NHS Employers

NHS Employers' submission to the Doctors' and Dentists' Pay Review Body 2024/25

24 January 2024

Contents

Key messages

- Investment in pay and reward is a way to recognise the valuable contribution of staff and is fully supported by employers.
- Employers want a pay award that is fully funded and sustainable, allowing them to continue to prioritise workforce growth and improvements to services.
- No targeting of pay awards is recommended in the 2024/25 award round beyond the proposed remedial action for specialty and specialist doctors (SAS).

Impact of industrial action

- Employers are experiencing poor morale and generally poor industrial relations with doctors due to ongoing industrial action.
- Employers have expressed that those who are planning for and covering periods of industrial action are exhausted and facing burnout as winter pressures have started to build.
- Time spent on planning and preparation for industrial action has limited the capacity of employers to work on developing and improving services.
- The financial cost of additional sessions for existing staff and agency/bank staff has been significant and not separately funded and has added to financial pressures.

Doctors and dentists in training

- Employers describe a broad satisfaction in respect of the contract administration but have highlighted certain areas in the terms and conditions that could benefit from further clarification on established rules, such as prospective cover and flexible pay premias. However, employers report a significant administrative burden associated with its operation.

- We will continue to engage with employers to determine whether the terms and conditions and pay arrangements are working as intended and identify any areas where targeted changes are required.

- In response to NHS England's Long Term Workforce Plan (LTWP) ambitions, we will secure employer views around training pathways, to assist discussions on creating a broader range of medical career pathways with more opportunities to take time out of training.

Specialty and specialist grade (SAS) doctors

- In 2021, contract reform saw the introduction of new specialty doctor and specialist grade contracts. The principal aim of the contract reform was to support employers to attract, motivate and retain SAS doctors and dentists.

- Unfortunately, employers continue to see fewer doctors transfer to the 2021 contracts than originally forecast. The main contributing factor is the different pay awards applied to SAS doctors on the new contracts as part of a multi-year pay deal (2021-2023) and those remaining on closed contracts (2008 terms and conditions of service (TCS)).

- Employers have called for remedial action to reset the pay differentials between the open and closed SAS national contracts to encourage transition onto the new contracts. Employers welcome the announcement that the government and the BMA have agreed an offer to resolve the dispute with SAS doctors, that will tackle this issue.

- The offer is separate to the headline pay award for 2023/24 and focuses on supporting recent contract reform and includes a commitment to create extra specialist roles in the NHS.

- We will continue our work with national partners to explore any new initiatives and incentives that could encourage employers to introduce greater numbers of specialist roles within the medical workforce.

Consultants

- Employers welcome the possible end to industrial action with the agreement to put an offer to consultant doctors following negotiations by medical trade unions, the government and NHS Employers. The offer addresses some of the long-standing reform priorities for the employment of the NHS consultant workforce, to reform outdated pay arrangements and to make improvements to parental leave, with equity and fairness issues addressed as part other proposed reforms. The outcome of the members vote on the proposal will be confirmed before the end of January 2024.

- An opportunity to complete the modernisation of the consultant contract would be welcomed by employers. A priority for us is to continue to revisit, refresh and build a robust evidence base for what employers would want from the wider reforms to the consultant contract.

- For the 2023/24 local clinical excellence award (LCEA) year, some employers have made progress and have implemented a new

bespoke locally designed award round. Most employers will be applying an equal distribution approach to spend available funds in the current year. As removal of new LCEAs form part of the offer made to consultants, employers will need to consider plans for these changes, to be made by April 2024, should the offer be accepted.

Salaried primary care dentists

- Employers continue to describe the difficulties they face in the recruitment and retention of salaried primary care dentists. Burnout among this group of staff is a key theme as employers seek to maintain their core business levels and provide continuity of care for patients.

- A priority activity for our organisation is to engage and participate in the emerging LTWP work programme for dentists, by securing evidence from employers as and when necessary to feed into discussions.

Locally employed doctors (LED)

- Continue employer engagement activity to ensure views are fed into workforce planning considerations for LEDs; provide insight on informing on next steps to ensure that any proposed future pay and contract arrangements for LEDs work for employers.

