



**2009 GMB PAY CLAIM  
FOR STAFF EMPLOYED IN  
SOUTHERN CROSS HEALTHCARE**

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## **2009 GMB MEMBER PAY CLAIM**

### **PREAMBLE**

"GMB members are convinced that the wages and working conditions enjoyed by staff in other caring professions such as the NHS should become the bench mark for Southern Cross employees, whether involved in direct care or a support role.

Our claim represents our members' reasonable aspirations to achieve the minimum standards enjoyed by their NHS colleagues over the shortest possible time scale. Each element of our claim seeks to make progress towards this goal of minimum industry standards of pay for all Southern Cross staff.

GMB members recognise that their current pay and conditions have fallen far below these standards over many years. We assert that this has produced not only long term damage to standards of living, but has damaged the standard of care Southern Cross residents experience as staff turnover rises and remains too high and as staff undertake second and third jobs just to make ends meet.

As the market leader in the Private Care Industry Southern Cross is now faced with a choice about whether it leads on developing the best conditions, practices and standards in the sector or whether it becomes known as the 'McDonalds' of the care sector.

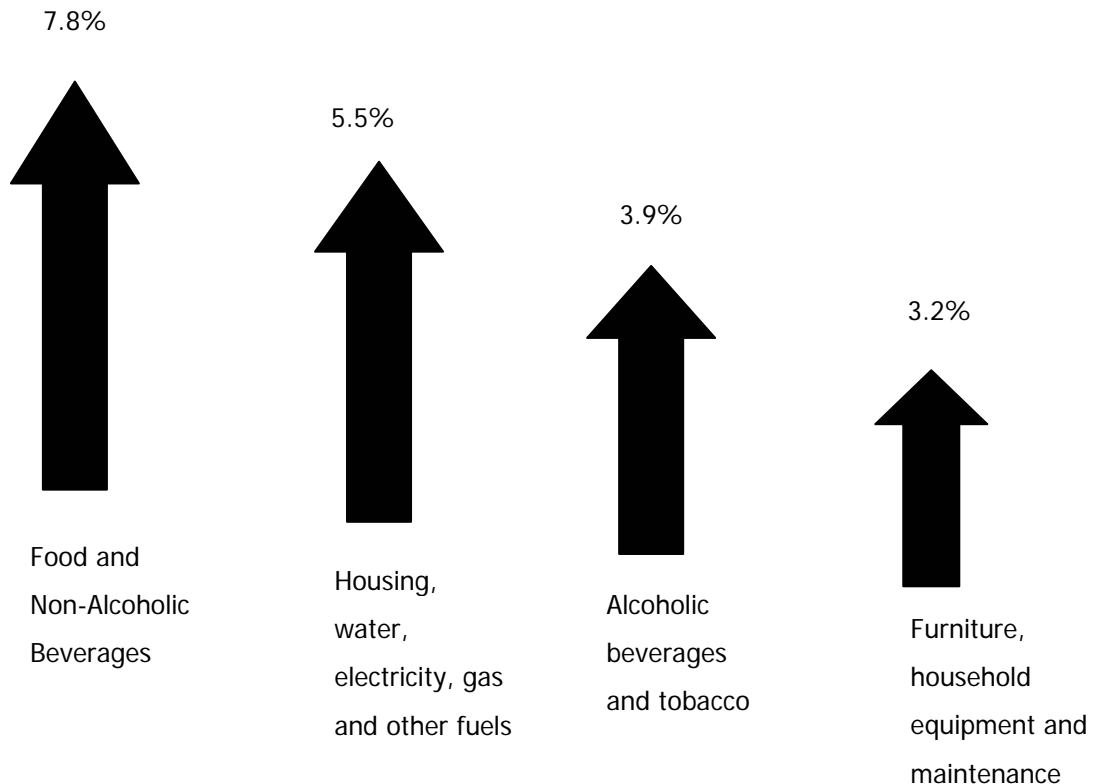
This year GMB members seek concrete progress on each element of our claim towards our ultimate goal – parity with NHS minimum pay and working conditions".

