

Seven Day *and* Extended Hours *Services* Resource Pack

Resource Sheet 1: List of contents and introduction

Contents

- **Resource Sheet 1** List of contents and introduction
- **Resource Sheet 2** The Consultation process
- **Resource Sheet 3** Employment and contractual issues
- **Resource Sheet 4** Employer policies
- **Resource Sheet 5** Control of working patterns and time
- **Resource Sheet 6** Pay and staffing levels
- **Resource Sheet 7** Flexibility and self management
- **Resource Sheet 8** Professional and service issues
- **Resource Sheet 9** Further useful resources and FAQs

Introduction

This resource pack is designed to help stewards and managers deal with the challenges posed by the move to greater provision of seven day services across the NHS. It should be read in conjunction with ERUS Briefing IP71, Seven day physiotherapy services: Meeting the Challenges, which includes case studies of good and bad practice.

www.csp.org.uk

Key principles

The CSP welcomes the recent reviews into seven day care, and the identification of standards related to seven day consultant-present care. In particular, the CSP supports the principle that successful care is based on a team approach where a range of clinicians along the care pathway, including physiotherapy staff, contribute to the delivery of a successful outcome for patients. We also believe that changes to existing service organisation should be introduced to have a positive impact on patient care and to improve the quality, timeliness, accessibility and efficiency of service provision. Meeting quality standards is unlikely, in our view, to be cost-neutral.

Changes to service organisation should have a positive impact on patient care, quality, timeliness, accessibility and efficiency of services

The CSP recommends the following key principles in relation to the introduction of seven day working. Services must:

- 1** Be focused on improving the quality of care for patients in terms of outcomes and their experience
- 2** Be based on the principles of integrated service delivery, in the interest of patient care, across teams, professions, settings and sectors
- 3** Ensure good team working and communications, including availability of consistent access to supervision and CPD, as well as suitable processes to ensure

Definitions

Seven day services is a term that is used loosely to describe a range of extended service provision. At one end of the scale, it could simply mean the seven day provision of therapy to provide assessment and discharge planning in an emergency department or acute assessment unit. At the other end, it could mean provision of a full physiotherapy service on seven days a week. It can also vary widely to mean five or six days full provision, with a skeleton service in some areas provided on Saturday and/or Sunday. Every employer will mean something different by the term, which means that the devil is in the detail.

appropriate handover and record keeping

- 4 Be properly funded and resourced, including action to achieve effective staffing levels and skill mix, and with investment in staff development and support to ensure successful implementation
- 5 Maintain quality employment for all those delivering the services, i.e. early consultation, engagement and involvement of staff and trade union representatives in decision making, with nationally agreed pay and terms and conditions of employment maintained or put in place

Many CSP members have been involved in developing and implementing six or seven day services, or have extended the hours of a service. Experience has shown that introducing seven day services does not necessarily achieve improved quality outcomes for patients or efficiencies in service delivery. To achieve successful outcomes and effective service implementation, the full range of team members and partner agencies must be brought together at the start of the process.

Checklist for stewards

- ✓ Be aware of all sources of CSP support, which include a range of written briefings, discussions on Stewards ICSP, and your Senior Negotiating Officer
- ✓ Don't reinvent the wheel – talk to those who currently provide extended hours services
- ✓ Ensure that you as the CSP steward are involved in the process of discussion and planning from the outset – the consultation should be conducted in partnership
- ✓ Ensure that members are consulted and their employment, working conditions, health and welfare are protected
- ✓ There should be pay enhancements to compensate staff for working at the weekends or in the evening
- ✓ Ensure that all members of the MDT who will be delivering the service are involved in designing the new arrangements to ensure patients receive the best possible care
- ✓ Always remember that proper investment is needed as without this an extended service may actually reduce the quality of care rather than improve it
- ✓ Press for management to review the staffing levels and skill mix of the full multi-disciplinary team, and change it to reflect the altered demands on service provision.
- ✓ Get agreement that any change will be piloted prior to full implementation, and ask for the outcomes of any pilot to be shared directly with stewards as well as management commitment to finding solutions to any problems that may be identified

Seven Day *and* Extended Hours *Services* Resource Pack

Resource Sheet 2: The Consultation Process

Consultation

When proposing changes as significant as the introduction of 7- day working patterns, the employer should consult with the individuals affected and their trade union representatives at the start. The legal requirements on employers to consult are limited. However the following points should support stewards to ensure employers consult with them on significant changes to workings patterns:

- The NHS Terms and Conditions Handbook sets out an expectation that employers will consult over significant re-organisation issues.

‘joint consultative arrangements should be based on a partnership approach to industrial relations. This should involve the systematic and routine involvement of staff and their trade union representatives at all levels in shaping the service and in the decision making process at all stages which affects their working lives and delivery of health care’ [Section 26, para 26.2 of the NHS Terms and Conditions Handbook]

The employer should consult with the affected individuals and their trade union reps from the outset

In England, an addition to the NHS Terms and Conditions handbook underpins the partnership approach. Annex X [England] Guidance on Workforce Re-profiling, stresses the need to evaluate and assess the risk to services and staff of any proposed changes. While it focuses on new roles, this Annex stresses the importance of working in partnership to introduce service change. It also highlights the need to ensure appropriate staffing and skill mixes to deliver service and of undertaking risk assessments to evaluate and

manage any negative consequences arising from service change. Annex X [England] Guidance on Workforce Reprofiting, NHS Terms and Conditions Handbook, www.nhsemployers.org.uk

- Employer policies, particularly in the NHS, usually set out a local consultation process. The type and content of these policies are referred to in Resource Sheet 4, in the Organisational Change Policies section.
- There are also legal obligations around consultation with recognised trade union representatives where 20 or more of their members are affected. The Trade Union and Labour Relations Consolidation Act 1992

places an obligation on the employer to consult the trade union representatives of those affected where proposed reorganisations may result in fundamental changes to the employment contract or the issuing of new contracts of employment to replace existing ones.

