ARM2023

Consultants committee (CC)
Written report to the ARM 2023

Major themes
Pay and pensions

From July 2022's introduction of the consultant rate card, to the official ballot for IA (industrial action) in spring 2023, this session has witnessed a series of decisive actions from the UK consultants committee to address the longstanding issue of pay erosion.

Following the successful introduction of the rate card in England, which has empowered doctors to receive better pay for their extracontractual work, CC held an initial consultative ballot in early 2023 to gauge England-based consultants' appetite for IA. Members were asked if they would be willing to take action to fix pensions, fix pay and fix the DDRB. While the ballot was only open two weeks, it received an impressive 61% turnout, with 86% of respondents voting in favour of action.

The BMA pensions committee had been lobbying for reforms to pension taxation for several years and supported by the results of the indicative ballot secured legislative changes to pension taxation, which both scrapped the lifetime allowance and raised annual allowance to £60,000. While not a complete fix, the BMA welcomed these reforms and the difference they would make to members across the association.

The consultative ballot led to a series of talks between CC negotiators and Government officials, where we tried to secure a deal focusing on pay and pay review body reform. Agreement was not reached and unfortunately all that was on offer was yet another real terms pay cut. Therefore, CC felt there was no option but to proceed to a statutory ballot, which opened Monday 15 May. We have been clear that our door remains open for further talks and that strike action will always be a last resort and can still be averted if the Government comes back with a credible offer.

In the lead up to the balloting process, CC held a series of online engagement events, taking questions from consultants across England on our pay campaign broadly and IA specifically. The LNC chairs conference was held on Tuesday 16 May, which sought to equip activists with the tools to organise in their local areas, and materials have been produced to help members "get out the vote".

In advance of the ballot, we had been rolling out training to activist members to teach them the McAlevey model of organising. In addition to this, the BMA spoke to consultant focus groups to consider the views of consultants with different levels of commitment to the pay campaign (including those who would never vote for industrial action), to better understand the reasoning behind their different positions. We have also been looking at survey data gauging public opinion on consultant IA.

Both this training and the insight gathered from this groups have helped to inform activity throughout the balloting period. CC officers and negotiators have held regular webinars, speaking to consultants about their concerns and encouraging them to take part in the ballot. A network of activists (including RCC and LNC representatives) have organised in their local and regional areas, and we have been working with colleagues in strategic communications and member relations to ensure our campaign message is landing with doctors across the nation.

At the time of writing, this ballot is still open.

It is also worth noting the aforementioned rate card rates were uplifted in April 2023, to reflect RPI inflation. While this was a part-year update, in the future the rates will rise annually in line with inflation on 1 April each year. UKCC are exploring ways in which the rate card can be expanded to cover other forms of extra-contractual work that are currently undertaken within people's existing job plans and what support would be needed to ensure people are empowered to unpick these from their job plans unless they are paid appropriately for this

work.

As the first BMA committee to withdraw from the review body on doctors' and dentists' remuneration, we welcomed the association's publication of the DDRB critical report in January 2023. This document explained our concerns about the pay review body's independence and, by extension, efficacy, and what reform is required to restore its credibility. The report was informed by UKCC input and, in turn, informs our demands for what a functional, fair pay review process should look like.

Clinical excellence awards

While UKCC negotiators and NHS Employers were not able to reach agreement on a new structure for LCEA (Local clinical excellence award) schemes, it was agreed that a number of relatively minor changes would be made to Schedule 30 to provide clarity to consultants and employers. These changes remove some ambiguities but do not materially change the nature of the calculation for funding/spending requirements that trusts are contractually obliged to meet.

We continue to lobby against changes made to the national awards (now National clinical impact awards) scheme which substantially devalue it, and particularly the lack of protections available to some groups who are eligible for and in receipt of national awards but are either not entitled to the contractual benefit of Schedule 30 or may not receive full protection. We have also highlighted that the current requirement to forfeit pensionable LCEAs if awarded a non-pensionable NCIA is a significant disincentive against applying for awards.

Other CC UK business

Consultant charter

CC continues to develop and roll out the consultant charter, with the aim of auditing trusts in England against its standards. This would be done through a BMA charter mark, which would highlight a tust as a particularly good employer for consultants.

