ARM2022

Fighting for our rights, fighting for our future

Consultants Committee report to ARM

Overview

COVID19

This session, we have continued to support consultants throughout the developments of the pandemic, especially as the Omicron variant hit our services earlier this year and caused significant challenges for the NHS and Consultants. We continued to lobby for assurances over access to appropriate levels of PPE, infection control measures to be strengthened in healthcare settings, and for meaningful staff risk assessments to be undertaken where required. Following concerns we raised directly with NHS England & Improvement, we managed to get the UK IPC guidance to be reviewed in light of the Omicron variant. UKHSA, the CMOs and CNOs collectively agreed that the guidance should be more explicit in noting the availability of respiratory protective equipment for staff in the event that a local risk assessment finds an unacceptable risk of infection. This change of wording emphasised the trust's responsibility to carry out local risk assessments in the context of the increased transmissibility of Omicron and for making respiratory protective equipment (such as FFP3 masks) more widely available to healthcare workers.

We also wrote to LNC chairs earlier in the year to outline the support that the Consultants Committee are able to provide to LNC's in order to help support them in protecting trust staff with respect to COVID-19 risks. The letter clarified the committee and the BMA are keen to support LNCs in ensuring that:

- staff are equipped with adequate Respiratory Protective Equipment (RPE)
- processes for carrying out proper risk assessments – individual and environmental – are in place
- options and the proper IT equipment to enable virtual remote working are in place
- flexible offsite working for SPAs is encouraged

- mandatory face coverings for staff and patients remains in place with access to free Covid testing
- a streamlined approach to appraisals continues ideally referenced to GMC Appraisal 2020

We continue to attend meetings between the NHSE/I medical director and the royal colleges, where we discuss developments regarding the pandemic and its impact on a fortnightly basis. In addition to this, we hold fortnightly meetings between the NHSE/I medical director and the consultants committee chair focusing on how to resolve secondary-care specific issues raised by the pandemic.

Consultants Conference

Earlier this year we held our annual consultants conference. There were a number of important motions passed at the conference which now become BMA consultants' policy. This included some moving testimonies from members impacted by the adult dependent relatives visa rules and conference passed policy calling on the Government to reconsider these arrangements. There was lively debate about the challenges in emergency departments, and the conference passed a motion calling on corridor care to be considered a never event, as well as ensuring that funding is available to improve ventilation and to define minimum staffing ratios.

Conference delegates also passed policy on topics including lobbying for improvements to the GMC fitness-to-practise procedure; lobbying for improvements to the pressures on emergency departments; and ensuring extra work outside of the consultant contract is properly paid for, asking for the BMA to publish rates of pay for extra-contractual work.

In the afternoon, workshops were held on job planning for work-life balance, what to consider when retiring and returning, the future of the health service(s) and the primary/secondary care interface, with a focus on the electronic referrals system. These sessions were very successful, with lots of engagement from delegates. You can find a summary of the resolutions passed at conference on the BMA Website.

CC Specialty leads

CC specialty leads have continued to meet with representatives from royal colleges through the session. While their discussions focussed on a range of subjects including workforce issues (specifically around recruitment and retention) and how this links to issues around pay and pensions, across the board there was a huge focus on the pandemic and how is has affected the different specialties – including its impact on training, its impact on care, and its impact on doctors. The discussions also centred on how the colleges and the BMA can work together to support common aims. We used these meetings to find solutions to specialty-specific problems, sharing resource, support and insight with these organisations.

Pay, terms and conditions of Service Subcommittee

LCEAs

2021/2022 LCEA scheme

Due to the COVID-19 pandemic the 2021-22 round was not run and instead the money was distributed amongst all eligible consultants. Following work and intervention from

the BMA's consultant committee we established significant underspends that may be as high as £30million on the interim arrangement. We secured agreement from NHS Employers that this underspend must be corrected, and this money will be paid to consultants this financial year. We are working hard both via our national consultants committee and our team of industrial relations officers to bring this money back into consultants pay.

Future 2022-2023 LCEA scheme

The BMA entered into negotiations to try and develop a new CEA scheme that was fairer, addressed the gender and ethnicity pay gap and motivated consultants to deliver excellence for their patients and the NHS. We were therefore extremely disappointed earlier this year to report that that we did not reach agreement due to an insistence from NHSEI to alter how the scheme is funded, the result is a scheme that is not only too complicated but will drive further unfairness.

These negotiations follow an agreement made in 2018 for the previous 2018-21 scheme which was then further extended to 2022. This protected £400m in consultant pay.