- Trade union safety reps have a legal right to consultation in good time on the introduction of any measure at the workplace which may substantially affect the health and safety of the employees they represent. (Regulation 4 of the Safety Reps and Safety Committees Regulations). There are likely to be health and safety issues around the introduction of seven day services such as stress, lone working, working time etc, which means safety reps can insist on consultation.

Some employers [both NHS and non-NHS] may attempt to avoid collective consultation with CSP stewards on the proposed changes to CSP members' working patterns, but such attempts should be robustly challenged.

If your employer is attempting to impose changes without consultation, stewards must contact their Senior Negotiating Officer (SNO) for advice.

Consultation does not consist of:

- Individuals or small groups of staff discussing the practical implementation of 7-day working. This can be a helpful approach but should not replace or take precedence over the consultation/negotiation with trade union representatives.
- Notification given to individuals and trade union representatives of the proposed changes and the date that they come into effect, with no scope or intention to discuss or review the proposals. This includes issuing a notification of changes to working hours or patterns included in the written particulars without reference to right to consult or agree.

Stewards should clarify with members what the consultation process will include, gain the commitment of members to abide by the collective process, keep members informed of developments and seek a new mandate if the situation changes significantly or if negotiating aims seem unlikely to be achieved.

What the employer should do when consulting on 7-day service proposals

When an employer proposes the introduction of 7-day services within existing physiotherapy services they should:

- Inform the CSP steward and physiotherapy staff of the intention to introduce 7-day services explaining why the changes to service delivery and work organisation are necessary.
- Give details of the proposals indicating what services and which staff will be affected and outlining what changes to staff working time and work organisation are anticipated. The detail should be sufficient to allow staff to identify how the proposals will affect them
- Provide a timeframe for consultation on the proposals and their implementation. This should be reasonable, and if it is not, stewards can challenge it and negotiate a timeframe that is sufficient to allow proper consultation and negotiation.

If an employer does not do this stewards should:

- Utilise the appropriate employer policies e.g. Organisational Change, Recognition Documents/ Partnership Arrangements or the Grievance or Disputes Procedure. These policies should clarify the consultation/negotiation process.
- If no formal consultation arrangements are set out in employer policies or agreements, stewards should negotiate a consultation process including acceptable time-frames.

Seven Day *and* Extended Hours *Services* Resource Pack

Resource Sheet 3: Employment and Contractual Issues

Employment Law

Most individual employment contracts will specify the basic number of hours an employee is contracted to work. However, specific days and start and finish times are not usually explicitly set out in the contract.

Rates of pay, job title and the employee's hours of work, including expected working patterns and usual start and finish times are more usually set out in a written statement of employment particulars, for example a letter of appointment.

When proposing to change any of the terms in the statement of particulars, the employer is required to notify the employee in writing within one month of the change*. Please note that the statement of particulars is not in itself the employment contract, but it does provide strong evidence of what the contractual terms are.

Some working arrangements not explicitly referred to in the written terms and particulars can also form part of the employment contract. This means the employee has some limited legal rights if an employer wishes to change them. Some potential sources of contractual terms include:

- Expected working patterns and working days not set out in the employment contract but established by custom and practice. However to meet the legal definition of 'custom and practice' such arrangements need to be deemed "reasonable,

notorious (i.e. well known) and certain".

- Expected working patterns set out in written information such as job descriptions, induction information or appointment letters.

When proposing to change any of the terms in the written statement of employment particulars, the employer is required to notify the employee in writing within one month of the change

Contract Law – proposed changes to an employment contract

Employment law is complicated and advice and guidance from the CSP's Senior Negotiating Officer should be sought before considering any legal challenges.

The following information will usually apply to physiotherapy staff employed on permanent contracts of employment, or who are employed on fixed term contracts which will still be running at the time of the proposed change to their employment contract.

- Employers can propose a change to the

* *Employment Rights Act 1996, Section 4*

terms of the employment contract, such as altering the days of the week an employee is expected to work. However, they should consult and gain the agreement of each employee to any significant changes, such as working days or patterns.

- Consultation on the proposed changes can be done collectively through a recognised trade union steward or on an individual basis. Changes to the contract can be agreed between the individual employee and the employer or via a 'collective agreement' between the employer and the CSP steward.
- The employer should notify each employee of the agreed changes to working patterns and the changes to their contract of employment this will entail. If at this stage an employee refuses to accept the change then the employer can give notice of termination of the individual's employment contract and offer them a new contract of employment.
- The employee has the option to accept the new contract and retain their job with the revised conditions of employment or reject the new contract and effectively terminate their employment with that particular employer.
- The employer then issues the employee with a new contract of employment containing the new terms. The employer must offer the new contracts of employment to existing employees first before they can choose to recruit new staff into the affected posts. If the employee accepts the new contract in these circumstances, continuity of employment is not lost so previous service or employment with the employer will still be counted for leave, redundancy, sickness, maternity or other purposes.
- Employees often believe that if they don't actually 'sign' new contracts they have not accepted the new terms, but if the employee does not object in writing to the proposed change and carries on working after the end of the notice period even if they have not signed the new contract they will be deemed to have legally accepted the new terms.