At present, we are working on:

- Developing principles for fairness for use by LNCs in trusts that insist on returning to a competitive LCEA scheme[1], which will feed into a BMA model policy for competitive LCEAs;
- Supporting members and LNCs with resources to develop an increased awareness of MHPS (Maintaining high professional standards in the NHS) and a fairer application of the process embracing the Just culture approach. This will also inform wider work with other branch of practice committees on the review of MHPS at a national level; and
- Developing resources, support and clear best practice principles around the application of consultant job planning and appraisal to ensure that the process is effective, constructive, supportive and fair.

- There is also work underway on:
- Safe working patterns;
- Flexible working (including career breaks and sabbaticals);
- Retire and return;
- Working in later years of a consultant career and/or with a disability or long-term health condition; and
- Consultants as clinical leaders, educators and trainers and researchers.

We are focussed on developing the bargaining agenda with clear benchmarks so that LNCs can press for improvements in all areas and trusts can be measured on their success, while at the same time providing members with more support and resources.

Other professional issues

Alternative routes to specialist qualification

While the committee is happy to support streamlining the CESR (Certificate of eligibility for specialist registration) route to CCT, we will carefully consider GMC's new proposals on Alternative routes to specialist qualification, to ensure that doctors are not left vulnerable to undesirable practices by sponsoring employers.

[1] UK CC position remains that equal distribution should be adhered to

MHPS

The CC officer team is aware of the difficulties that consultants face under the current "Maintaining High Professional Standards" framework and acknowledges that the current system is opaque and poorly understood by doctors. Equally, the misbalance of power in the MHPS process meant that in some situations the MHPS process could be used punitively - and even vindictively - against doctors.

Following a further discussion of the issue at the last meeting of the CC executive subcommittee, it was decided that CC's DCP (development, communications and professionalism) subcommittee will take ownership of this issue for CC and decide how best to engage internally and externally (including with the GMC and NHS England) to achieve reform of the MHPS process on a local and national level to make it fairer for the doctors involved in the process.

Healthcare delivery

We have continued to engage with NHSEI (NHS England and Improvement) on their plans to reduce the unprecedented size of waiting lists. CC have emphasised the need to recognise the huge variations in IT facilities, the demographics of populations, and the suitability of remote consultations for certain specialties, as well as the need to engage with patient representative groups on proposed changes to models of out-patient care delivery. Most importantly, we have been absolutely clear that any proposed increases in capacity are wholly reliant on a realistic workforce strategy, which must include real actions that both increase recruitment and retention of consultants.

We have also worked closely with BMA's GPs committee to represent the interests of members across the primary/secondary care interface, particularly around proposed changes to referral processes between primary and secondary care, tackling the difficult issues of clinical responsibility for patients at every stage, and regulatory requirements. We have been successful in achieving significant changes to proposed NHSEI guidance around electronic referrals/advice from secondary care.

Jeremy Hunt (chair of the Health Select Committee at the time) announced in the Autumn statement on 17 November 2022 that he was committing to publishing a workforce plan with fully published, independently verified modelling covering the next five, ten and 15 years. Previously we were told this would be out by March 2023, but we are still awaiting this plan.

We have also been attending the BMA's attrition working group. The project's overarching purpose is to develop a range of evidence-based retention policies that target specific points of preventable attrition in the medical workforce pipeline. We plan to continue to input into this piece of work which is due to be published near ARM.

A motion was passed earlier this year at consultants conference that calls on the BMA to lobby external stakeholders to ensure that shortage specialties are adequately staffed and that doctors are not being replaced by MAPs (medical associate professionals), whilst respecting and recognising the specific skills of MAPs in the workforce. The motion calls on the royal colleges, the GMC and HEE (Health Education England) to explicitly commit to more training places for doctors in shortage specialties (the motion itself specifically references anaesthesia). We will continue to work with cross branch of practice representatives on this issue and lobby external stakeholders to ensure that the continued expansion of the MAP workforce does not adversely affect consultants and other doctors.

Conferences

The 2023 consultants conference debate on a range of policy areas, from healthcare estates to local clinical excellence awards (LCEAs). A list of resolutions can be found on the BMA website (scroll to the bottom of the page). The event also included a panel discussion on pay.