- 1. Uplift on pay from £5 to £10 per week dependent on earnings**
- 2. Paid Meal breaks**
- 3. Improvements in access to the Sick Pay Scheme**
- 4. Return to Annual Pay Settlements**
- 5. Unsocial Hours Payments**
- 6. Overtime Payments**
- 7. On-Call and Call-Out Payments and review of contractual arrangements**
- 8. National NVQ Career Structure**
- 9. Professional Fees for Nursing Staff**
- 10. Collective Bargaining Rights for all Southern Cross staff**

## Economic Outlook

Current inflation figures show significant rises in the price of food, fuels and basic household goods and services.

However none of this is new to GMB members as they see the rising costs every time they put their hands into their pockets to pay for these basic goods and services.



## Double Whammy

Unfortunately for GMB members there is no let-up in sight – with the National Office for Statistics forecasting rising prices for food, household goods and fuels over the Summer<sup>1</sup>. But in addition the effects of mass unemployment are expected to impact on Southern Cross members and their families well into 2011.

### 1. 2009 WAGE CLAIM – UPLIFT FOR LOWEST PAID UP TO £10 PER WEEK

Regarding our members' aspirations for 2009, GMB expects Southern Cross to try and link the next pay settlement to the National Minimum Wage<sup>2</sup> award but GMB members have made it clear that they will no longer accept this approach, so in 2009 GMB will reject any attempt by Southern Cross to link the pay settlement to the National Minimum Wage outcome.

<sup>1</sup> Annual inflation rates: <http://www.statistics.gov.uk/pdfdir/cpi0609.pdf> p14; Seasonal outlook: <http://www.statistics.gov.uk/pdfdir/cpibrief0509.pdf> p38.

<sup>2</sup> [http://investors.schealthcare.co.uk/pdf/Interim\\_Results\\_2009.pdf](http://investors.schealthcare.co.uk/pdf/Interim_Results_2009.pdf) p4.

For many GMB members the link between their wages and the National Minimum Wage is an anchor that stops them achieving their aspiration of pay parity with their counterparts in the NHS. For Southern Cross staff the minimum has become the maximum, a ceiling on their aspirations rather than a floor from which to build upwards and progress.

GMB has consistently supported its members' aspirations for parity with their NHS counterparts and this fundamental principle will form the core of the pay claim on behalf of GMB members.

Care Assistants employed by the NHS currently receive £13,233 pa or £6.69 per hour<sup>3</sup> yet an analysis of the respective role profiles show that they are almost identical, yet Southern Cross members' yearly salary is £1,713<sup>4</sup> less than their comparators in the NHS.

Therefore GMB are seeking a weekly increase of up to £10 per week for 18,000 of the lowest paid staff to raise their hourly rate up to £6.09 and begin to bridge the wage gap to the NHS.

This would still leave the Southern Cross hourly rate less than the industry average for private homes of £6.45 as it stood in 2007<sup>5</sup> and would cost Southern Cross less than £10M<sup>6</sup>.

For those staff paid above £6.10 (but below £6.29) we are seeking an increase of up to £7.50 per week to bring them all onto a new minimum rate of £6.30.

Finally for those staff paid above £6.31 we are seeking a flat rate increase of £5 per week.

While GMB expects Southern Cross to dismiss this claim as unaffordable we would instead remind Southern Cross that one of its most fundamental business risks is:

***“if the Group fails to attract and retain nursing and other qualified staff, it may be unable to provide residents with quality nursing care and may have to reduce the number of beds in its care homes”<sup>7</sup>.***

This risk is critical for four reasons:

#### **A. Quality of care relies on consistent care staff per resident**

Families of residents are rightly concerned about seeing too many new faces when they visit their loved ones and Southern Cross knows the Care industry, including itself, suffers from high staff turnover<sup>8</sup>.

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<sup>3</sup> Based on a 38 hour week.

<sup>4</sup> Based on a 38 hour week.

<sup>5</sup> National Survey of Care Workers FINAL Report, Skills for Care, November 2007, p40.