Unfair Dismissal, Constructive Dismissal and Redundancy

It is a lengthy and difficult process to demonstrate either constructive or unfair dismissal to an Employment Tribunal. This option must only be considered after

seeking advice from a CSP Senior Negotiating Officer.

Some brief information is given below on whether an employer has breached the terms of an employment contract when introducing 7-day working. These conditions apply whether the change in contract is collective or individual.

- It will be difficult to demonstrate that the termination of an employment contract equates to unfair dismissal if the employer has followed the proper procedures for informing and consulting with employees and can demonstrate sound business reasons, such as service requirements for proposing the changes.
- Demonstrating that the proposed changes are a fundamental breach of contract and therefore equate to constructive dismissal is also difficult. There must be clear evidence that the employer has not followed correct procedure and has forced or bullied an employee to accept unreasonable changes to their conditions of employment.
- If an employee has been continuously employed for two years or more and is unable or unwilling to meet the terms of the new employment contract, and if the legal definition of redundancy is met then redundancy may be an option.

In both unfair dismissal and constructive dismissal the reasonableness of the employer's actions would only be tested at an Employment Tribunal if the employee lodged a claim. The difficulty is that in the first case this is likely to take place after the employee has already been dismissed for their refusal to accept the amendment to the original contract. In the second case the employee will need to resign from their job first in order to claim constructive dismissal.

Flexibility clauses in the contract of employment

The contract of employment may include a 'flexibility' clause, which gives the employer the right to change certain conditions such as working patterns or shift patterns and these are generally enforced by the

Courts. However a flexibility clause that is vaguely worded, for example, 'the employer reserves the right to change terms from time to time' may be legally challenged if used to bring in significant changes without the explicit agreement of the employees affected.

It is the CSP's view that flexibility clauses of this nature or more specific ones do not remove the obligation on employers to consult with employees over significant changes to employee working patterns.

- Stewards should check proposed amendments to contracts to ensure that:
- The expectations concerning flexibility of working time or commitment to work unsocial hours' shifts are not excessive in particular, that working patterns will not breach the provisions of the Working Time Regulations.(See ERUS IP 36 Working Time Regulations)
- There are entitlements to the appropriate pay enhancements for unsocial hours working Section 2.9 – 2.12 of the NHS Terms and Conditions Handbook. There are no other substantial changes to the employment contract.
- Stewards must also ensure that there are clear expectations with regard to working patterns and start and finish times. If not included in the contract of employment there must be clear written information that specifies for each individual employee:
- The expected number of consecutive working days per reference period that employees would be expected to work
- Expected start and finish times
- Maximum and, if relevant, minimum commitments to unsocial working hours/shifts over an agreed reference period.

Seven Day *and* Extended Hours *Services* Resource Pack

Resource Sheet 4: Employer Policies

When 7-day working is proposed, stewards should check the following policies as they set out the processes and guidelines that both managers and union representatives should consider:

Organisational Change Policy

Employers will have different organisational change policies, however, all policies should set out an agreed process for managing significant changes to staff employment terms, the provision of services and work organisation.

Some organisational change policies focus on redundancy arising from service re-organisation, but these may still set out a consultation programme or timetable that can be applied to significant changes to work organisation or patterns.

The policy should contain a commitment to work with recognised trade unions and staff. It should also cover what happens if management and stewards/trade unions fail to agree. Usually this will involve reference to the Grievance or Disputes Procedure (See below).

Grievance/disputes procedures

A grievance or disputes procedure will contain a process to manage a collective dispute. It should include an appeal process and it may also have a status quo clause. The status quo clause prevents changes to service delivery or working patterns taking place until agreement has been reached or the procedure has been exhausted.

There are several policies that stewards should refer to when negotiating the detail of extended hours services – these may protect staff or mitigate the damaging impact of changes

A collective dispute may be an option for CSP stewards, if no agreement can be reached over the proposed changes to working patterns. If this is a possibility, stewards should discuss with their Senior Negotiating Officer (SNO).

Recognition Document/Partnership Working Agreement

Most NHS employers should have a Recognition and/or a Partnership Working Agreement. These should outline the commitment to work in partnership with recognised trade unions on organisational change and other workforce related issues. The documents may well specify the types of issues that will be subject to negotiation and consultation.

Other policies

There are a collection of policies that stewards may need to refer to and which may help in arguing for modifications to management proposals to protect staff or mitigate the damaging impact of changes. Policies may need to be altered to accommodate changes to work organisation. Some of these policies are listed below:

- Health and Safety Policies
- Stress and Workload Management
- Lone Working,
- Equality and Equal Opportunities Policies,
- Supervision

NHS Terms and Conditions of Service Handbook

The NHS Terms and Conditions Handbook sets out the basic weekly hours a full-time employee can be expected to work [Section 10]. Section 2 and 2(a) state that when these working hours are classed as 'unsocial' they will attract an 'unsocial hours' pay enhancement.

The NHS Terms and Conditions Handbook does not specify what days of the week or how many hours a day employees are expected to work, or give a maximum number of working days expected within the week. Paragraph 10.2 of the Handbook states that standard hours may be worked over any reference period. This means that an employee's contracted hours can be worked across more than 5 days so long as the provisions set out in Section 27 of the Handbook and the Working Time Regulations are adhered to. For example, employers can contract a post holder on 37.5 hours to work across 6 days or work 150 hours over 4 weeks. The same principle applies to part-time staff, for example, an employee who works 30 hours could be required to work these across a 6-day period.