The BMA negotiations team had made some significant progress. We secured agreement that those working part time would receive a full payment if they received an award. We also secured agreement that consultants could choose 3 out of a possible 15 domains rather than being forced to complete 5 out of 5, even if they did not fit within your scope of practice. These new domains were designed to ensure the work of all consultants could be recognised.

Discussions reached an impasse over these key areas:

The new scheme's funding mechanism. This is due to the insistence from NHSEI

The BMA felt this was extremely unfair, especially as the impact on younger consultants, a greater proportion of whom are female, would miss out as most of the CEA budget would go to older consultants with existing CEAs, leaving very little left over for new awards. As a consequence, this could see new consultants disincentivised from working in these organisations.

The potential for postcode lottery: Due to the tight government-imposed deadlines to reach agreement, there was insufficient detail agreed around the assessment process for awards and any appeal process. Far too much was left to "local discretion" and the BMA were concerned that without nationally agreed criteria around the assessment process,

Scheme length limited to one year: NHS E and I blocked the plans to allow awards to be made for more than 1 year. The BMA believed that the option of multi-year awards would not only reduce the administrative burden both for consultants and employers but would minimise the risk of additional pension taxation issues, as the need for large one-off awards in a single tax year would-be avoided.

Funding risk: We were also concerned that Employers wanted the option to use any left-over funding to pay for other things within the trust after consultation rather than agreement with the LNC. The money for CEAs has come directly from the consultant pay bill, and the suggestion that it could be used to pay for facilities or put towards

study leave budgets was unacceptable.

The framework agreement was presented to the BMA consultants committee in a special meeting earlier this year, and for the reasons above, together with a host of other concerns, the NHS Employers /DHSC proposal was overwhelmingly rejected. We have relayed these concerns back to government and NHS employers but unfortunately, they were unwilling to make any meaningful changes to address them.

NHS Employers and DHSC have indicated that they plan to impose their new CEA scheme via consultation with LNCs locally. This is incredibly disappointing especially given the BMA has outlined a number of compromise options, such as delaying the implementation of the competitive (Level 2) part of the scheme as well extending the equal distribution arrangements that operated throughout the pandemic. This would have allowed time for these issues to be resolved rather than force through a scheme that will result in an inequitable situation in trusts across the country.

We remain willing to re-enter discussions with DHSC and NHS employers and will continue to seek ways to establish a deal that is in the best interests of consultants. Until this is done, we believe the fairest solution is to extend the arrangements that operated during the pandemic and distribute this element of consultant pay via equal distribution. We also published guidance on the new scheme on our website.

NCIAs

There have been important changes to the National Clinical Excellence Award scheme which will now be known as the National Clinical Impact Award scheme. These changes were unilaterally introduced by the Advisory Committee on Clinical Impact Awards (ACCIA) following a consultation last year. The BMA consultants committee highlighted a number of concerns both during the consultation process and following the publication of the consultation response. Read the BMA submission to the consultation process and the subsequent letter sent to the Department of Health. Despite these concerns, ACCIA and DHSC have proceeded with these changes. However, consultants, consultant clinical academics and academic GPs in England and Wales will need to consider very carefully the impact of these changes before applying for or receiving an award. We put together the following guidance for our members earlier this year when the changes came into force.

DDRB & pay strategy

During 2021 our Fairness for the Frontline campaign highlighted the diminishing pay and reward for doctors who have been at the forefront of the fight against COVID19. Last summer consultants received a 3% pay uplift which was considerably more than the 1% proposed initially by the government but did nothing to correct the loss in earnings over the last decade. This has reinforced the BMA's and the Consultants Committee belief that the DDRB process is broken and that the government hides behind it. As per previous conference policy, this year Consultants declined to submit evidence to the DDRB and instead wrote to the government outlining urgent need for reform to the DDRB process to make it more transparent and fairer. The committee have also developed detailed plans about what alternative strategies consultants can utilise to address their loss in pay if faced with yet another sub-inflationary pay award from the DDRB.

Development Communications and Professionalism

Consultant charter

The consultants committee are developing a consultant charter to provide an overview of the standards consultants should expect from their employers to help identify where they are falling short. It will help both doctors and employers to recognise what good and bad employment practice for consultants looks like, covering areas such as job planning, safe working patterns, flexible working, Local Clinical Excellence Awards (LCEA) schemes and workplace environment and facilities. The charter also provides onward direction to more detailed BMA guidance so that member can understand exactly what provisions and protections are contained within the national consultant terms and conditions of service.

