

House of Commons: Written Statement (HCWS114)

Department of Health

Written Statement made by: **The Secretary of State for Health (Mr Jeremy Hunt)** on 16 Jul 2015.

Reports of Review Body on Doctors' and Dentists' Remuneration and NHS Pay

I am responding on behalf of my Rt hon. Friend the Prime Minister to the Seven Day Services Reports of the Review Body on Doctors' and Dentists' Remuneration (DDRB) and the NHS Pay Review Body (NHSPRB). The reports have been laid before Parliament (CM9107 and CM9108). Copies of the reports are available to hon Members from the Vote Office and to noble Lords from the Printed Paper Office.

This Government is committed to creating a seven day health service fit for the 21st Century with patients receiving the hospital care they need seven days a week by 2020. Patients expect and should receive high quality, safe care every single day. It is simply wrong that mortality rates are higher for patients admitted to hospital at the weekend than during the week. 6,000 lives are lost needlessly, each year, as a result, making this manifesto commitment a clinical priority and a moral cause.

Last year, I asked the Review Body on Doctors' and Dentists' Remuneration (DDRB) and the NHS Pay Review Body (NHS PRB) for their observations on how contract reform for directly employed NHS staff in England might be required to support the delivery of seven day services.

The DDRB was asked to make observations on proposals for reforming the consultant contract to better facilitate the delivery of health care services seven days a week, taking account of proposals for pay progression to be linked to responsibility and patient care, and for reforming clinical excellence awards. It was also asked to make recommendations on a new contract for doctors and dentists in training, including a new system of pay progression.

Similarly, the NHS PRB was asked to make observations on the barriers and enablers of seven day services within national employment contracts for staff employed under the Agenda for Change pay framework (AfC which applies to non-medical staff), with particular reference to the impact of premium pay rates for working unsocial hours, incremental pay progression and any transitional arrangements.

I am grateful to the Chairs and members of the review bodies for producing these reports.

The case for seven day services

I am pleased that all those who responded to the PRBs' calls for evidence accept the compelling case and support the vision for seven day services with its primary aim of putting patients first and reducing mortality rates at the weekends.

How seven day services are delivered on the ground must be informed by the clinical needs of local communities; one size cannot fit all. Some Trusts are already delivering services across seven days as the PRBs observed, but this is by no means universal. The DDRB said *"We also investigated the position in healthcare systems elsewhere in the world and it is our understanding that outside of accident and emergency services most international public healthcare systems are not providing a comprehensive twenty-four hour, seven-day service. We therefore conclude that the proposed new NHS arrangements would be trailblazing within healthcare systems."*

The NHS PRB concluded that the Agenda for Change pay system was not a barrier to the

delivery of seven day services and that more work should be undertaken to understand in more detail how services might be delivered in the future, the workforce implications and transitional arrangements. They also observed that the right of consultants to opt out of non-emergency work in the evenings and at weekends is a contractual barrier to the delivery of seven day services and the DDRB also observed that *“the role of consultant presence at weekends to make a difference to patient outcomes is accepted”*. It was noted that this is a contractual protection which is enjoyed by no other NHS professionals or by any other areas of the public sector workforce. DDRB said *“In our view, the current ‘opt-out’ clause in the consultant contract is not an appropriate provision in an NHS which aspires to continue to improve patient care with genuinely seven-day services, and on that basis, we endorse the case for its removal from the contract.”*

The PRBs’ views on the proposals

The independent DDRB concluded that the key principles proposed by the Government and NHS Employers are reasonable – to improve patient outcomes *across* the week and to reward greater responsibility and professional competence. They acknowledged the case for changing the contract for doctors and dentists in training (juniors) and concluded that the proposals made are fair, and that removal of the consultant opt-out clause is “an opportunity to smooth the transition between the junior doctor grade, which is routinely rostered for weekend working, and the consultant grade, which can choose whether to be rostered or not.” They found that the core principles for reforming the consultant contract look right; that the proposals should be viewed as a total package of reform across the two contracts; and that there is scope for progressing some elements of consultant reform at different speeds, including early removal of the consultant opt-out. The DDRB endorsed changes to the antiquated approach for time served mainly annual incremental progression in both contracts.

I am particularly pleased that the NHS PRB agreed that contract reform should work for staff *and* patients and that any reform of the system of premium pay for working unsocial hours should not be done in isolation, but part of a wider package of reform.