This does not mean that existing employees must always accept whatever changes the employer proposes. The CSP would consider that a requirement to regularly work contracted hours over a 6-day period may constitute an unreasonable change to employment contracts.

Seven Day *and* Extended Hours *Services* Resource Pack

Resource Sheet 5: Control of Working Patterns and Time

Seven- day services will usually involve considerable changes to the established working patterns and the organisation of working time for staff. This is likely to be the main issue which staff will find the most difficult to adapt to and to accommodate in their daily lives.

Changes to established working patterns, particularly where they are imposed, can cause a considerable amount of stress. In the longer term, if working patterns infringe too much on employees' personal lives, health or in some cases their professional identities, then it will inevitably lead to long-term recruitment and retention difficulties.

It is therefore in the interests of both employees and management that the introduction of new working patterns and hours is done to accommodate as far as possible the needs of existing employees.

The main issues that must be considered are listed below:

The aim of the rostering system should be to ensure that adequate staffing levels and skill mix are provided to meet the needs of the service

How will work be organised?

The establishment and organisation of staff working rotas is central to the management of a 7-day service.

The aim of the rostering system should be to ensure that adequate staffing levels and skill mix are provided to meet the needs of the service. It should also ensure the effective deployment of staff in terms of quality, productivity and cost-effectiveness. There is no blue-print or model rostering system currently in existence for physiotherapy services to use.

Different service expectations and demands may require different types of rotas, for example some services may require a full 7-day shift pattern to be worked by staff; others may require separate week day and weekend rotas.

One of the most common causes of tensions between staff and management when weekend working is introduced is the perception by some staff that there is an unfair allocation to the weekend rota. It is therefore important that an

equitable and transparent system for allocation of weekend working shifts is agreed at the outset. An expectation that particular individuals or groups of staff will carry more weekend working shifts than others in order to deliver the required service is not sustainable or advisable in the long term.

Predictability

A predictable work pattern is essential to enable staff to adapt to and accommodate working patterns that involve working weekends and other forms of unsocial hours working. Studies on the impact of different working patterns on nurses have shown that predictability of the working patterns and time is key to enabling individual members of staff to successfully manage their work and personal commitments. Unpredictable patterns of work have been demonstrated to cause significant amounts of stress and job dissatisfaction.

The CSP is totally opposed to any rostering system that requires staff to regularly work unpredictable shifts at short notice.

It must be a key negotiating aim of stewards to ensure that patterns of work and rosters are agreed in advance and provide planned and predictable patterns of working time.

All rota systems therefore must have:

- An agreed reference period over which to set out staff working days. Depending on the complexity of the roster, the CSP recommends a minimum roster period of 13 weeks.
- An agreed period of time prior to the roster when staff know their expected working patterns. This may vary depending on the complexity and degree of change to working days expected, but the CSP considers that this should be not less than 2 months notice.

Frequency, maximum and minimum commitment to weekend rosters

The number of times a member of staff will be expected to work weekend unsocial hours as part of their contracted hours needs to be established. Frequency of commitment to the roster should be based on the number of times a post holder is expected to work at the weekend not the number of hours a post-holder works at the weekend.

Agreeing a maximum level of frequency of commitment to work at the weekend is an important method of controlling any excessive demands staff may have placed on them. Staff would not be expected to always meet the maximum number of weekend slots required but once these have been worked, they should be able to refuse further commitments to the unsocial hours or weekend roster. There are no established national guidelines on how many weekends and unsocial hours' shifts a year a physiotherapist should be expected to work as part of a 7-day service.

The frequency that staff are expected or requested to work at weekends should be monitored. If the number of weekends regularly exceeds the maximum frequency it is likely to be an indication that more staff are needed to ensure adequate staffing levels are in place to provide a weekend service or 7-day service.

Clear alternative arrangements need to be in place to provide cover if the roster cannot be filled without using staff who have already completed their weekend work commitments. This can be the use of agency or bank staff, or the ability to 'step-down' the service or to provide limited services for that particular weekend. Limited use of overtime could also be used but this must be voluntary.

Issues relating to frequency

If either maximum and/or minimum levels of commitment are proposed, stewards should ensure that a fair, transparent and equitable system is established to manage the allocation of weekend and unsocial hours working that is applicable for all staff.

There must also be clearly agreed procedures and guidelines in place to address issues arising from individual staff members not meeting the minimum required commitments to work at the weekend. Examples of the issues include:

- Where an inability to meet the minimum requirement has arisen from short-term issues, options should be available for staff to make up their unsocial hours commitment over a longer time period.
- Staff who have been unable to meet their minimum level of commitment for a set time period due to sick leave (planned or unplanned) should not be required to meet the minimum requirement of unsocial hours/weekend working for the affected reference period(s).
- Options to agree how an individual's minimum commitment to weekend working can be distributed through the year should be considered. For example, a physiotherapist who regularly sails in the summer may prefer to opt to undertake the majority of their unsocial hours/weekend commitments in the winter. Or a parent who relies on shift parenting to provide childcare may wish to concentrate their commitment to unsocial hours working at times when their partner is available to undertake childcare.
- The involvement of part-time staff must also be considered. The Part Time Worker Regulations stipulate that part time workers should be no less favourably treated than colleagues working full time, but there are no specific guidelines relating to the management of part-time staff and weekend working. The fairest and most appropriate approach to allocating weekend shifts to part-time staff can only be determined locally.