Differences between and challenges presented by contract variations in different parts of the UK

- As annual pay awards and contract reform programmes have continued to diverge between doctors working in each of the devolved countries, we have sought views from trusts operating

around the borders of England to better understand any recruitment and retention challenges that they are experiencing.

- A supporting analysis of the latest pay scale values across the medical contracts highlights that regardless of the different value of annual pay awards being applied across the devolved administrations, the pay scales remain relatively aligned. Some divergence is clear across each of the contracts, but as there are a range of additional benefits associated with their respective reward packages, a simple comparison of pay scales and contractual provisions does not reveal significant push and pull factors affecting employers in England.

- This position will need to be reviewed as the devolved nations seek their own solutions to resolve the current round of pay related disputes with their medical workforce. Any deviation of income tax bands between the devolved nations will also need to be taken account.

NHS Pension Scheme

- The NHS Pension Scheme participation rate remains high but there has been a slight increase in opt outs by medical and dental staff in the last financial year, with many citing affordability concerns.

- Changes announced in the Spring Budget were introduced from April 2023, to help to alleviate pressures brought about by pension tax charges. Annual allowance (AA) related values have been increased and the lifetime allowance (LA) has been removed, providing significant benefits to the medical workforce.

- The pressures now facing the scheme relate to how greater flexibility can be given to NHS staff to make reduced contributions into the scheme, and further support for those still affected by pension taxation.

- Introducing greater flexibility is key to ensuring the NHS Pension Scheme remains attractive and valuable to all NHS staff.

Pay award timetable

Employers continue to be extremely concerned by the lack of progress in bringing the timetable of the pay review body back to normal, enabling a return to prompt payment of the pay award at the beginning of the financial year. Delays to the commencement of annual award rounds are disrespectful to the NHS workforce, as well as create an additional administration burden for employers associated with retrospective implementation of all pay award changes and wish to see a timelier payment of pay uplifts.

Informing our evidence

We welcome the opportunity to submit our evidence on behalf of NHS employing organisations in England. We recognise the significant role the Doctors' and Dentists' Pay Review Body (DDRB) has in providing an expert perspective and an impartial view on remuneration and broader concerns in relation to the employment of doctors and dentists.

Through our ongoing process of actively engaging with a wide range of NHS organisations we have been able to collate our findings to understand and present their priorities. Our interactions included engagement with:

• employers via a series of employer focus groups and established engagement networks

• employer representatives who sit on our joint negotiating committees for consultants, SAS, trainees, and dentists

• our guardians of safe working hours network (covering trainees)

• our contracts experts' group (medical staffing leads) and the medical and dental workforce forum, which is a sub-committee of the NHS Employers policy board.

We act as a link between national policy and local systems, sharing intelligence and operating networks for trusts and other employers to share successful strategies. We are part of the NHS Confederation,

the membership organisation that brings together, supports and speaks for the whole healthcare system.

Our submission reflects the views of employers on the challenges faced by the NHS in respect of their medical and dental staff.

Section 1 - Context setting

Introduction

Employers are continuing to experience exceptional challenges in the delivery of NHS services. High levels of NHS staff vacancies, loss of elective activity and increasing waiting times, rising inflation on running costs, and prolonged industrial action taken by staff have all had a significant impact.

The current workforce difficulties facing the NHS remain one of the limiting factors on efforts to tackle the rising backlog of care. While the NHS continues to identify innovative ways of delivering services to meet increasing demand, the consequence of this unrelenting demand is taking a toll on the health of many staff.

NHS England published the LTWP, marking a substantial and very positive step forward in the ongoing efforts to boost workforce numbers and shape the future of the healthcare workforce. A long-term assessment of what we need and how we get there in terms of staffing has long been needed, and to see this finally delivered, along with crucial government backing and investment, has been welcomed by employers.

However, there is the recognition that significant timelines are involved in redressing the long-standing neglect of national workforce planning, policy and content. Over the next ten years, investment will

be needed in local infrastructure and capacity to support the significant increase in workplace learning and education to deliver the plan. It is also accepted that further efforts will be necessary to improve staff experience and retention to ensure net growth in workforce numbers across all care settings.