The NHS PRB observed that premium pay rates may not be out of line with comparator industries, but that there is a case for some adjustment to unsocial hours pay, for example, extending plain time working further into the evenings (from 7/8pm currently to 10pm) and noted the move, in some sectors, to plain time working on Saturdays. The DDRB suggested that the night window for juniors and consultants should start at 10pm.

The DDRB supported the proposed approach to the pay package for juniors; whilst it noted that the rates for unsocial hours and other elements were for the parties to agree, it also noted that total pay for juniors compares favourably with comparator groups and that, given the cost-neutral pre-condition for negotiations, that position will continue. It acknowledged the proposal to undertake further modelling on unsocial hours rates for consultants, whilst noting that some other professionals working across seven days do not receive any such payments but are expected to work any necessary additional hours as part of professional salary arrangements.

The DDRB recommended a common definition should be applied across all NHS groups, or a rationale for not doing so should be provided. The NHSPRB recommended that this be considered as part of a wider review of AfC, including reform of incremental pay progression so that there is a much stronger link between pay and performance.

We agree with the DDRB that contractual safeguards are necessary. These formed a core part of the proposals for consultants and juniors.

Supported by good staff engagement strategies, it is the overall employment offer, not just pay, that helps the NHS to attract and keep the staff it needs.

The DDRB also said *“We support the continuation of national CEAs, and given the separation of local CEAs (to be reformed as performance pay, or payments for excellence), that the value of*

national CEAs will need further consideration”.

Next steps

Given the priority placed on seven day services by medical leaders and patient groups, I was hugely disappointed that the BMA union walked away from negotiations at such a late stage last October when proposals had been developed. The DDRB has stated that its recommendations and observations *“provide a roadmap on what could and should be achievable in the interests of everyone with a true stake in the NHS”*. We have lost a year in which we could have been moving towards changes that are in the interests of patients, doctors and the NHS. We cannot afford any more delays.

That is why I am now asking the British Medical Association (BMA) to engage with us rapidly over the summer and to tell me, by mid-September, whether they will work with us, without delay, to introduce modernised professional contracts for engagement and for training, focused on outcomes, on the basis of the recommendations and observations in DDRB’s report.

Whilst we remain prepared to discuss a staged approach to changes for consultants, as recommended by the DDRB, we would be seeking immediate removal of the consultant opt-out, early implementation of new terms for new consultants from April 2016 (moving existing consultants across by 2017) and the introduction of a new juniors’ contract from the August 2016 intake. We will also introduce a new performance pay scheme, replacing the outdated local clinical excellence awards so that we reward those doctors who are making the greatest contribution to patient care – the DDRB recommends that these be termed ‘awards for achieving excellence’. I will consult on removal of the current local scheme in the autumn, alongside proposals for a reformed National Clinical Excellence Award Scheme based on the recommendations previously made by the DDRB. We will be mindful of the importance of recognising those doctors who have national leadership roles in the NHS and the substantial contribution made by clinical academics.

The case for change, in the interests of all, is made. We would prefer to agree changes in partnership, as recommended by the DDRB and acknowledging its observation of the need to build mutual trust and confidence; but we will take forward change, in the absence of a negotiated agreement.

The NHSPRB said that the areas of agreement between the parties *“should provide a positive basis for future discussions and progress on the expansion of seven-day services”*. I welcomed the agreement of the NHS Trade Unions earlier in the year to enter into talks on contract reform. The NHS Trade Unions have already agreed to a timetable seeing change beginning to be implemented from April 2016. I am now inviting the AfC trades unions to enter into formal negotiations with NHS Employers, to that timetable, to agree a balanced package of affordable proposals for reform.

These reforms need to enable trusts to recruit, retain and motivate the staff they need to deliver high quality safe care over seven days. All trusts must make the very best use of their pay bill, making every penny work for patients. I know most trusts prefer to use national pay frameworks provided they are affordable and fit for purpose. I recognise that, if national contracts cannot be reformed, it is likely that employers will feel that they need to use the employment freedoms they already have to take contract change forward.

In addition, my Rt hon. Friend the Chancellor of the Exchequer has made clear in the budget that the government will continue to examine pay reforms and modernise the terms and conditions of public sector workers. This will include a renewed focus on reforming progression pay, and considering legislation where necessary to achieve the government’s objectives.

I therefore want these negotiations to build on the 2013 agreement on AfC pay progression and remove virtually automatic annual incremental progression from the NHS pay system (as is also

proposed for consultants and junior doctors). Pay progression must be related to performance rather than time in the job and those who make the greatest contribution should see that rewarded in the pay system.