Independence Referendum 2014: Implications for Health
A discussion paper
Foreword

The British Medical Association (BMA) is a registered trade union and professional association representing doctors from all branches of medicine with around 150,000 members across the UK. BMA Scotland is the Scottish arm of the BMA and we represent around 16,000 members in Scotland. The BMA is considered the voice of the medical profession.

There are already many voices contributing to the debate around next year’s independence referendum. BMA Scotland will not be taking a position in that debate; there are widely divergent and deeply held personal views on independence among our membership and we do not believe it would be appropriate for us to suggest they vote one way or another on such a highly sensitive political manner.

Much of the debate is dominated by different views on what independence would mean for Scotland’s economy and the implications for future taxation and public spending policies. We cannot claim to have any particular insight on such macro-economic issues and would be keen to avoid speculation, particularly as discussion on major issues such as NHS funding is generally as much about tax, spend and health policies that political parties might choose to adopt in a post-independence Scotland than the question of independence itself. Moreover, health policy is already devolved to the Scottish Parliament under the current constitutional arrangements. This does not mean that we do not have views on the future shape, size and role of the NHS in Scotland, but these would be offered as usual in the run up to the next Holyrood elections in 2016, regardless of whether Scotland votes ‘YES’ or ‘NO’ in next year’s referendum.

However as the professional body and trade union for doctors, there are a number of key questions on practical issues that are of direct relevance to our members in their working lives and which, should there be a ‘YES’ vote in the referendum, would need to be addressed as a priority during the subsequent transition to independence. In this paper we focus on:

i) those issues arising from the potential status of Scotland as a separate sovereign state, e.g. student tuition fees;

ii) responsibilities currently reserved to the UK Government that would need to be taken on by the Scottish Government, e.g. regulation of the medical profession;

iii) those areas where the Scottish Government already has a significant freedom of action but chooses to co-ordinate policy with the other UK nations on a UK-wide basis, e.g. medical workforce planning.

The primary purpose of this paper is to raise those issues now, at an early stage in the process to give the Scottish Government and other interested parties the opportunity to start developing and articulating their responses.

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Maintaining high standards for higher education in an independent Scotland could present both challenges and opportunities. Constitutional issues around charging fees for students from outside Scotland could potentially have a dramatic impact on universities and students and may require a review of existing funding policy.

In the future, whatever the outcome of the referendum, Scotland will want to maintain high quality and internationally competitive universities; prepare and produce excellent medical graduates; and ensure that there are sufficient doctors able and willing to work within the Scottish NHS.

"Any new constitutional arrangement would need to avoid introducing unnecessary risks for students"

Overarching processes may have a dramatic impact on the policies that Scotland could adopt and may limit the number of alternatives that would be feasible, legal and fair. For example, Scotland’s membership of the European Union could impact the ability of Scotland to charge tuition fees for students from the remainder of the EU, including the rest of the UK. These higher level processes are beyond the scope of this document but it would be remiss not to acknowledge that the shape of higher education policy will need to reflect the position that an independent Scotland would occupy within Europe and the rest of the world.

Under the current arrangements for medical undergraduates:

- Students normally resident in Scotland or most of the EU are not required to pay tuition fees for higher education;
- Students that are normally resident in the rest of the UK (RUK) are required to pay tuition fees, which are set independently by universities (up to a maximum of £9,000 pa);
- International students with no recourse to public funds pay up to £18,000 pa depending on the institution and course of study.

There is currently a contradiction in opinion on whether or not the current fee arrangements would need to change. Legal advice published by the BBC (30 May 2013) suggests that should Scotland become independent, the system would need to be restructured so that tuition fees were applied equally to all students regardless of nationality. It claims that “an assessment of eligibility would have to apply equally to RUK students and students from other European Union member countries”. An independent Scottish Government would need to prove that maintaining the present regime was “necessary and appropriate” to achieve a “legitimate” aim. However, First Minister Alex Salmond is quoted as saying that he has legal advice that Scotland could “maintain current arrangements”.