For the remainder of the financial year, more difficult choices will need to be made by employers following the publication of NHS England's revised set of priorities, (November 2023). This challenges employers to achieve financial balance, protect patient safety and prioritise emergency performance and capacity, while protecting urgent care, high-priority elective and cancer care. While sensible, it will mean that NHS leaders will need to continue to make difficult decisions and trade-offs about the areas of patient care to deprioritise.

Industrial action

Employers have reported the negative impact and effects that the prolonged period of industrial action has had on their staff and their ability to deliver services during 2023/24. Strike days are listed in annex A. A resolution to the current pay disputes between medical trade unions and the government, across the medical workforce staff groups, is fully supported by employers.

Planning and preparation

The planning and preparation needed for managing ongoing industrial action has had a significant impact on the organisational capacity of employers, with resources diverted to:

- manage reduced activity by doctors, from delivering patient care to teaching and training and recruitment interviews.

- engage doctors to organise local cover and agree any necessary pay enhancements (use of British Medical Association (BMA) rate cards), and ensuring pay deductions are correctly calculated for striking doctors.

- understand the complexities of managing a response to industrial action, interpretation of ‘Christmas day levels of cover’ and supporting derogation protocols.

This additional activity restricted the ability of employers to plan and deliver planned improvements and prepare for winter pressures.

Impact on services and recovery

Since April 2023, patients have been missing out on services since the start of industrial action by doctors. Cancellations have become a huge administrative burden for staff to manage, with some patients having their appointments cancelled multiple times.

As strike action continued, employers’ concerns about the cumulative impact on reduction in access to treatment and capacity to provide good treatment and care for patients have grown. Employers have reported they have been unable to deliver planned levels of activity, in part due to the significant non-elective pressures seen throughout the year, that have been compounded by the prolonged period of industrial action.

In response to these pressures employers have taken a variety of mitigating actions, including working with the independent sector, to support the elimination of long waiters; securing additional capacity aligned to the specialities where local NHS capacity is constrained and a focus on increasing system productivity, with a drive to increase day case and theatre utilisation rates including the further use of mutual aid.

Impact on wellbeing and relationships

Employers have reported growing concerns for the wellbeing of staff due to prolonged periods of industrial action causing unsustainable pressure on workloads. The absence of any possible resolution for some considerable time has had a serious impact on morale and has also led to the deterioration of relationships between several staff groups. National tensions regarding the management of the strikes in January are echoed in many localities.

Patients have become increasingly frustrated which is also impacting on staff across organisations. Reports of staff burnout and exhaustion have increased, coupled with rising concerns about the cumulative impact on access to treatment and capacity to provide good treatment and care for patients. Apprehension across employers remains that sustained industrial action leading into and during a challenging winter, will impact further on workforce supply and capacity.

Impact on finance and transformation

The financial cost of additional sessions for existing staff and agency/bank has been significant and not separately funded. These financial pressures have reduced opportunities for employers to recruit substantive staff to help recover from challenged financial positions.

Employers have faced significant pressure to pay the unilaterally set BMA rate card for medical staff undertaking extra-contractual work during periods of strike action. Considering the potential impact on patient safety and balancing this with ongoing financial challenges has been a real concern for employers.

The current financial and operational challenges employers are facing has impacted on their ability to transform people services in line with their aspirations.

The medical and dental workforce

Workforce full-time equivalents (FTE)

Our 2023/24 DDRB evidence stated that there were 127,890 full-time equivalent (FTE) doctors and dentists in July 2022. In August 2023, there were 135,794 full-time equivalent (FTE) doctors and dentists. An increase of 6.18% (7,904).

Workforce FTE	August 2022: total FTE	August 2023: total FTE
Doctors and dentists in training	65,181	69,247
SAS doctors	10,124	11,300
Consultants	53,386	55,247

Vacancy rates

NHS Digital data shows that in September 2023, medical vacancy FTE stood at 8,858 (up from 8,809 in Sept 2022) providing a medical percentage vacancy rate of 5.9 per cent (down from 6.0 per cent in Sept 2022).

Annex B details the medical vacancy rate since 2008.

Leavers

NHS Digital has reported that the total number of doctors leaving the UK workforce increased between 2021 and 2022 by 15 per cent.

Annex B details the NHS Hospital and Community Health Services' (HCHS) doctor leavers since 2018, HCHS doctor reason for leaving since 2011/12 and HCHS doctor total leavers since 2011/12.