<sup>6</sup> For calculations see Annex 1.

<sup>7</sup> [http://investors.schealthcare.co.uk/pdf/Interim\\_Results\\_2009.pdf](http://investors.schealthcare.co.uk/pdf/Interim_Results_2009.pdf); p7.

## **B. Southern Cross concern with maintaining high profits**

Southern Cross is a profitable business and they themselves have identified the *“clear relationship between service quality and profitability”<sup>8</sup>*.

## **C. Quality of care is a direct financial issue for the company**

An increasing number of local authorities are negotiating fee increases directly related to the quality of care delivered in homes<sup>10</sup> a move which could have a massive impact on future Southern Cross revenues given that nearly 70% of Southern Cross revenue comes from a handful of key Local Authorities<sup>11</sup>, which is a narrow source for any business.

Therefore from a business perspective Southern Cross cannot afford to ignore the impact of low wages on retention and the direct affect this has on service quality if the company is to maintain its future growth and profit forecasts, especially given its reliance on a narrow funding stream.

The issue of retention is particularly relevant for Southern Cross when we consider that approximately 50% of its' staff are affected by the National Minimum Wage<sup>12</sup>, a very large proportion for any business that is identifying itself as a market leader – therefore if Southern Cross is to avoid being labelled as the “McDonalds” of the care industry it must address issues relating to retention especially as it acknowledges that it operates in an industry with high levels of staff turnover.

That is why GMB welcomes the Southern Cross commitment that:

*“Investment in our people will be increased and further reviews are scheduled for the second half of the year covering the roles, responsibilities and training needs within the organisation”<sup>13</sup>.*

GMB believes that if Southern Cross is serious about attracting and retaining staff it must ensure that its commitment to increased investment addresses the issue of low pay in the 2009 pay settlement and establishes an appropriate career structure for all staff within Southern Cross.

## **D. The credibility of the Southern Cross remuneration policy**

Finally from an industrial perspective GMB believes that Southern Cross must deliver an appropriate pay settlement in 2009 because Southern Cross Executive Directors, who are on a

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<sup>8</sup> <http://investors.schealthcare.co.uk/pdf/ar/2008.pdf>; p4.

<sup>9</sup> [http://investors.schealthcare.co.uk/pdf/Interim\\_Results\\_2009.pdf](http://investors.schealthcare.co.uk/pdf/Interim_Results_2009.pdf) p3.

<sup>10</sup> Ibid p2.

<sup>11</sup> [http://investors.schealthcare.co.uk/pdf/Interim\\_Results\\_2009.pdf](http://investors.schealthcare.co.uk/pdf/Interim_Results_2009.pdf); p2.

<sup>12</sup> <http://investors.schealthcare.co.uk/pdf/ar/2008.pdf>; p11.

<sup>13</sup> [http://investors.schealthcare.co.uk/pdf/Interim\\_Results\\_2009.pdf](http://investors.schealthcare.co.uk/pdf/Interim_Results_2009.pdf); p3.

minimum of £300,000 per annum<sup>14</sup>, will struggle to maintain credibility with the thousands of GMB members who earn 30 times less than them, especially if they are the key to maintaining – or in some cases raising – service levels, and therefore profitability, in homes.

In terms of Southern Cross' ability to match the expectations of GMB members and its commitment to increased investment, GMB knows that in the first half of 2009 Southern Cross' revenues have increased by 6.9% to £460.8 million based primarily on a significant 4.3% increase in average weekly fees to £536<sup>15</sup>.

The Business Review conducted by management in the first half of 2009 forecasts second half improvements in service quality and therefore occupancy and home operating margins<sup>16</sup> which should further boost Southern Cross' ability to meet the costs of the 2009 pay claim.

The Review also indicated that Southern Cross had saved significant amounts of money by reducing home running costs through the introduction of *"Home-related cost management initiatives"*<sup>17</sup>, many of which are being implemented and achieved by GMB members on the frontline in homes across the UK.