Any new constitutional arrangement would need to avoid introducing unnecessary risks for students and must ensure financial stability for universities. Current and future medical students considering an education in Scotland post-2014 will want to be reassured that:

- Scottish universities will continue to receive funding sufficient to retain their world-class standing;
- There is a clear and unambiguous position on tuition fee arrangements for students from RUK;
- Students from lower economic backgrounds are not deterred from medicine on the basis of cost;
- Scotland has a sufficient future medical workforce (see section on workforce).
Postgraduate Medical Education and Training

Following graduation from medical school, doctors progress on to postgraduate training, currently via the foundation programme and then through higher specialist training. This structure of training is, at the moment, the same throughout the UK. Professor David Greenaway’s Shape of Training review is considering the future of this current model.

All medical graduates must undertake and complete an integrated two-year programme of general training in order to practise as a doctor in the UK. The foundation programme acts as a bridge between undergraduate medical training, and specialty or general practice training. On successful completion of a run-through or higher specialty training programme, doctors are awarded a Certificate of Completion of Training (CCT) which allows them entry onto the General Medical Council (GMC) specialist or general practice register.

“The medical workforce is a mobile one, both within the UK and further afield”

The medical royal colleges across the UK play a key role in medical education, for example by setting the foundation, specialty and general practice curricula. It is the responsibility of the GMC (see section on medical regulation) to approve these programmes. The royal colleges currently operate across the country with a number based in Scotland, but with members and fellows across the UK.

The medical workforce is a mobile one, both within the UK and further afield. For example, in 2010, 14% of doctors at the end of their Scottish foundation programme moved abroad, whilst 20% found jobs in other parts of the UK. Similarly doctors from elsewhere in the UK (and from across the world) will move to Scotland during their careers. With the structure of medical education and training the same across the UK, it is straightforward for doctors to transfer between UK health systems in particular. BMA Scotland views this movement and sharing of ideas across the NHS (and universities), along with consistency of standards of medical training and education across the UK, as constructive for doctors and health services.

With responsibility for healthcare devolved to the Scottish Parliament, the Scottish Government already has the power to develop different medical education and training structures for Scotland. However, it has so far chosen not to diverge from the systems and structures described above. Independence could increase the likelihood of differentiation in medical training and education (as could other factors, such as the significant structural change currently underway in the English NHS). Therefore, in the event of independence, doctors will want to know whether:

- There would continue to be consistency of structure in medical education and training with other parts of the UK;
- There will be mutual recognition of qualifications across UK Borders;
- The role of the medical royal colleges in setting standards and curricula would continue.
Regulation of the Medical Profession

Regulation of the medical profession seeks to ensure that only suitably trained and qualified doctors are able to practise medicine and provide services to patients.

Medical professional regulation is a considerable undertaking that is conducted in Scotland as part of UK arrangements which are currently reserved to the UK Government. The medical profession is independently and centrally regulated by the General Medical Council (GMC).

The principal purpose of the GMC is “to protect, promote and maintain the health and safety of the public”. Although independent, the GMC is accountable to the Professional Standards Authority for Health and Social Care, an independent non-departmental public body accountable to UK Parliament.

“An independent Scotland would be required to re-establish the regulation of the medical profession”

The costs of the GMC are funded by the profession through registration, annual retention and certification fees. Whilst the GMC’s first duty is as a regulator and protector of patients, it is also a charity and has an obligation to operate cost effectively.

The primary functions of the GMC are:

- Registering, licensing and revalidating doctors;
- Setting standards of medical practice;
- Fitness to practise;
- Undergraduate and postgraduate medical education.

Given that the GMC and its functions are established by UK legislation, an independent Scotland would be required to re-establish the regulation of the medical profession in legislation and replicate the core functions of the GMC in Scotland. Critically, the transition from the existing UK arrangements and process to one which operates in an independent Scotland would need to be seamless in order to ensure public confidence in the medical profession.