Doctor average sickness absence rates

Although sickness absence averages across the medical workforce remain higher in July 2023, than reported in the Julys of 2017-2021. There has been a decrease in sickness absence in July 2023 compared to July 2022.

Doctor	July 2017	July 2018	July 2019	July 2020	July 2021	July 2022	July 2023
Junior doctor	1.10	1.11	1.27	1.17	1.61	2.84	1.92
SAS	2.70	2.65	2.63	1.87	2.99	4.86	3.79
Consultant	1.18	1.14	1.25	1.27	1.42	2.13	1.50

NHS Long Term Workforce Plan (LTWP)

The NHS Long Term Workforce Plan (June 2023), describes how the NHS will rebuild its workforce through training, retention and reform.

Staffing pressures remain employer's biggest concern in terms of providing patients the best possible care. Staffing shortfalls have been a long-standing issue and NHS vacancies now stand at more than 8.9 per cent, as of June 2023. Medical vacancy rates are noted above.

Employers have welcomed the government's publication of the LTWP and acknowledge the importance of the renewed focus on retention. Presently, retention is considered of equal importance to attracting new staff into the NHS. Employers hope that the plan provides reassurance to staff, beyond their own locally led retention initiatives, that more support is on the way to spread the workload, improve working conditions and improve care for patients. The measures the plan proposes around flexible working, culture and training time will also support this.

Employers are encouraged by NHS England's promise to review the plan "at least every two years". This will be essential to reassess assumptions and take stock of where efforts and resources may need to be refocused.

The plan is predicated on achieving ambitious productivity increases. NHS leaders share these ambitions, but at 1.5-2 per cent, note that these are very stretching targets and well above the long-term average that has been delivered previously. ONS data shows that UK healthcare productivity grew by 0.9 per cent on average between 1997-2019. Even to achieve the lower end of the range will require major investment in technology, innovation and capital. It is welcome that this dependency is acknowledged in the workforce plan.

From a system perspective the focus on new and different roles, as well as a shift back to more generalist roles, is seen as key to delivering transformation and services that will support people to live and age well. It is important that a pay system and associated terms and conditions of service supports this focus.

International recruitment

International recruitment remains an important source of workforce supply for the NHS – particularly in the short-medium term. There is an ongoing need to ensure that the UK remains an attractive place to live and work, both for European Economic Area (EEA) nationals and colleagues from across the world.

The reported nationality of NHS staff varies substantially between staff groups. Overall, 18.7 per cent of staff report a nationality other than British. For doctors, this figure is 35 per cent and are the staff group are most likely to report a non-British nationality.

The LTWP sets out the aim to increase the total number of NHS staff through the expansion in recruitment and significant improvement in retention. It also signals a shift from reliance on international

recruitment to a largely domestic recruitment model over the longer term.

In the short and medium term, current levels of ethical international recruitment are to be maintained with the expectation that in around 15 years' time, levels will reduce, with 9-10.5 per cent of the workforce being recruited from overseas, compared to almost a quarter now.

The NHS Employers international recruitment toolkit – supports employers in planning and improving their approach to overseas recruitment activity, or to review the quality and efficiency of existing practices from planning to onboarding, and supporting new doctors to settle into their new roles and communities in the UK.

It should be used alongside our international retention toolkit that supports employers' overall approach to recruiting and retaining international and domestic staff.

Our quick guide: Code of Practice for International Recruitment, lists the countries the UK cannot actively target and explains the ethical principles that must be followed when sourcing candidates from overseas.

The GMC's state of medical education and practice in the UK workforce report 2023

The General Medical Council's (GMC)s annual report of medical workforce trends (November 2023), states that doctors from overseas will continue to make up the bulk of those joining the medical register. International medical graduates (IMGs) made up over half (52 per cent) of new additions in 2022. Its data highlights the crucial role they are playing in all areas of the medical workforce and there have been particularly large increases in IMGs in general practice.

However, the report does highlight the need for ongoing focus and attention on the experiences of IMGs to improve retention rates. It recognises the benefits of the expansion of domestic supply in the LTWP will take time to come through and accepts that international recruitment will remain vital component of employer recruitment plans.