In terms of the broader industry outlook Southern Cross is very bullish about future earnings, growth and profits based on its demographic analysis that indicates that there will continue to be increasing demand for beds at a time when the number of beds available is being reduced, thereby strengthening the bargaining position of Southern Cross as the industry leader<sup>18</sup>.

## **2. PAID MEAL BREAKS**

GMB recognises that the needs of clients are a priority and that rest/meal breaks will sometimes be interrupted to deal with those needs. GMB Rest/Meal break survey of members revealed that 71% of GMB members experienced interrupted breaks<sup>19</sup>. Added to the Company's policy that certain staff are required to remain on the premises during breaks, we feel that staff should be rewarded for their commitment to the principles of client priorities. We therefore claim that staff should be paid their contractual rate for all rest/meal breaks. This will not change or erode in any way an individuals' right under the Working Time Directive to a meal break per shift.

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<sup>14</sup> <http://investors.schealthcare.co.uk/pdf/ar/2008.pdf>; p39.

<sup>15</sup> [http://investors.schealthcare.co.uk/pdf/Interim\\_Results\\_2009.pdf](http://investors.schealthcare.co.uk/pdf/Interim_Results_2009.pdf); p2.

<sup>16</sup> [http://investors.schealthcare.co.uk/pdf/Interim\\_Results\\_2009.pdf](http://investors.schealthcare.co.uk/pdf/Interim_Results_2009.pdf); p3.

<sup>17</sup> Ibid, p3.

<sup>18</sup> <http://investors.schealthcare.co.uk/pdf/ar/2008.pdf>; p6.

<sup>19</sup> GMB Rest/Meal Break survey, 2008, p2

### **3. IMPROVEMENTS TO THE SICK PAY SCHEME**

GMB recognises the Southern Cross commitment to provide a safe, healthy and caring environment for its clients. It is the nature of people in caring employment to be committed to those principles and the people they care for. Many staff are tempted to attend work when they are ill, precisely for that reason. It is also a fact that caring jobs are filled predominantly by females, who are often the domestic primary carer many of whom may not be able to afford to be off sick.

It is not in the interests of the Company, the clients/residents or staff, for the ill to attend work, as it could lead to the spread of disease, causing health problems for clients/residents and staff, and will have knock-on staffing problems for the Company.

With this in mind, the GMB are seeking improvements to the sick pay scheme, in order to prevent the spread of contractable disease and protect clients/residents and which do not penalise Southern Cross members when they are legitimately ill.

Therefore our immediate claim is that staff should not be required to prove that their illness was contracted at work as the cause of illness and infection and that they are paid for the time off work when they are ill.

We provide below the NHS Agenda for Change Sick Pay Scheme, as a template for negotiation:

Table 3

<b>Length of Service</b>	<b>Sick Pay Entitlement</b>
Year 1 of service	1 Month full pay + 2 Months half pay
Year 2 of service	2 Months full pay + 4 Months half pay
Year 3 of service	4 Months full pay + 4 Months half pay
Year 4 of service	5 Months full pay + 5 Months half pay
After 5 years of service	6 Months full pay + 6 Months half pay

### **4. RETURN TO ANNUAL PAY SETTLEMENTS**

A key principle of the 2009 pay claim is based on GMB members saying that they want to return to annual pay settlements.

Annual wage settlements ensure our members have a greater say in the development of their wage claims and ability to meet their wage aspirations in a fast changing economic and political climate.

## 5. UNSOCIAL HOURS PAYMENTS

It is widely held practice in the care industry that staff working unsocial hours are paid an enhanced rate for those unsocial hours they work. This is to compensate for disruption to a normal family life and leisure time; it also compensates for the tiredness and health risks caused by working unnatural hours. We particularly note that Southern Cross recognise the health risks caused by night work, due to the provision of night work health assessments.

GMB believe that Southern Cross staff should be paid an enhancement for working such hours. We are seeking the following enhancements:

Table 1

<b>Period</b>	<b>Pay Rate</b>
All time on Saturday (midnight to midnight)	Time plus half
Weekday: 8pm. to 6.am.	Time plus half
All day Sunday (midnight to midnight)	Double Time

GMB is also seeking double time for hours worked on **all** Bank Holidays; this improves on the current policy of paying three Bank Holidays at double time and the remaining five at time-and-half.