Distribution of Saturday and Sunday Working

Working on a Sunday is paid at a higher enhanced rate than working on Saturday. Therefore the frequency which staff are rostered to work on a Saturday and a Sunday should also be distributed fairly. This will ensure equitable access to the higher paid weekend day for all staff.

Voluntary weekend roster

There should be a facility to enable staff who genuinely wish to, to volunteer for additional weekend shifts. This must also be managed in a fair and equitable way with clear guidance given about how staff indicate their availability to provide the extra cover. The system should also ensure that additional work is shared out fairly amongst those that want it. However, it is important that this additional activity is closely monitored so that the health and welfare of individual staff is not compromised and that the provisions of the Working Time Regulations (WTR) are adhered to. The CSP advises members not to opt out of provisions of the WTR, which were, after all, enacted to safeguard health and safety.

IMPACT ON WEEKDAY WORKING PATTERNS

How the introduction of 7-day services will impact on working patterns during the week will depend on how 7-day services and shift systems are organised. The issues to consider are set out below.

Seven-day reference periods

For systems that are organised across a week or 7-day working pattern, time off will usually be taken in the week immediately following a weekend shift period.

When this time is taken should be agreed between individual members of staff and line managers. However, certain key principles must apply:

- Time should be awarded on a day for day basis. For example, if an individual works 7 hours on a Saturday they should not be given two

3.5 hour half days back during the week, but one whole day.

- Any changes to existing start and finish times, and the start and finish times of weekend shifts, should be agreed in advance by both parties.

Number of rest days within a given working hours period

Within a 7-day period, staff on existing contracts are currently entitled to two consecutive 'off days' or 'rest days', usually a Saturday and Sunday.

Where changes to a pattern of rest days are proposed, it is difficult to give firm advice as 7-day proposals can take many forms.

In general, however, the following principles apply:

- Within any reference period the number of rest days or 'weekend days' that an employee is entitled to should not be reduced;
- They should be able to take at least some rest days consecutively.

Seven Day *and* Extended Hours *Services* Resource Pack

Resource Sheet 6: Pay and Staffing Levels

PAY

Pay rates for weekend work will vary depending how the work an employee is undertaking is classified. There are three possible classifications: Overtime, On-call and Unsocial Hours.

Unsocial hours

If working within standard hours at the weekend, this is known as unsocial hours working and unsocial hours pay rates are set out in the NHS Terms and Conditions Handbook Section 2, Maintaining round the clock services, Paragraph 2.9 – 2.12

On-call

The principles governing payments for on-call in England are negotiated at local level, and need to be in accordance with the principles laid out in Annex A3 to the NHS Terms and Conditions Handbook. In England, pay rates for on-call and other on-call provisions are now set out in NHS Trust local agreements. In Scotland, Northern Ireland and Wales, country-wide agreements have been agreed through the respective partnership fora.

In all cases, the rostering system must be sustainable with the staffing resources that are or will be available to fill it

Overtime

Overtime is where employees are required to work additional hours over and above their contracted hours. The work would fall outside the definition of emergency duty. Rules and payments in respect of overtime are covered in the NHS Terms and Conditions Handbook Section 3.

STAFFING LEVELS

It is a significant 'bottom line' for the CSP that the introduction of 7-day services must not result in physiotherapy staff having unfair, inequitable or unsustainable working patterns foisted on them because the level of staffing available cannot meet the set service demands.

Post Francis, the Government has agreed that all trusts in England should put in place measures to increase transparency on staffing at ward and service level as quickly as possible.

In all cases any rostering system proposed must be sustainable with the staffing resources that are or will be available to fill it. No roster systems or shift patterns can compensate for inadequate staffing

levels and to attempt to do so will cause significant problems for staff. It is likely to raise health and safety concerns, increase stress, absence levels, turnover and labour costs, reduce productivity and raise the overall cost of the 7-day service provision.

Adequate staffing levels to provide a physiotherapy service over a 7-day period is one of the key issues that affects the ability of physiotherapy services to provide an effective 7-day physiotherapy service. Most physiotherapy services have a staffing establishment based on the provision of a 5-day service not a 7-day service.

Steward's role

Establishing the number of staff and the skill mix required to provide a 7-day service is a management responsibility and a professional concern. It is not a direct responsibility of the steward nor is it the steward's responsibility to find solutions to poor or inadequate staffing levels.

Nevertheless stewards must deal with the issues that arise for members who are faced with the introduction of 7-day care in services that do not have adequate staffing levels to provide such extended cover.

The steward must ensure that:

- The maximum number of weekend shifts expected of individuals is not excessive.
 - Workload for all staff does not increase as a result of spreading the service across 7-days.
 - Staff still have adequate time for CPD, student supervision and other clinical but non-patient related activities, and that these are taken into account when calculating staffing levels for 7-day services.
 - The quality of patient care and services will not deteriorate as a result of extending the service without supporting the extension with an increase in staffing levels or workforce hours.
 - Staff are not expected to undertake excessive overtime or on-call working in order to cover vacant slots in the 7-day working rotas.
- Many direct and indirect issues arise from inadequate staffing levels. Some of these are listed below.