Data presented on rates of leaving does suggest some dissatisfaction, but the survey does not explore why they would choose to do so or the balance between the push factors and the possible pull factors of recruitment. The report highlights the following key points:

- Leavers increased in 2022: the total number of doctors leaving the UK workforce increased by 15 per cent between 2021 and 2022, following a dip in leavers in 2020, due to the pandemic.

- The most common main reason for leaving were wanting to practise abroad (25 per cent), retirement (24 per cent), and wanting to live abroad (8 per cent). Dissatisfaction with workplace culture or role is a key driver of IMGs leaving, pointing to the need for improvements in induction and integration initiatives.

- Leavers as a proportion of the workforce**:** the proportion of licensed doctors leaving each year was just under 4 per cent in 2022, which is roughly equal to the proportion that left in 2018 and 2019.

- In its supporting Workforce experiences 2023 report, the GMC highlights a decline in satisfaction, a significant proportion of doctors at risk of burnout, and a sharp increase in the proportion intending to leave and taking steps to do so in 2023.

The GMC's national training survey 2023

The GMC published the results of its 2023 national training survey, where it explored how workplace experiences are impacting those in training and their trainers.

It reports that the quality of training remains high with 86 per cent of trainees being positive about their clinical supervision, and 83 per cent noting that the quality of their experience was good or very good.

However, the survey also reported an increasing risk of burnout among doctors and evidence of varying levels of discriminatory behaviour across some specialties. A third of secondary care trainers also think that their trainees' training is adversely affected because rota gaps aren't dealt with appropriately. A quarter of trainees do not think that rota design optimises their education and development.

Sexual safety at work

Ensuring the wellbeing of women employed in health and care, as well as all healthcare personnel, is crucial. Women should have the opportunity to work in settings that guarantee both physical and psychological safety, as this fundamental necessity directly impacts the quality of care provided.

Organisations across the healthcare system need to work together and individually to tackle unwanted, inappropriate and/or harmful sexual behaviour in the workplace.

NHS Employers is a founding signatory of the charter on sexual safety at work. Along with the other signatories, we commit to taking and enforcing a zero-tolerance approach to any unwanted, inappropriate and/or harmful sexual behaviours within the workplace, and to ten core principles and actions to help achieve this. We

strongly encourage all NHS boards to sign and actively commit to the principles.

The new charter asks employers to focus on three priority areas:

- appoint domestic abuse and violence leads
- review policies and support
- sign up to the domestic abuse and sexual violence programme platform on FutureNHS.

NHS Staff Survey

The NHS Staff Survey is carried out annually with the aim of helping to improve staff experiences across the NHS. The survey takes place in autumn each year and the national results are published in the following March. The latest results were published in March 2023 following completion of the survey in the autumn of 2022. The 2023 survey results will be published in March 2024.

As the NHS staff survey cycle does not sufficiently align with the evidence submission timetable to appropriately inform our submission to the pay review body, we have excluded references to the March 2023 results.

Section 2 – The remit groups

Due to the prolonged nature of industrial action, along with our trade union (TU) partners, we have had to pause some elements of our jointly agreed work programmes that support the on-going maintenance of national terms and conditions of service.

The increased pressures on employers to manage the response to strike action has also impacted on our supporting engagement activities, as priorities for employers have had to adapt to these additional pressures throughout the year.

While the dispute between the TUs and government has progressed we have focused on supporting employers on a wide range of industrial action related matters.

Doctors and dentists in training

Contract and pay arrangements

Employers describe a stable position in respect of the contract administration but have highlighted certain areas in the TCS that could benefit from further clarification on established rules, such as prospective cover and flexible pay premias. Employers also report a significant administrative burden associated with its operation.

Flexible pay premia (FPP)

The 2016 TCS introduced a range of FPP’s which intended to encourage recruitment in certain specialties. These specialties included general practice, psychiatry, and emergency medicine. The premia are only payable to those on the new pay scale of the 2016 TCS. Values of the flexible pay premia are confirmed in the latest version of the medical and dental pay and conditions circular. Employers have shared that the application of the FPPs causes confusion when aligned with different training pathways.

Pay protection and FPP

The TCS states: “the Joint Negotiating Committee (Juniors) will determine and maintain a list of additional specialities to which pay protections applies”. The application of pay protection for FPP’s is another area that could benefit from further clarification.