**Note:** The benchmark for our claim is the terms contained in the NHS Agenda for Change for Grade 1 staff.

## 6. OVERTIME PAYMENTS

It is widely held practice in the Public and Private Sectors that staff working more hours than the standard working week are paid an enhancement. This is to reward the commitment of staff to their role, and to compensate for the tiredness caused by working excessive hours; it also compensates for the disruption to family life and leisure time, and to enable payment for childcare facilitation.

In relation to overtime payments GMB is seeking time-and-a-half for all ordinary overtime and double-time payment for all overtime worked on bank holidays.

**Note:** The benchmark used for this claim is the NHS Agenda for Change terms and conditions for staff on Grades 1-7, as set out below:

All staff in pay bands 1 to 7 will be eligible for overtime payments. There is a single harmonised rate of time-and-a-half for all overtime, with the exception of work on general public holidays, which will be paid at double time.”

## **7. ON-CALL AND CALL-OUT ALLOWANCES**

GMB recognise the importance of maintaining staffing levels in order to achieve good quality care of clients, and understand that staff may have to be available to be called out to work during non-working time, in order to realise that aim. However, we believe Southern Cross have obligations on two counts:

- a. That on-call hours and call-out hours do not contravene the Working Time Regulations.
- b. That staff should be rewarded fairly for being on-call and for being called out to work during non-working hours.

Our support for the first is based on a wish that Southern Cross does not place our members in a position where they are potentially forced to break the law. We also believe excessive use would lead to an overworked and de-motivated staff, affecting the quality of service. Our support for the second is based on the belief that staff should be compensated for the limitations placed on family life and leisure time and the disruption caused by being called out during non-working hours.

In addition GMB want to hold specific negotiations concerning the contractual obligation of any staff in Southern Cross whose role profile requires them to be *“on-call” for advice / action in any emergencies which may arise out of hours*<sup>20</sup>.”

We believe the arrangements set out in the NHS Agenda for Change, which can act as a template for negotiations<sup>21</sup>.

## **8. NATIONAL NVQ CAREER STRUCTURE**

GMB believes that Southern Cross can only maintain its profit forecasts and meet future earnings and growth predictions by fulfilling its commitment to invest in increased training and by establishing a national wage and career structure for its entire workforce based upon progressive attainment of NVQ qualifications.

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<sup>20</sup> Southern Cross Healthcare Job Description – Handyperson; p3.

<sup>21</sup> See Annex 2.

A national wage structure based upon NVQ qualifications would reflect the minimum qualification and employment standards required of staff in all Southern Cross occupations, thereby rewarding the workforce for the attainment of qualifications that are essential to maintaining or even raising the service level in the care homes and reinforcing Southern Cross' position as the leader in the care industry regarding the training and development of its staff.

In its negotiations with Local Authorities Southern Cross could also use the national wage structure based on qualifications, standards and skills as an indicator of service levels that Authorities could expect from Southern Cross as a provider.

Whilst there would be much to negotiate in terms of the principles under which staff would translate to any new structure, GMB would expect an early commitment from Southern Cross to the principle of establishing a national wage and career structure for all Southern Cross staff.

#### **9. PROFESSIONAL FEES**

As stated previously, Southern Cross must ensure that it retains qualified staff in order to meet its basic business needs. This need should be reflected in Southern Cross meeting the cost of any professional fees incurred by staff whose qualifications are a requirement of their employment with Southern Cross; including the NMC, Independent Safeguarding Authority registration due next year in England and Wales and the equivalent legislation in Scotland and Northern Ireland.

#### **10. SCOPE OF PAY BARGAINING**

GMB believe that administrative and office staff employed by Southern Cross at their head offices should also be encouraged to join the union by their employer and be given the opportunity to elect representatives like their colleagues employed in Care Homes and that they have the option of being covered by a form of collective bargaining machinery.

