



NATIONAL AMBULANCE STRATEGIC PARTNERSHIP FORUM IMPLEMENTATION OF NATIONAL AGREEMENT ON ANNUAL LEAVE AND OVERTIME

FREQUENTLY ASKED QUESTIONS – AMBULANCE SECTOR

These FAQs should be read in conjunction with the national agreement and other nationally published guidance.

<https://www.nhsemployers.org/pay-pensions-and-reward/nhs-terms-and-conditions-of-service---agenda-for-change/nhs-terms-and-conditions-of-service-handbook/overtime-payments-and-pay-during-annual-leave>

These FAQs cover areas not explicitly covered in the national FAQs or those specific to the ambulance sector approach to implementation. The English Ambulance Trusts and the NASPF are committed to consistency of implementation and these FAQs support that goal.

The FAQs relate specifically to the corrective payments for financial years 2019-2021. There are ongoing discussions regarding how holiday pay will be calculated moving forward.

WHEN WILL PAYMENTS BE MADE?

The English Ambulance Trusts are planning to make payments between July and August. This will allow time for the impact of equality issues such as maternity to be looked at in advance.

EQUALITY IMPACTS

I have been on maternity leave during the period of time covered by the corrective payments period how will this affect me?

We recognise that there may be occasions where pregnancy, pregnancy related illness or maternity leave impacts on someone's ability to meet the eligibility criteria in the agreement (overtime paid in 4 months out of 12 in each financial year covered) and that might affect whether a corrective payment is made. As pregnancy is a protected characteristic we intend to adjust the criteria in these circumstances to overtime having been paid in 2 months out of the twelve months where maternity or pregnancy has impacted on that financial year.

In practice this could mean the following:

- If you have become pregnant in July 2020 and commenced maternity leave later that year. Your eligibility for payment for 2019-20 would be overtime paid in 4 months in that 12 months period because this was unaffected by pregnancy. Your eligibility for payment would be overtime paid in 2 months in that 12 month period during 2020-21 because of the impact of your pregnancy
- If you become pregnant in September 2019 and commence maternity leave in 2020 both years will be affected and the 2 in 12 eligibility would be applied for both years.

The aim will be for Trusts to proactively review those who have taken maternity leave or been affected by pregnancy and to apply the adjusted criteria in advance of corrective payments being made.

I have been on maternity leave for all of one of the financial years, how will this affect me?

The eligibility criteria will be adjusted to 2 months paid overtime in a 12 month period but if you have been absent for the whole year no overtime will have been paid, so you would not qualify for a corrective payment for that year.

When I became pregnant I was moved out of my role onto alternative duties and this has affected how much overtime I have worked?

There may be circumstances where pregnancy has impacted on staff's ability to meet the eligibility criteria. For example, because they have moved out of their normal role onto alternative duties and they have not worked as much overtime as a result. If staff feel that this is the case, this should be raised through the local appeal procedure and the adjusted eligibility criteria of 2 in 12 can be used to review your case. It is very hard for Trusts to identify these individual circumstances from their systems which is why it may not be done prior to payments being made.





I have had a period of long term sickness related to my disability, will this be taken into account?

If you have had periods of absence which are directly related to a disability and this has affected your ability to meet the eligibility criteria then your individual case can be reviewed. Once payments have been made, if you have not met the eligibility criteria in one of the years you will not have received a payment. If you feel that it is because of your absence linked to your disability, then you can ask for your case to be looked at. The process for doing this will be advised to you locally but it will not affect your right to appeal if you feel that the decision made has not fully considered your circumstances.

I have had periods of shielding over the last 12 months related to my disability?

The same process will apply as outlined in the question on long term sickness and disability above.

I didn't work as much overtime as I normally would because of disability/pregnancy, will I be compensated for this?

The purpose of the national agreement is to ensure that you have been correctly paid for periods of annual leave over the last two financial years. The corrective payment is therefore based on ensuring that overtime and additional basic pay

has been taken into account for holiday pay over this period. The national agreement does not compensate for overtime which has not been worked but it does encourage Trusts to look at situations where a protected characteristic has made it more difficult for a member of staff to meet the regularity criteria of overtime being paid in 4 months out of 12 for each year and take action accordingly. You will not therefore be compensated for overtime that you have not worked.