Since the 2018 framework agreement, it has become evident that there is a disconnect between the Joint Negotiating Committee (Juniors) (JNC(J)) and NHS England's (formerly Health Education England) processes to determine and remove hard-to-fill specialties. Employers support a review of the hard-to-fill specialties, to provide an updated picture and identify if some are no longer appropriate or whether additional categories are needed.

It is our view that hard-to-fill specialties should continue to be determined by NHS England, considering evidence from relevant stakeholders. The JNC(J) priorities should be focussed on establishing clear contractual rules for doctors receiving FPPs and related pay protection arrangement to clarify the supporting processes.

Prospective cover

During 2023, several employers have highlighted issues concerning the application of prospective cover for study leave in rotas. Some organisations found they had not applied prospective cover calculations in rotas where it was in operation. Employers told us this was due to a combination of a lack of understanding of the rules governing prospective cover in the contract, changes brought in following the 2018 framework agreement and implementation of study leave allocations in rota software solutions. Employers shared that the definition of prospective cover and study leave in the contract would benefit from further clarity in the contract.

Exception reporting

We seek regular input from employers and guardians of safe working hours (GoSWH), on whether or not exception reporting is working as intended for doctors and dentists in training. We hold regular regional GoSWH network meetings with representatives across England and attend local guardian networks to gather intel and provide updates.

There continues to be mixed experiences within organisations and regions regarding exception reporting. Some trusts see exception reporting working as intended and prefer it to previous monitoring exercises. Others face technological challenges with exception reporting systems software and cultures of adoption within organisations. Some employers shared they are placing an emphasis on exception reporting demos as part of doctors' inductions. There are several areas that require further discussion to encourage exception reporting locally by employers. Exception reporting for LED's has been a reoccurring topic of discussion this year. Those organisations that allow LEDs to undertake exception reporting, have shared the benefits and the value of having GoSWH oversight for this group of doctors.

During 2023, we published further guidance for GoSWH to help identify breaches in contractual provisions. This guidance sets out

the exception reporting rules on when fines should be applied and provides different examples of how these should be calculated. As we continue to meet GoSWH, we review the resources available to them.

Nodal point 5 for dental trainees

To resolve the unintended consequence of the pay inequity between medical and dental trainees, NHS England agreed that dental trainees should receive the 5th nodal point payment from ST4-ST6, backdated to 1 April 2022. Affected dental trainees will have received backdated payments in their salaries from September 2023.

Time out of training

Employers continue to report that it has become more common for doctors to take time out of training. Trainees are choosing to take a break from training following completion of the Foundation Programme, is known as the F3 phenomenon.

NHS England is currently piloting its out of programme pause (OOP-P) initiative for those in post-graduate medical training. This type of flexibility can help to support trainee wellbeing as it allows the opportunity to step out of formal training for up to 12 months to undertake an NHS, or other patient facing, UK based non-training post.

Many employers approve of time out of training initiatives but wish to see the number of training posts increase, to counteract concerns around a reduction in rota staffing levels. It will be necessary to provide further clarity on the pay and TCS to be applied to those doctors undertaking non-training roles.

Details of employer actions to improve trainee experience

Employers shared that it has been more difficult this year with industrial action and capacity constraints to dedicate time and resources on work programmes related to trainee experience. Some highlights shared include the promotion of exception reporting and making it a compulsory part of induction. Some GoSWH shared that they have used the penalty breach fines collected to improve trainee experience, such as through the refurbishments of staff rooms/mess facilities. The expenditure of this money has been determined locally based on individual trust cases.

We recognise the issues raised by doctors related to trainee experience and continue to participate in the Enhancing Juniors Doctors' Working Lives programme, which is a cross-system collaborative programme, led by NHS England Workforce, Training and Education. The programme seeks to develop and promote initiatives that create meaningful improvements to the quality of life of doctors in training. The programme has continued some key initiatives this year which include on-going work on digital passports.

In December 2023, NHS England commissioned a project aimed at improving some of the practical employment and HR-related issues that negatively impact the experiences and working lives of trainees within the NHS. We will contribute employer views to this work to inform any recommendations to address issues raised.