## ANNEX 1 WAGE CALCULATIONS

Southern Cross claim ~ 50% of its staff are directly affected by increases in the National Minimum Wage<sup>22</sup> and based on the monthly average number of staff (35,221<sup>23</sup>) we have for the purposes of the calculations used an affected staff figure of ~ 18,000 staff.

Using a 38-hour week the difference between the NHS hourly rate of £6.69 and Southern Cross £5.83 is 86p.

An uplift of £10 per week would result in an hourly rate of £6.09 reducing the difference to 70p and would cost ~ £10M.

$$(10/38) + 5.83 = £6.09$$

$$£10 \times 52 \times 18,000 = £9,360,000.00$$

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<sup>22</sup> <http://investors.schealthcare.co.uk/pdf/ar/2008.pdf>; p11.

<sup>23</sup> Ibid; p79.

## **ANNEX 2: AFC ON CALL**

### **On Call**

2.33 Employees who are required to be available to provide on-call cover outside their normal working hours will be entitled to receive a pay enhancement. This enhancement recognises both their availability to provide cover and any advice given by telephone during periods of on-call availability.

2.34 Subject to the provision for retention of current on-call provisions under the protection arrangements set out in paragraph 2.46, this enhancement will be based on the proportion of on-call periods in the rota when on call cover is required. The on-call period in each week should be divided into nine periods of at least 12 hours. The enhancement for an individual staff member will be based on the proportion of these periods in which they are required to be on-call, as set out in paragraphs 2.35 to 2.40 below.

#### **Pay enhancements for on-call cover**

2.35 An enhancement of 9.5 per cent will be paid to staff who are required to be on-call an average of one in three of the defined periods or more frequently.

2.36 An enhancement of 4.5 per cent will be paid to staff who are required to be on-call an average of between one in six and less than one in three of the defined periods.

2.37 An enhancement of 3 per cent will be paid to staff who are required to be on-call an average of between one in nine and less than one in six of the defined periods.

2.38 An enhancement of 2 per cent will be paid to staff who are required to be on-call an average of between one in nine and less than one in 12 of the defined periods.

2.39 For these purposes, the average availability required will be measured over a full rota, or over a 13-week period if no standard pattern is applicable. The reference period will not include any periods when the employee is absent from work on either annual leave or sickness absence.

2.40 Where on-call cover is limited or very irregular (averaging less than one in 12) pay enhancements will be agreed locally. These may be fixed or variable, and based on actual or estimated frequencies of on-call work worked, subject to local agreement. To ensure fairness to all staff qualifying under the national rules set out above, locally agreed payments may not exceed the minimum percentage in the national provisions.

Table 2

Frequency of on call	Percentage of Basic as enhancement
1 in 3 or more frequently	9.5
1 in 6 more, but less than 1 in 3	4.5
1 in 9 more, but less than 1 in 6	3.0
1 in 12 more, but less than 1 in 9	2.0
Less frequently than 1 in 12	By Local Agreement

2.41 For part-time staff and other staff working other than 37½ hours a week excluding meal breaks, the percentage added to basic pay on account of on-call availability will be adjusted to ensure that they are paid a fair percentage enhancement of salary for on-call working. This will be done by adjusting the payment in proportion to their part-time salary so that they receive the same payment for the same length of availability on-call as full-time staff.

#### **Call Out**

2.42 Employees who are called into work during a period of on-call will receive payment for the period they are required to attend, including any travel time. Alternatively, staff may choose to take time off in lieu. However, if for operational reasons time off in lieu cannot be taken within three months, the hours worked must be paid for.

2.43 For work (including travel time) as a result of being called out the employee will receive a payment at time and a half, with the exception of work on general public holidays which will be at double time. Time off in lieu should be at plain time. There is no disqualification from this payment for bands 8 and 9, as a result of being called out.

2.44 By agreement between employers and staff, there may be local arrangements whereby the payment for hours worked during a given

**Source: NHS terms and conditions handbook: Part2, Section2**