The current system for regulating doctors allows registered and licensed doctors, with limited additional administration, to work in all four countries of the UK. This is especially important for doctors working in the border regions between the nations and for recently qualified doctors that often move from the area where they were trained. In our view it would be preferable for this ease of movement between England, Northern Ireland, Scotland and Wales to be maintained, especially within small medical specialties and highly skilled sub-specialties where UK numbers are finely balanced for workforce planning.

Therefore, in the event of independence, doctors will want to know:

- How the medical profession will be regulated;
- How the responsibility for regulating the medical profession would be transferred to Scotland;
- Whether there would still be a role for the GMC and what it would be.
Medical Workforce, Contracts and Pay

As discussed previously there is commonality within the medical workforce across the UK. As well as having the same training structure, UK health systems broadly employ doctors within very similar (often the same) payment systems and with the same job titles. There is a shared recognition and understanding of the roles of consultant, associate specialist, specialty doctors, specialist register, general practitioner etc. This consistency further facilitates mobility across the four UK health services.

The mechanism for setting pay levels for doctors working in the NHS is also a UK-wide process. The Doctors and Dentists Review Body (DDRB) is responsible for making recommendations on annual pay uplifts after receiving evidence from the BMA and from governments and employers (including those in Scotland). It is then for the Scottish Government to decide whether to accept the recommendations made by the DDRB. The Scottish Government could choose to adopt entirely different mechanisms to determine pay for doctors working in Scotland. However it has so far retained the UK structure and has broadly implemented DDRB pay awards.

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NHS contractual arrangements vary between groups of doctors. General practitioners currently retain a UK-negotiated contract, but with some (increasing) variation in the contract between nations. Junior doctors and staff grade, associate specialist and specialty doctors all have a contract that is essentially the same across the UK, with only minor differences. Consultants already have an employment contract that was negotiated separately in Scotland, although it is similar in a number of ways to the national contracts in England and Northern Ireland. Scotland is not covered by the current consultant contract negotiations taking place in England and Northern Ireland.

Since devolution, the Scottish Government has had the option to employ and pay its medical workforce in a different way to the rest of the UK but has largely chosen not to do so. We may see further divergence, particularly for general practitioners and consultants in coming years, and a ‘YES’ vote for independence could increase the likelihood of differentiation. Doctors in Scotland will want to know:

- Whether the structure of the medical workforce will remain broadly similar to that in other parts of the UK;
- How the pay of doctors will be determined;
- Whether contracts will be negotiated on a similar basis to current arrangements.
Pensions

Public sector pension policy is a matter reserved to the UK Parliament under the Scotland Act. Therefore, ultimately, the UK Government currently has the authority over decisions on the NHS pension scheme in Scotland.

The Scottish Government nevertheless already has some latitude to develop separate pension proposals in Scotland, although there would be financial consequences should it choose to deviate from decisions made by the UK Government. For example, when the UK Government introduced increases to NHS employee pension contributions from April 2012, it indicated that the Scottish Government could choose not to follow suit, but that the resources to pay for any different arrangements in Scotland would need to come from within the Scottish block grant. The Scottish Government chose to implement the same changes as the UK Government. Similarly, the Scottish Government has adopted the same changes as the UK Government to the NHS scheme to be implemented from 2015.

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In an independent Scotland, it would be for the Scottish Government to determine to what extent public sector pension schemes continued to reflect the current arrangements in other parts of the UK. This decision would clearly be part of broader fiscal and public policy, reflecting the country’s economic circumstances.

However, from a practical perspective, one issue that would need to be addressed in the event of an independent Scotland is whether the existing transfer arrangements between pension schemes across the UK would continue. In particular, it is currently possible - and not uncommon - for members of the NHS scheme in England and Wales to move to the health service in Scotland and to transfer their pension across to the Scottish scheme (and vice versa). This is an important issue particularly for the relatively mobile medical workforce.

Doctors will want to know:

- whether such transfer arrangements would continue to be possible in an independent Scotland.
Immigration

Immigration to the UK is currently a matter reserved to the UK Government. The UK immigration system is a points-based system which is not enacted through legislation, so the UK Government can (and does) change the system on a regular basis.