NHS England continues to pursue the implementation of digital staff passports. This project was rolled out to four pilot trusts in December 2023 (wave 1) with the aim of more in 2024 (wave 2). This hopes to create an improved trainee and staff experience, as NHS staff will hold a verified record of their professional registration, employment history, training, and skills. This would lead to a better rotational experience when moving between health and social care organisations. The target date for full roll out is August 2025.

Guardian of safe working hours conference

Due to industrial action, we reorganised the 2023 GoSWH annual conference to accommodate any consultants striking. The conference consisted of speaker topics including, self-rostering, building a stronger culture, software specifications, trainee fatigue and welfare.

The conference promotes the understanding of the GoSWH role while providing further guidance and support to those in post. It also enables GoSWH to network with each other across England. When evaluating the conference, feedback highlighted the event was relevant and engaging for guardians. The majority agreed that NHS Employers' guidance, tools and support helped them stay up to date with the latest thinking and best practices.

Specialty and specialist grade doctors

Specialty and specialist (SAS) doctors and dentists are a group of experienced doctors, ranging from four years’ experience to senior doctors and dentists practicing independently. They can form a significant proportion of the medical workforce in any organisation. They are one of the most diverse branches of practice in the health service and play a pivotal role in the provision of hospital services.

In 2021, a contract reform took place, and a new specialty doctor and specialist grade contract was introduced. The Joint Negotiating Committee for SAS (JNC(SAS)), continues to monitor the transition of doctors and dentists onto the new contracts.

In response to the current dispute over pay with SAS doctors, the government and the BMA have reached an agreement to put an offer to SAS doctors. The offer seeks to address some of the issues that emerged following the implementation of the agreed contract reform, that are detailed below, and includes a commitment to help employers create more specialist roles in their organisations. The

BMA's referendum on the offer opens on Monday 29 January and closes on Wednesday 28 February.

The aim of the 2021 contract reform was to support employers to attract, motivate and retain SAS doctors and dentists. The development of the new contracts has sought to improve their contractual arrangements and support SAS doctors and dentists with a positive, fulfilling career choice and to ensure they are a supported and valued part of the workforce.

The contract reform package included an investment of an average of 3 per cent of the total SAS pay bill per year, over three years (2021/22–2023/24), to support the introduction of a new set of pay scales and wider contract reform. We are now in the final year of this pay deal.

The pay structure of the specialty doctor grade was reformed over a three-year transition period, which commenced on 1 April 2021. A closed gateway pay progression process came into effect from 1 April 2023, which completes the five pay point structure.

We are a member of the NHS Staff Survey Advisory Group, that is chaired by NHS England, and represents employers within the group. We were able to highlight the importance of SAS doctors and dentists having their own occupation category in the NHS Staff Survey where they have been previously documented as "other". It was agreed by NHS England that SAS doctors and dentists will have their own category from 2024. We are pleased to have been able to advocate for this change so stakeholders can report accurately and act on any appropriate recommendations.

Specialty doctors

The reformed contracts have been in place for over two years, and we have seen employers become more familiar with them and better understand the benefits that they seek to deliver.

However, we have continued to see fewer doctors transfer to the 2021 contracts than originally forecast. The main contributing factor is the pay award of 3 per cent in 2021, which was awarded to SAS doctors on the closed contracts. The 2021 contracts were excluded as the multi-year pay arrangements determined the pay uplifts and were based on the assumptions that a lower pay award was more likely to be delivered by the government.

In 2022, a 4.5 per cent uplift was awarded to the closed contracts and 6 per cent in 2023. These increases to the closed contracts have compounded the issue further and basic pay for those doctors and dentists on the old contract arrangements is now generally higher than those on the new 2021 contracts. For example, a doctor with eight years' experience in the specialty doctor grade and on the 2008 contract will have a basic salary of £71,142 compared to a doctor on the 2021 contract who is paid £67,465. As a result, we have examples of doctors who have transferred onto the new contract that would have been financially better off to remain on the old contract.

The new contract does provide a wider set of benefits to both the doctor and employer; notably faster pay progression, additional earnings and annual leave, and better working pattern safeguards.

However, in specific pay terms the incentive to transfer to the new contract arrangements has continued to reduce. However, we are hopeful that this will be addressed by the agreement noted above, should it be accepted following a referendum of BMA's members.