As mentioned above, we also held the annual LNC chairs conference, which brought together doctors from across secondary care for a day of workshops, talks and discussion.

Specialty leads

CC specialty leads continued to meet with representative from royal colleges throughout the session, raising issues impacting consultants across the NHS.

COVID-19

We continue to meet with Professor Stephen Powis (National medical director for NHS England) and

representatives from the royal colleges of medicine to monitor and discuss developments regarding COVID-19.

Vish Sharma, CC chair
Shanu Datta, CC deputy chair (development, communications, professionalism)
Mike Henley, CC deputy chair (negotiations)
Simon Walsh, CC deputy chair (healthcare policy)

Devolved nations

Northern Ireland consultants committee (NICC)

Northern Ireland political environment

The lack of a Northern Ireland Executive means we are seeing drift and an absence of direction in a time of significant crisis for the profession. As things currently stand, funding arrangements agreed by the Secretary of State for Northern Ireland (due to massive budget deficits) mean that any money that would normally come to Northern Ireland (NI) in the event of English pay deals currently will not. We have been told by DoH (the Department of Health) that there will be *no pay rise this year*.

We have been clear with the DoH what the effect of this will be on all doctors, including consultants, in terms of morale and retention. We have called on the Secretary of State for Northern Ireland to guarantee that pay in NI pay will at least keep pace with any deals agreed in England this year.

Consultant pay

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 NI). We have been looking at the way the issue is exacerbated by the lack of pensions mitigations, migration to other countries offering better terms and conditions and pay, and the rise in inflation. We are currently carrying out an indicative ballot amongst NI consultants as a structure test to determine whether they would take industrial action should this step be required. This work continues.

Recruitment and retention

The Health and Social Care workforce in NI continues to be overstretched and under-resourced. We have been urging key stakeholders to take action to recruit and retain consultants in the nation to no avail. Much of the workforce is either retiring (due to punitive pensions taxation that lacks mitigations in NI) or they are leaving to other countries, for example to Ireland, where they can obtain employment with much more lucrative pay and terms and conditions. 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.

Rate Card

The rate card has received much traction throughout the trusts in Northern Ireland. Trusts, however, have been instructed by the DoH that they are not to pay the rate card rates. We will continue to drive this forward with our members until both they and employers/DoH understand the value of consultants and what their free time is worth.

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 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. Since August 2022, we have entered a mediation process working alongside the DoH to design and implement a CEA scheme for consultants in NI. NICC continues to highlight the serious effect this is having on recruitment to senior posts. We are almost at the stage where the new scheme will be released for public consultation, and BMA can respond as a consultee. This work continues.

Pensions

NICC remains extremely concerned about 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. The recent budget has managed to alleviate some concerns in terms of AA (annual allowance) and LTA (life-time allowance), however it does not go far enough to fully fix pensions, particularly for those impacted by the tapered annual allowance. We continue to raise awareness of the impact of pensions changes to consultants and persist in our endeavours to obtain mitigations that are essential in retaining consultants in NI.

David Farren, NICC chair

SCC (Scottish consultants committee)

Recruitment and retention

One of the ongoing priorities for SCC is staff retention and recruitment. The Scottish Government reports on vacancy rates on a quarterly basis (see NHS Scotland workforce | Turas Data Intelligence). However due to how Scottish Government calculate vacancy rates, SCC submits a FOI (freedom of information) request on an annual basis to NHS health boards in Scotland requesting vacancy figures, which normally shows that vacancy figures are almost double those published by Scottish Government.

Pensions

As SCC chair, I continue to represent SCC and BMA Scotland on SAB (NHS Pension Scheme Advisory Board) and UK Pensions committee. I also publish regular blogs to keep the membership up to date on pension issues.

SCC jointly commissioned, with NHS Scotland employers and the Scottish Academy, a survey of senior grade doctors (50+ age group) on their plans for the later stages of their careers (reduced workload, early retirement etc). This showed that nearly half of senior hospital doctors aged 50 or over in Scotland plan to retire early or reduce their work commitment. They reported experiencing significant disillusionment, burnout, and lack of engagement in their jobs and are seeking to withdraw from full-time work or exit the profession entirely. Pensions taxation was the number one reason given – although the survey was undertaken prior to the Spring Budget this does show the strength of feeling on the issue.

