements advised to you by your line manager. Your rostered hours of work are liable to change between the hours of 8am – 8pm over 7 days to meet the requirements for extended day services.

Pay and Terms of Employment – new entrants:

The pay and other terms of conditions of employment will be those which apply at local and national level in respect of their category at the time of their appointment, subject to changes agreed through local collective bargaining.

Existing Staff

As per the terms of *Towards 2016* the participation of staff in extended working arrangements will be on a voluntary basis. Where the need to extend services has been identified management can seek expressions of interest from existing staff to opt to work the new arrangements. (*See pages 6/7 of the Framework Agreement*)

Process for Initiating changes to existing working arrangements locally

A focussed system for dispute resolution outside of normal procedures with the following three stages has been agreed:

- | | |
|-----------------------|--|
| 1 st stage | Local Negotiations (21 Days) |
| 2 nd stage | Central Mediation – Joint Review Group (21 Days) |
| Final stage | Formal Decision-Making – Adjudicator (21 Days) |

Local Discussions (1st Stage)

The Joint Secretaries of the NJC must be advised by local management of their intention to trigger the terms of the Framework Agreement and also advise when agreement has been reached.

Local discussion should be initiated immediately where the requirement to extend the working day/week to improve access of the public to vital services has been identified. *(See Pages 7/8 of the Framework Agreement)*

Following consultation with relevant personnel, management should present a plan for the extension of services outside current working patterns to the staff.

Each plan should contain the following:-

- ❖ The strategic/policy/legislative basis for change
- ❖ An analysis of the need/demand, which underpins the plan.
- ❖ The objective of the plan in improving access to service
- ❖ Any information on cost benefits
- ❖ Costings for the plan
- ❖ Impact on human resources - numbers/rosters/earnings across all disciplines
- ❖ How the plan will be resourced
- ❖ The minimum number of staff required in each grade to facilitate the implementation of the plan

Where agreement cannot be reached at local level within 21 days either side may seek the intervention of a Joint Review Group.

The Joint Review Group consists of 2 staff representatives and 2 management representatives including 1 representative from the relevant discipline on both sides

Affirmation (2nd Stage)

The Joint Review Group will assess the proposals and endeavour to assist the parties within 21 days of referral. *(See Pages 8/9 of the Framework Agreement)*

Dispute Resolution (Final Stage)

If the Joint Review Group cannot resolve the matter, they can refer matters in dispute to an agreed third party adjudicator who will hear the dispute and issue proposals to both sides within 21 days of the referral. *(See Page 9 of the Framework Agreement)*

Post Implementation (See Page 8 of the Framework Agreement)

Once implemented the arrangements should be reviewed locally after 1, 2 and 3 years using the following criteria:-

- Effectiveness relative to objective
- User satisfaction
- Costs
- Assessment of continuing need/adoption of agreed arrangements