The points system consists of five tiers. Tiers 2 and 4 are most relevant to doctors or prospective medical students from outside the European Economic Area (EEA) who wish to come to the UK. Those applying to work or study from within the EEA (apart from Bulgarian and Romanian nationals) do not need permission to do so.

The UK Government has capped skilled migration from outside the EEA. The number of tier 2 visas issued to highly skilled migrants is being limited. This tier is open to skilled workers with a job offer in the UK, allowing employers to recruit workers from outside the UK and EEA to fill vacancies which they have been unable to fill with a UK or EEA worker. The limit on the number of applicants for tier 2 from outside the UK does not apply if a particular job has been classified as a shortage specialty. There are medical roles on the shortage occupation list and some of these are specific to Scotland e.g. specialty trainees at ST3 to ST6 in paediatrics and anaesthetics.

Tier 4 is the immigration category for students in the UK. International students who study medicine at UK medical schools can apply to tier 4 at the end of their medical studies to gain additional leave to remain in the UK to enable them to complete their first two years as a doctor in the foundation programme. At present, the UK Foundation Programme Office issues the visa letters required to apply for leave under tier 4.

Immigration policy is clearly a complex area and is partly dependent on membership of the European Union. Whether or not an independent Scotland would be part of the EU is a question to be debated elsewhere, but it would certainly be an important factor in immigration policy. As, indeed, could be the question of the future UK relationship (with or without Scotland) with Europe.

Nevertheless, doctors, prospective doctors, NHS employers and universities in Scotland will be interested in a number of key issues relating to immigration, in particular:

- What will the arrangements be for students from outside Scotland to attend medical school in Scotland?
- What will their status be in relation to subsequent NHS employment in Scotland or elsewhere in the UK?
- On what basis will NHS organisations in Scotland be able to recruit medical staff from outside Scotland?
Research

Scotland’s world-renowned higher education sector translates into much wider benefits for society and the economy. This is particularly true for medicine where the strong research base has direct benefits for health and creates wealth for the nation. Scotland’s world class scientific research is a fundamental long-term investment in Scotland’s future and must be maintained. Medical research improves the quality and efficiency of the NHS and it attracts further investment into Scotland.

Despite having only 0.1% of the world’s population, Scottish research contributes 1.8% of the world’s citations, and is ranked first in the world in terms of research impact per GDP. Scotland has several outstanding universities with particular strengths in the field of biomedical research, and this research in turn leads on to pharmaceutical, technological and intellectual advances. Scotland’s citation share is particularly high in biological sciences (2.4%) and medically-related research (1.8%).

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Funding for research in universities is currently determined on a UK-wide basis including the allocation of research grants from the seven research councils (www.rcuk.ac.uk). Each year the research councils invest around £3 billion in research, with awards made on the basis of quality rather than by country of origin. Scotland is currently successful beyond its population share. In 2010-11, Scottish universities were awarded nearly 15% (£232 million) of the UK’s research council funding for 9% of the population. The Medical Research Council alone awarded £759.4 million on research in 2011/12 on a UK basis, and in 2012, the MRC had established seven large-scale research investments based across Scotland. It is this investment in medical research that attracts medical academics from across the world to come and work in Scotland’s universities and NHS, as well as retaining some of the leading medical research professionals from Scotland, in Scotland.

Many aspects of research are subject to UK or European regulation e.g. The Human Tissue Act, the work of the Human Fertilisation and Embryology Authority and intellectual property rights, and these existing arrangements will need to be replicated in an independent Scotland.

Scotland’s universities and researchers must continue to have the opportunities to access and compete for similar, or comparable, levels of funding from all its existing funding streams in order to maintain and develop its research excellence beyond 2014. In order to ensure that Scotland maintains its existing position it is therefore important to retain current Scottish, UK and European research funding arrangements or ensure similar consistent levels of funding are available.

Doctors, in particular medical academics, will want to know:

- How Scotland would continue to fund medical research and retain Scotland’s reputation for excellence.