Increased work-loads

Spreading the same number of staff across more working days does not increase the number of working hours available, just redistributes them. If activity levels within the week do not change to reflect the redistribution of some work hours from the week to the weekend, then an increase in workload will occur. This may result in:

- A very high level of commitment for staff to be on the weekend rota.
- Intensification of work during the week, as fewer staff are available to carry weekday case-loads.
- Difficulty providing supervision to students and other staff who only work during the week.
- Rising waiting lists
- Reduced time spent on CPD opportunities, managerial or non-direct patient care tasks, such as patient notes, team meetings.
- Increased stress on management and supervisors as they struggle to provide management supervision across a 7- day period.
- An inability of the team to absorb and manage absence from work due to holidays, short-term sick leave etc.

For further information on helping members to cope with change at work, see CSP Member Advice Sheet 2 of Stress at Work – Dealing with Change.

What to do if 7-day working is proposed without increasing staffing levels

- Request a breakdown of current and expected or planned activity levels and planned staffing levels on a day by day basis within the services affected. Ask for management justification for the critical mass or number of w.t.e. staff required to successfully run a particular service.
- Undertake a union stress and work-life balance questionnaire of the workforce which can be used to compare the situation of staff before and after the introduction of 7-day services.
- Ask for information about average sickness levels prior to the introduction of 7 day working to be made available and agree that sickness levels will be regularly monitored after the change has been introduced and that anonymised data will

be shared with both stewards and safety reps so that comparisons can be made.

- Ask for the scheme's proposals to be piloted and to include in the measurements the impact of available staffing hours on the efficacy of the service. Workforce issues such as perceptions of staff around rising workloads, stress, and ability to achieve a good work-life balance.
- Ask for clear policies on backfill for both the weekend shift days and the week shift days.
- Ask for a formal review after 6 months, and seek management commitment to finding solutions to problems identified

Information on Staffing Levels and what role staffing levels can have in ensuring safe effective services are available from the CSP website and are listed under CSP publications.

Seven Day *and* Extended Hours *Services* Resource Pack

Resource Sheet 7: Flexibility and Self-Management

The organisation of unsocial hours and weekend rosters must allow some degree of control and self-management by staff as well as allowing formal requests to change roster patterns. Sustainable weekend working rotas and 7-day shift patterns will depend on a degree of flexibility in enabling staff to change their weekend or other unsocial hours' commitments.

Flexibility in how staff cover their assigned rotas will help support the work-life balance of individuals, reduce stress, prevent short notice absenteeism and is usually popular with all staff.

Staff managed rostering

The provision for 'self managed' or 'staff managed' shift allocation can be done in the following ways.

- Self managed shift swapping: This would enable staff to manage their ad-hoc requests to change their allotted weekend shifts by arranging to swop their shift with someone else. This could

be a 'request book' or a similar system. In this instance once the individual member of staff has been allocated a shift it will be their responsibility to find someone willing to swop with them.

- Formal self-rostering: Staff set out the weekend shifts they wish to work, managers would assign them the requested shift patterns as far as practicable. This could be done via a request book or a more formal system. There would need to be monitoring and procedures to ensure equitable treatment and to manage clashes or changes to requested weekend slots.
- Team self-rostering: This is where teams are responsible for ensuring that weekend coverage and weekday shifts are met. This requires self-

The role of the steward is to ensure that any system put in place for allocating weekend working commitments is transparent and as fair as possible to all staff

rostering software and a sound and clear understanding by the clinical team of the skill mix and staffing levels required to meet service demands. Some nursing services use this system to manage shift pattern allocation. There are no known examples of this system being used in physiotherapy.

EXEMPTION OR DEFERRAL FROM UNSOCIAL HOURS/ WEEKEND WORKING

The role of the steward is to ensure that any system put in place by management for allocating weekend working commitments is transparent and as fair as possible to all staff.

It is virtually impossible to ensure that all staff are equally happy with the new working arrangements, however, it is possible to set up systems that ensure all staff are managed equitably and fairly both in the allocation of weekend working shifts and in individual requests for exemption or deferral.

Exclusion from weekend working rotas

During the establishment of a 7 day system stewards should not get involved in deciding whether specific individuals or particular groups have valid reasons for exemption from the weekend working rotas: this is a management decision. The role of the steward is to ensure that:

- the criteria for exemption from weekend rotas are clear, unbiased and equitably applied to all staff.
- there are agreed procedures with set timeframes established to enable staff to request exemption or deferrals.
- there is a requirement for staff to receive from managers clear reasons for either granting or refusing a (short or long-term) request to be excluded from weekend rotas and that such requests are not unreasonably refused.
- Managers look for and offer solutions that enable staff to have some flexibility in meeting their rostering commitments. For example, if an individual has sound reasons for requesting exemption from working Sundays then they should be rostered to work Saturdays at the same frequency for weekend work expected of them.

Notification of unavailability for weekend shifts

A system will need to be in place so staff can notify roster administrators or their line managers in advance of the roster being formulated of weekends that they know they will not be able to work. There should be a clear timeframe set for staff to notify their line manager.

If staff have notified managers within the agreed timeframe then they should not subsequently be required to work that particular day(s).

Bank holiday shift working

The consultation should include the impact the introduction of 7-day services will have on working practices on bank holidays. If it is not clear then stewards should establish whether or not the expectation is that physiotherapy staff will be required to work unsocial shifts on bank holidays as part of their normal contracted hours.

In most cases full services will not be required on a bank holiday and a limited physiotherapy service may be all that's needed. If unsocial hours' working is required on a bank holiday then a separate roster for bank holiday shift working should be set up.