The aim of this charter is:

- To facilitate and provide support for the work of Local Negotiating Committees (LNCs)
- To recognise the expertise that consultants bring as senior leaders who have responsibilities for services, teaching, education the next generation, as well as direct clinical responsibilities
- It is not intended to be exhaustive but aims to provide a framework to enable consultants to feel empowered in their professional life

The charter was discussed at the LNC chairs conference (held in May) where it was positively received and it will be published soon

Appraisals

As you will be aware, during the height of the COVID-19 pandemic, medical appraisals were paused for most of the UK while doctors focused on the demands of caring for patients during this unprecedented national health crisis. Appraisals have since been reintroduced. Each nation has taken a slightly different approach to the new streamlined process for appraisals. In England this process is known as Appraisal 2020. To help us understand how this process is working in England, we launched a survey on appraisals for consultants. The purpose of the survey was to inform the work of the BMA's UK consultants committee to support doctors undertaking appraisal during the pandemic and beyond. This survey was intended to sample consultants' opinions about appraisal as they have experienced it and understand to what extent organisations have really implemented Appraisal 2020, from the appraisee's perspective.

The survey closed recently, and results are currently being analysed, there were around 1,000 responses and many respondents were reporting generally negative experiences citing onerousness and insufficient application of streamlined Appraisal 2020. We will be publishing these results soon and continue to lobby and raise concerns with national stakeholders for improvements in the appraisal process.

LNC Chairs Conference

This year we also held the LNC Chairs conference on the 17th of May, face to face for the first time since the pandemic. The conference discussed an initial draft of a consultant's charter, a document we are developing which will outline the standards consultants should expect from their employers and what a good employer looks like. There was also a strong focus on pay and rates of pay for extra contractual work. The conference

also received speeches from BMA president Prof Neena Modi on valuing health, and Prof Mala Rao on the medical workforce race equality standard and effective IMG inductions.

Consultant voice in Integrated Care System ICSs

The UK Government has now passed the Health and Care Act 2022. The Act makes major changes to the NHS in England, including making ICSs formal, statutory bodies with power over NHS commissioning and spending at a local level. There are 42 ICSs covering every area in England. All 42 ICSs are expected to be fully operational as statutory bodies from July 2022. The ongoing development of ICSs presents both challenges and opportunities for doctors. ICSs bring together NHS, local authority and third sector bodies to take on responsibility for the resources and health of an area or 'system'. Their aim is to deliver better, more integrated care for patients. Although previously informal and alliance-based, the Government's Health and Care Act enshrines ICSs as statutory bodies. Specifically, under the Act two bodies – the ICB (Integrated Care Board) and the ICP (Integrated Care Partnership) – will be given statutory status and will collectively make up the ICS. The ICB will be responsible for NHS services and funding, whereas the ICP will cover broader issues such as public health and social care. Under this structure, the ICB element of the ICS will now take on legal responsibility for NHS resources and commissioning of services within their footprint. The consultants committee are lobbying for a voice/ route to the ICB's to ensure there is clinical representation from secondary care doctors at all appropriate levels.

Healthcare Policy Subcommittee

Primary secondary care interface / e-RS advice and guidance

We have continued to work with NHS England and other organisations on improving the primary/secondary care interface. Specifically, collaboratively working with GPC England around e-RS. At this year's consultants conference, we held a joint a workshop with GPC England on e-RS with a focus on the increasingly dominant new system of Advice and Guidance. We provided conference delegates with an overview of how the A&G system works, how the ramping up of Advice and Guidance may impact on work planning, and explored how to accommodate new ways of working, as well as how to manage potentially increased workload in both settings. At the workshop we also discussed how meaningful communication can take place outside of electronic referrals, and if necessary, how to foster a culture of mutual respect between primary and secondary care.

At the NHS E/I clinical council meetings we have continued to raise concerns around e-RS A&G and have achieved recognition on the need for job planning for the work consultants will have to undertake with regards to this new system and we are currently pursuing a position from the GMC on clinical responsibility with regards to A&G.

Elective recovery

NHS England published its elective recovery plan – formally titled Delivery plan for tackling the COVID-19 backlog of elective care – on 8th February 2022, establishing how the NHS in England is expected to recover elective services that have been heavily impacted by the pandemic. The BMA issued an immediate response to the

announcement of the plan, stressing that without urgent and tangible action on workforce any strategy, policies, or targets would fail to deliver elective recovery. We believe it is essential that steps are taken immediately to help keep existing staff within the NHS, if elective services are going to recover effectively. This should include prioritising staff wellbeing and pay and conditions, ensuring all services have proper rest facilities, and reforming punitive pension rules. However, aspects of the plan are potentially positive and address key points from our reports Rest, Recover, Restore and Weathering the Storm. This includes the focus on staff wellbeing, the honest appraisal of the challenge facing the NHS, and the intention to allow patients to track the status of their referrals and waiting times.