Pay

Scottish evidence was submitted to the DDRB on 11 January with an overall ask of RPI as of April 2023 plus 5% which would go towards reducing long term pay erosion. The consultant evidence included the data highlighting vacancy rates being almost double those published by Scottish Government and the continuing issue of appointment panels being cancelled regularly due to a lack of consultant candidates. Data from the Royal College of Physicians census was included to show the impact continuing vacancies had on consultants' wellbeing. The consultant pay evidence highlighted losses due to distinction awards being removed and discretionary points being frozen for over a decade as well as pension taxation and workforce pressures.

A Scottish rate card for extra-contractual work was launched on the 10 March, which is similar to those produced by other UK nations.

Alan Robertson, SCC chair

WCC (Welsh consultants committee)

Secondary care pay negotiations

In February 2023, Welsh Government revised their original pay offer for secondary care doctors for 2022/23, along with offering a commitment to the principle of pay restoration back to 2008 levels. They also agreed that should the UK Government make an increased offer to NHS staff in England that resulted in a Barnett consequential coming to Wales, they would look to make a further pay offer to staff in NHS Wales for 2022/23. The revised pay offer was accepted by WCC and WSASC, though rejected by WJDC. The offer went on to be implemented by Welsh Government following a majority vote in favour amongst all health service trade unions in Wales.

The Minister for Health and Social Services has since invited representatives from WCC, WJDC and WSASC to attend talks with Welsh Government officials to negotiate on the pay award for 2023/24 and how the shared commitment to the principle of pay restoration could be progressed.

The first meeting of the medical and dental secondary care pay discussions group has since been held and terms

of reference for the negotiations were agreed subsequent to that meeting. Members also ensured that discussions on agreeing a mechanism to meet the commitment to the principle of pay restoration to 2008 levels were included in the scope of the negotiations. WCC are now in the process of selecting negotiators and, once the negotiating team is selected, the wider cross-branch of practice group will meet and agree the strategy to take into the negotiations.

DDRB

WCC was the first branch of practice in Wales to decide not to submit evidence to the DDRB. We wrote to Eluned Morgan (Minister for Health and Social Services), outlining the reasons for not submitting evidence for 2023/24. This included the fact that we no longer have confidence that it will provide a recommendation that reflects what members deserve. Consultants pay in Wales has severely eroded over the last fifteen years, and this is leading to consultants leaving the workforce. WCC therefore chose to take a stand and withdraw from submitting evidence for 2023.

Wales pay survey

BMA Cymru Wales undertook an all-Wales pay survey to follow up on the findings of the post-DDRB survey, which took place in 2022.

The 2023 survey sought to capture views on what level of pay award would be acceptable to members and what action they may or not be prepared to take. The results indicated that 63% of hospital doctors would be willing to take some form of industrial action up to and including strike action over their current pay and conditions. Following the publication of the results, WCC members also highlighted the then unresolved pensions tax issues as a factor impacting on many consultants.

Enhanced rates for non-contractual work

WCC published its rate card in November 2022. The rate card will be uprated on an annual basis.

LTFT (Less than full time) trainees

Discussions with Welsh Government and NHS Wales Employers are on-going to agree a clause to be added to the Amendment to the Welsh Consultant Contract that new consultants who have trained LTFT will automatically be paid higher up the consultant pay scale, which is already the case in Scotland and England. We have argued that this can help in closing the gender pay gap since women are more likely to have trained LTFT due to caring responsibilities.

MDBG (Medical and dental business group)

WCC representatives meet with Welsh Government officials and 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 time off for trade union duties; medical examiners terms and conditions of service; activity coding for SAS doctors; DDRB reform and taking forward a recent review on occupational health provision.

Recruitment and retention subcommittee

A Recruitment and Retention Subcommittee of MDBG leads on measures and policies to attract and retain the medical workforce within secondary care. Work is underway on taking forward recommendations from the "Working Longer Review"; putting in place a Wales-wide mentoring programme; the provision of office space for all secondary care doctors; and ensuring the implementation of the Fatigue and Facilities Charter is now properly monitored through an agreed implementation toolkit.

Stephen Kelly, WCC chair