By treating bank holidays as a separate roster it will be easier to maintain equity in the rostering of staff to work bank holidays. Consideration should also be given to the frequency staff are rostered to work on the Saturdays and/or Sundays attached to bank holidays.

The Christmas and New Year period

Where possible it should be agreed that Christmas and New Year bank holidays should be excluded from regular shift working patterns and any separate bank holiday roster. Physiotherapy services would normally be provided over this period using emergency duty on-call arrangements.

Steward support for staff who consider they have been unfairly treated

When 7-day working is operational and the rostering system is in place, stewards can support members who consider they have been treated unreasonably through the usual grievance procedures.

Seven Day *and* Extended Hours *Services* Resource Pack

Resource Sheet 8: Professional and Service Issues

When considering professional issues arising from the implementation of 7-day services, stewards should refer to the CSP Quality Assurance standards. These standards are particularly helpful in assisting stewards develop a checklist that sets out key professional issues that must be addressed in order to ensure the service continues to integrate professional support structures and standards.

Supervision

- How will access to management advice and supervision be provided across the 7-day period?
- How will supervision of students and support staff be provided?

Band 5 staff

- How will the structure allow band 5 newly qualified staff to regularly access senior professional support?
- What impact will the introduction of 7-day services have on band 5 and band 6 rotations?

Using staff from other physiotherapy disciplines to staff core rotas

In some services, there have been proposals to pool staff resources and use physiotherapy staff from all specialities to cover 7-day service rotas in particular clinical areas.

Using staff from other physio disciplines to staff core rotas is a totally unsatisfactory and unsustainable method of providing 7 day services

In the CSP's view this is a totally unsatisfactory and unsustainable method of providing 7-day services within physiotherapy. Workforce planning, staffing levels and skill mixes should be established for the specialities that provide 7-day services on the basis that they provide a 7-day and not an 'extended' 5-day service.

Issues that the pooling of staff for rota duty raises are listed below:

- Clinical specialists are taken away from their key areas of specialism where they are most productive to cover services where they have less well-developed skills.

- Support and funding to develop and maintain additional skills will need to be provided as staff should only be placed on rotas outside their specialism once they feel comfortable that the work is within their scope of practice and they are competent to do it.
- Effective supervision of students, less senior staff and other healthcare workers by senior staff working outside their specialisation will have to be considered.
- For the reasons outlined above, productivity may fall in both the services which require staff from outside the clinical area used and the services from which these staff are drawn.
- Most specialist staff are generally unhappy at being required to work in services outside their speciality. In the longer term this may lead to demotivated staff resulting in retention problems and difficulty recruiting staff.

Working relationships with other services

The provision of 7-day cover in physiotherapy may not be effective in improving patient care if it is not matched by similar arrangements across other services or professions who provide complementary patient services. Some issues that may need consideration are set out below:

- Will the proposed 7-day service complement the provision of other services such as Community Nursing, Occupational Therapy, Social Work, Speech and Language Therapy, discharge planning and service delivery?
- Does the provision of a 7-day service fit in with the consultant and surgical working patterns?
- If 7-day services are introduced without increasing staffing levels, will lower staffing levels of physiotherapy impact on the ability of other professionals to deliver patient care?
- Will it affect the ability of physiotherapy to integrate fully into the work of the multi-disciplinary team?
- Will the introduction of 7-day services improve or reduce access of other staff to physiotherapists working within the team? For example, will 7-day physiotherapy services complement the working patterns and timetabling of surgical teams?

Seven Day *and* Extended Hours *Services* Resource Pack

Resource Sheet 9: Further useful resources and Frequently Asked Questions (FAQs)

Further useful resources

NHS Terms and Conditions

For ease of reference, given below are the sections of the NHS Terms and Conditions of Service Handbook, that stewards may need to refer to when considering proposals to introduce 7-day services.

- **Section 2: Maintaining** round the clock services
- **Section 2(a) (England)** Maintaining round the clock services
- **Annex A3 Principles** for harmonised on-call arrangements
- **Annex D: Working** or Providing Emergency Cover Outside Normal Hours
- **Annex X (England):** Guidance on workforce re- profiling
- **Section 3: Overtime** Payments.
- **Section 10: Hours** of the Working Week.
- **Section 13: Annual** Leave and General Public Holidays
- **Section 26: Joint** Consultation Machinery
- **Section 27: Working** Time Regulations

A proper risk assessment should always be undertaken, especially where posts have been frozen or staff reduced

- **Section 33: Caring** for Children and Adults
- **Section 34: Flexible** Working Arrangements
- **Annex G: Good** Practice Guidance on Managing Working Conditions.
- **Paragraph 2 states** that employers should ensure that staff are given adequate notification of their expected working patterns.

CSP Publications

- **ERUS IP 71:** Seven day services: Meeting the challenge
- **ERUS IP 36:** Working Time Regulations
- **Health and** Safety Information Paper: Stress at Work Advice Sheet 2
- **CSP Information Paper:** Duty of Care PD101 Practice and Development January 2013. Allied health professionals (AHP) and healthcare scientists (HCS) critical care staffing guidance for AHP and HCS staffing levels. Author Fran Woodward
- **CSP Web Resource** Skill Mix and Service Redesign: Delivering Under Pressure

Frequently asked questions

WHAT IFQUESTION AND ANSWER SECTION

What if a set of proposals for 7-day working have been put forward as the only option and there has been no steward involvement to date?

The employer is obliged to consult with staff over organisational change that will result in a significant change of working hours and possibly a change in employment contract. Stewards should ask for an established consultation period to be set and lodge a collective grievance if the employer does not agree to an acceptable consultation period.