The BMA consultants committee has been attending the NHS England elective care taskforce working group and continuing to influence communications from NHS E around elective recovery, including getting recognition of the need to tackle pensions taxation and retire and return in order to retain consultants to support the delivery of the elective recovery plan.

Health and Care Act

The Health and Care Bill has now received Royal Assent and will begin to be implemented as an Act of Parliament. The BMA has consistently argued that this is the wrong bill at the wrong time. It fails to address the main problems facing the NHS and our members: too few resources, a crisis in social care and crucially, a huge shortfall of staff. While the Government made some concessions – responding to our calls for greater protection from private providers influencing commissioning decisions, and safeguards against undue political interference in local services – it is hugely disappointing that necessary changes weren't delivered, including failing to listen to frontline staff on the critical issue of safe staffing. However, we have built consensus with many other stakeholder organisations about the importance of workforce planning going forward and will continue to lobby collectively on this.

As the Act begins to be implemented, the BMA and the consultants committee will continue to campaign for a publicly funded, publicly provided and publicly accountable NHS that gets the investment it needs and protects the health and wellbeing of its staff, so they can provide the care that patients deserve. Further information can be found on our website here.

SCC (Scottish Consultants Committee)

Pensions

In January 2022 the Scottish Government launched its consultation on amendments to the NHS pension schemes in Scotland. BMA Scotland submitted a response to the consultation, and SCC deputy chair Alan Robertson published a blog explaining the consultation and urging members to respond. However Scottish Government then delayed the member contribution reforms until October 2022, and a further 12-week consultation is due to take place in the summer based on responses to the initial consultation.

The ongoing problem of pension taxation had also been raised directly with the Scottish Cabinet Secretary for health, Humza Yousaf, with particular emphasis on the devolved flexibilities Scottish Government could implement to address these. The Scottish Government scheme which offered REC (recycling of employers'

contributions) closed in March 2020 and Humza Yousaf has since stated that a REC scheme was currently being considered.

Each year SCC advise members during the summer months to write to SPPA (Scottish Public Pensions Agency) requesting their pension statement for tax self-assessments.

Workforce

The Scottish Government workforce strategy document was released in March 2022. It sets out a plan to increase the NHS workforce by 1% over 5 years and to increase the number of medical school places by 500.

There is however no mention in the strategy of the need for workforce retention. SCC continues to push the need for measures to support better retention of consultants. To address this issue with Scottish Government and to provide evidence of the NHS staffing crisis, SCC are working on a joint survey with the Scottish Academy and MSG to better understand the issues that affect retention of senior doctors. This will look at the factors that are influencing both retirement plans and intentions to reduce clinical sessions, with the aim of identifying solutions to support the workforce. The survey will be conducted by an external organisation/university

Consultant vacancy rates continue at around 7%. As the Scottish Government December vacancy figures were published at the start of March, SCC pre-empted the publication of these vacancy figures by publishing a news release on consultant vacancy figures based on FOI (Freedom of Information) data as a comparison.

Pay

SCC continue to lobby and campaign for fair recognition and pay for consultants. We have submitted our evidence to the DDRB asking for pay restoration, with a pay rise this year of RPI +2%. We have been strongly critical if the Scottish Government's proposal of capping the pay rise for consultants at £500, which would amount to a real terms pay cut of around 9%. The recommendations from the DDRB are still awaited and we will update Scottish consultants on further action as soon as it is published.

Welsh consultants committee (WCC)

COVID advisory pay notice

We agreed enhanced pay for out of hours and displaced work arising during and after the pandemic for consultants and SAS doctors in Wales. This also contained important protections of job plans and Term and Conditions. The consultants withdrew from this agreement on 1st April 2022 to revert back to the Welsh Consultant contract arrangements for waiting list initiatives.

Pension flexibilities – recycling of employer contributions: Pensions have continued to play a major role in the work of WCC, Dr Andrew Goodall (the then) Chief Executive NHS Wales issued a letter to all Chief Executives of Health Boards (27 October 2021) informing them that they can consider using local flexibilities where appropriate to do so within the NHS Pension arrangements, including the option of 'pension recycling'. All-Wales guidance was issued in January 2022.

Although it has taken a great deal of time and effort from us and BMA staff, all health boards have confirmed provision has or shortly will be made for pension

contribution recycling. Swansea Bay University Health Board have backdated this to April 2021, and we are pressing other health boards to follow suit.
Retire and Return: WCC representatives drafted an all-Wales agreement on flexible retirement for medical and dental staff. Retire and return is the most frequent option used especially for members of the NHS 1995 Pension scheme to access their benefits without financial disadvantage. We are pushing for the right to continue on the same Terms and Conditions if returning to the same job plan.
Discussions with NHS(W) Employers and Welsh Government are on-going.