Due to protective characteristics I feel I should be eligible for a corrective payment but under the 2 in 12 adjusted eligibility requirement I do not qualify. What are my options?

The Public Sector Equality Duty means ambulance employers must have due regard to the objective of eliminating discrimination, harassment and victimisation. Equally, employers must consider how they can advance equality of opportunity for all including peoples with protected characteristics as defined by the Equality Act 2010.

The adjusted eligibility requirement of 2 months paid overtime in 12 months is one example of a reasonable adjustment.

If a member of staff falls outside this eligibility criteria for a corrective payment and they feel they are still not deemed eligible due to a protected characteristic they should raise this with their employer. There are local appeals processes in place where staff can request that further equality assessments are made.

Further details on the way appeals processes will operate are provided later in these FAQs.

LEAVERS

I moved to my current Trust during the qualifying period, who will make the corrective payments to me?

If you were working at an ambulance Trust or other NHS Trust on 31st March 2021 you may be eligible for payments. Your current Trust will pay you for the period of time that you have been employed with them. You will need to contact your previous employer for payments related to your previous employment, as your current Trust will not be able to see any of your previous employment records or payments. When you make contact with your previous employer, you may be asked to provide evidence of your employment at 31st March 2021.

You may also be asked to provide evidence of the months in which you have been paid overtime with the other employer to ensure your eligibility can be correctly considered.

I left an ambulance Trust before 31/3/21 and I am now working in a GP practice, will I be eligible for payments?

No, you have to be employed at 31st March 2021 in an NHS organisation which is included in Annex 1 of the national Terms and Conditions handbook and this does not include GP practices or Primary Care Networks.





IMPACT ON OTHER PAYMENTS

Will the back pay impact on my pension?

No, overtime is not pensionable, so the corrective payments will also not be pensionable.

Will my payments be taxed?

Yes. These payments will be subject to tax deductions and national insurance deductions at source.

Will this payment affect state benefits received by staff?

State benefits which depend on national insurance contributions (NICs) may be affected by a corrective payment.

Benefits which do not depend on NICs will not be affected. Members of staff in receipt of state benefits dependent on NICs should contact their benefit provider.

More information on State benefits can be found on www.gov.uk.

APPEALS PROCESS

I do not think my payments are correct, how do I raise this?

Broadly the appeals process will be to deal with the following:

- Where an individual believes that they have been adversely affected as a result of a protected characteristic e.g. disability.
- Where an individual believes that their payment has been incorrectly calculated or the national agreement has not been correctly applied to their individual circumstances.

Who will be involved in looking at my appeal?

This will be for local Trusts to determine but the appeals process will be conducted in partnership with Trade Unions.

OTHER IMPLEMENTATION ISSUES

I have worked overtime in March 2021 but this was not paid until April 2021, will this be taken into account in the corrective payment?

No, the agreement refers to overtime paid in the two previous financial years so the agreement effectively takes into account overtime which has been worked from March 2019 to February 2021 but paid between April 2019 and March 2021.

I have not always submitted my overtime on time, so there are months when I have not been paid overtime. Will this be taken into account?

Local Trusts all have guidance on when overtime claims should be submitted and these will normally require timely submission to ensure payment in the month following overtime being worked. If local arrangements have not been followed by individual staff and this has affected when overtime is paid this will not be taken into account in calculating the payments.

I have already received Bear Scotland payments for shift overruns, will there be any impact on these payments?

Yes, the national agreement makes it clear that any payments which have already been made in relation to annual leave and holiday pay should be offset against corrective payments. This will include the payments which have been made to staff in the ambulance sector to take account of overtime worked as part of shift overruns (these are often known as Bear Scotland payments). Any payments received in the last 2 financial years will therefore be offset.





What happens if I have received Bear Scotland payments for shifts overruns but I am not eligible for a corrective payment, will these payments be recovered?

If staff are not receiving a corrective payment we will not recover Bear Scotland payments as these were paid under an agreement with the NASPF.

I have moved from a bank contract to a substantive contract in my Trust, will my previous work under the bank contract be taken into account?

No, the national agreement does not cover work undertaken under a bank agreement or contract so only overtime worked under your substantive employment contract will be considered for a corrective payment.

I have moved from a substantive contract to a bank contract, will I be eligible for a payment?

If you were employed under bank arrangements on 31st March 2021 you will not be eligible for payments because this is not an employment contract.