What if management state that they have consulted with staff on an individual basis and have taken their comments on board? Consequently, in their view they have consulted and are under no requirement to collectively consult on the proposed changes?

Stewards need to establish at the beginning of the process or as close to the beginning of the process as possible that any introduction of 7-day services will be negotiated on a collective basis. Management discussions with individuals regarding their concerns and questions do not replace the requirement to negotiate with stewards on a collective basis.

Stewards should check what is in their local recognition and or facilities agreement, as well as the Organisational Change policy. You should also be aware of what the law says on collective consultation (refer to Resource Sheets 1 and 2 for full details about the consultation process). In addition to this, trade union safety reps have a legal right under the Safety Reps and Safety Committees Regulations under Regulation 4A that employers are required to consult them in good time on the introduction of any measure at the workplace which may substantially affect the health and safety of the employees they represent. There are

likely to be health and safety issues around the introduction of seven day services such as stress, lone working, working time etc, which means safety reps can insist on consultation.

Where changes have already been introduced and agreed by individual staff members, stewards will need to argue that this does not replace the requirement for employers to collectively consult on changes that will significantly alter the working patterns of other staff.

Stewards should request individual members not to agree to any further changes to their contracts of employment or work organisation once the steward has taken up the issue on a collective basis. The focus should be on gaining consensus and a way forward that suits the majority to as great an extent as possible. If any individual has an issue outstanding once the change as a whole is agreed, for example where a member is struggling to balance home and work commitments, stewards should support individuals raising their issues with management. However, both members and stewards will need to be realistic as the more people who opt out, the more onerous the work becomes for the remainder of staff, and it will not always be possible for everyone to get what they want.

7-day services have been delivered by staff on a voluntary basis to meet short term demand e.g. winter pressures and management have now decided to formalise the current voluntary arrangements for existing staff.

When services are being covered by voluntary rotas by staff to meet a short-term problem, it needs to be made very clear that this is a voluntary short-term arrangement. Stewards need to write to management stating that the current extended service cover is voluntary only, and will end with a set period of time. The letter should state

that if the extended services are to be integrated into normal patterns of service delivery then a proper consultation process must apply.

Seven-day services have been introduced in some services and how the working patterns of staff will be managed and organised has already been established. The precedent set by these services is now rolled out.

Where 7-day services have been introduced on an ad-hoc service-by-service basis, stewards may not have been involved with negotiations over how changes to work organisation has been introduced and managed. Stewards should request a review of such services in order to understand how it has been working and to identify possible differences between services. Once the negotiations impact on the majority of staff, stewards can argue for collective negotiations and resulting agreed procedures to replace existing ad-hoc arrangements. Members should be asked not to agree any individual arrangements with management.

Seven-day service proposals have been linked to broader service re-organisations, review of costs and job security.

This is a tricky situation for stewards, and in this kind of scenario, prioritising negotiation aims are obviously crucial. However, the key principles that management must consult on the proposed changes to work organisation and reach consensus on the most acceptable way in which to implement and operate a 7-day service [rota organisation etc, minimum commitment levels etc] should still apply.

Stewards should work with their CSP Senior Negotiating Officer (SNO) to ensure that adequate safeguards are built into any changes to work organisation for members. A key negotiating aim could be to gain an agreement from management to evaluate and review the implications for the workforce of 7-day services and deal with any issues that arise once the service reviews and

organisational changes have been implemented. See steward checklist in Introductory Resource Sheet.

Seven-day services are being proposed in services that have also had recent staff cuts or frozen posts.

Stewards and safety reps should always insist that a proper risk assessment is undertaken as a key part of the process, and this will be of additional significance where posts have been frozen or staff reduced. Consultation and agreement must be gained on maximum roster commitments for staff. Arrangements on how cover for unfilled rosters will be provided and an assessment of the workload implications for staff should be agreed. Where stewards and staff consider that workload demands would rise to too high a level and/or that expected commitment to work the weekend roster are unrealistic or too high, then collective action should be considered. Stewards can work with CSP Senior Negotiating Officers (SNOs) to develop collective strategies that halt or limit the introduction of 7-day services until adequate staffing resources are in place. See also Resource Sheet 6 for further details.

Members have conflicting views and needs

It is quite common for some members not to want to work weekends due to childcare or religious commitments, while others object to the burden of unsocial hours falling on them if there are fewer staff available to work weekend shifts. In practice, there is usually a workable compromise that enables those who want to work fewer weekends to do so, as there is just as likely to be individuals who welcome the additional payments for unsocial hours. However, it is not the role of the steward to mediate between members where differences occur – individuals can make representations with steward support if necessary after the consultation has taken place and the change agreed.

New staff are employed on contracts that say 7 day working will be required, which the managers argue therefore negates the need to consult.

In actual fact the contract is not just what is explicitly stated in writing, but how it operates in practice. There is still a requirement to consult over the impact on all staff of the details of extended service provision.

There is confusion about how extended hours will be worked out for part-timers

The detail of how extended hours will work for part-timers needs to be negotiated prior to the

introduction of any change. Part-timers will normally be expected to do the same percentage of weekend shifts as full-time staff.

Can members swap their seven day working rota and will it affect their pay?

It should be possible for members to swap an individual shift with another member of staff – indeed this flexibility usually makes extended hours services run more smoothly. A member doing this will need to inform their manager as soon as possible so that any pay adjustments can be made.