Clinical Impact Award (CIA) Scheme (Formerly Clinical Excellence Award Scheme)

WCC responded to the consultation on the reform of the CEA Scheme and secured agreement with Welsh Government for a greater number of awards in Wales (albeit of reduced value), retention of Bronze- level awards, holding of CIAs and commitment awards simultaneously, and reform regarding access. New awards will no longer be pro-rated, so a less than full-time consultant gains the full award.

Welsh Government Plan for transforming and modernising planned care and reducing waiting lists

As part of BMA Cymru Wales submission on the planned care recovery plan, WCC commented that the plan was high level with no specific actions to address the backlog. Medical input must be a key part in implementing the plans. BMA Cymru Wales Media and Public Affairs Team are launching a web portal to gather feedback and examples from members both on system pressures and practical examples to help with the recovery of the NHS.

Medical and Dental Business Group (MDBG)

WCC representatives meet with Welsh Government Officials, NHS Wales Employer representatives at a group established to work in social partnership to seek genuine consensus on issues that affect employer/employee relationships. Ongoing issues being discussed include: Locum Pay Cap; Implementation of the Fatigue and Facilities Charter and time off for Trade Union Duties.

Recruitment and Retention Subcommittee

A Recruitment and Retention Subcommittee of MDBG leads on measures and policy to attract and retain the medical workforce within secondary care. Work is underway on: Inductions for IMG Doctors; mentoring for Consultants; Gender Pay Gap; Working Longer Review.

Northern Ireland consultants committee (NICC)

COVID-19

COVID-19, and, more specifically, the backlog of work accrued, is likely to continue to cause some disruption to our working patterns, conditions, teams, roles and the settings in which we work for some time yet. The past two years have been incredibly difficult; we have worked through a pandemic and addressed challenges we never expected to face. We had hoped that following the NI assembly election we would enter a period of stability where some of the much-needed work on transformation could begin. NI had the worst waiting list times in the UK before the pandemic, and these lists have only increased further as a result. Along with the Royal Colleges we recently urged the parties to go back into government and we will continue to highlight the need for political stability and the detrimental effect no Executive has on patients and the workforce.

Recruitment and retention

Even before COVID-19, BMA Northern Ireland (NI) had reported that the health and social care workforces in NI were overstretched and under-resourced. We have been urging key stakeholders to take action to recruit and retain consultants in the nation as it deals with and then recovers from the pandemic. We have continued to highlight the current issues with consultant pay and the level of erosion that has occurred over the past number of years to key stakeholders, in particular the impact this has had on the consultant workforce (both in terms of people leaving early and in trying to recruit to Northern Ireland). We have been looking at the way the issue is exacerbated by the lack of pensions mitigations, and the rise in inflation. This work continues.

Clinical excellence awards

Clinical excellence awards have been frozen in Northern Ireland since 2009, with no increase in their value, nor new awards or progression through the award scheme. Since 2016, BMA NI has pushed a legal case through the courts for the reintroduction of CEAs in Northern Ireland. We have watched the case progress through the legal system, albeit very slowly. This has been the result of delayed responses from the defendants, the NI legal system and lengthy discovery periods as well as COVID. We have now entered into a mediation process and this will commence in August 2022. NICC continues to highlight the serious effect this is having on recruitment to senior posts.

Pensions

NICC remains extremely concerned about the detrimental impact the current punitive tax regulations are having on doctors and the lack of mitigations that currently exist in Northern Ireland. This issue is by far the most important for consultant members, along with ensuring that we have pay parity with colleagues in the rest of the UK. In particular we believe that the current situation is affecting the choices doctors are making in relation to the number of hours they work and/or when they intend to retire. It is essential that we retain this expertise if we are to successfully manage the demands of recovering from the pandemic, to rebuild and transform the service whilst tackling the ever-increasing waiting lists. We continue to raise awareness of the impact of pensions changes to consultants and persist in our endeavours to raise this issue with the Minister for Health in Northern Ireland. The delay in receiving pay uplifts, and the effect of receiving two pay uplifts in one year has had an adverse effect on our finances resulting in large tax bills for many consultants and SAS doctors. We continue to pursue this with the HMRC, Pensions Board and the Department of Finance.

Dr Vishal Sharma, Chair - UK Consultants committee

https://www.bma.org.uk/what-we-do/committees/consultants-committee/consultants-committee-uk-overview