Acceptance of this offer will mitigate against concerns that employers will seek local remedies to resolve any disparities in pay between the old and new contracts.

Applying the necessary remedial action to reset the pay differentials between the open and closed SAS contracts will encourage transition onto the new contracts as an attractive career option and secure the benefits of the new, jointly agreed, contract arrangements.

Specialist grade

There continues to be a steady but slow increase in doctors entering the specialist grade as employers become more acquainted with the role. We continue to promote the benefits of the new contract to employers and see experienced specialty doctors successfully apply for this role as intended. The commitment from government in the offer made to SAS doctors to help employers create extra specialist roles in their organisations is welcomed.

As of September 2023, our data which is taken from the NHS Electronic Staff Record (ESR) shows that 37 per cent of the specialist/associate specialist workforce are on the specialist contract, with doctors preferring to stay on the associate specialist contract. Of those specialists employed, 30 per cent have moved into the grade from the 2008 specialty doctor contract, which shows the intended career progression of the new contracts.

The creation of specialist grade roles is to be driven by employers' needs locally to meet their service delivery requirements. As such, funding for these roles has needed to be secured locally and we are aware that employers have experienced difficulties with this, which has contributed to the slow uptake. We continue to engage with employers on how best to approach local funding issues and promote best practice.

We remain confident that this issue will diminish over time as understanding of local funding processes improve. To help with understanding of the role and promotion of the grade, we are in the process of providing additional information on specialist grade recruitment and where employers could successfully implement the role. The specialist grade contract provides consistency in employment and appropriate remuneration for SAS doctors working at a senior level and will enable employers to recruit, motivate, and retain.

It remains an issue that the application of the 2022/23 and 2023/24 pay award means that a specialty doctor on the top of the 2008 scale (£87,568) earns more basic salary than a specialist grade doctor on the 2021 pay scale (£83,945) and this would remain until the specialist doctor gained four years' experience in the grade. An overlap of the pay scales is not something that was intended following the introduction of the new contracts but is a consequence of the higher value pay awards being applied to those on the closed 2008 specialty doctor contract. Data provided to us suggests that employers began to resolve this issue locally with some placing doctors at various points of the specialist pay scale, including the top. This can cause issues for the individual should they move employers as it perhaps suggests that they have more experience in the grade than they have.

In the absence of remedial action, prior to the announcement of the deal agreed between government and the BMA, a short-term solution for the pay disparity between contracts was sought. An FAQ (2.4) was subsequently published in the first half of 2023 advising employers to apply a short-term non-pensionable recruitment and retention premia to affected members of staff, if all other avenues for recruitment had been exhausted. This approach was unsupported by the BMA, but it is still a legitimate response to this particular issue.

We will continue to work with national partners to explore initiatives and incentives that could encourage employers to introduce greater numbers of specialist roles within the medical workforce.

Pay arrangements

2023/24, marks the third and final year of the multi-year pay agreement that was introduced in 2021 as part of the contract reform. During this period, the 2021 contracts have seen an increase of an average of 3 per cent with the addition of 3 per cent awarded as part of 2023/24 pay award.

The additional amount has only slightly closed the gap between old and new contracts.

Now that the multi-year pay award arrangements have ended, the 2024/25 pay award round will require the DDRB to make a recommendation to government.

Transition to the 2021 contract

Our data shows transition to the new contracts from April 2021 to September 2023 has been less than originally forecast. There are 991 specialist doctors in England and 5,373 specialty doctors on the 2021 contract. Overall, 48 per cent of the SAS workforce are on the new contracts, compared to 52 per cent on the old contracts. We had hoped that there would be more transition to the new contracts but as highlighted above, we believe the disparity in pay between old and new contracts to be the main contributing factor.

SAS Week 2023

In October 2023, we held our second annual. The aim of SAS week is to provide a national platform for stakeholders and employing organisations to highlight their work and promote the value of SAS grade doctors and dentists. It provides an opportunity for employers to celebrate the SAS workforce and raise its profile as a rewarding career and a much-valued part of the NHS workforce.

Following the announcement of an indicative ballot for SAS doctors, the BMA was unable to work in partnership with us this year. After seeking employer opinion, the decision was made to continue with SAS week but focus on employer-led experiences and activities.

We held a webinar in collaboration with the GMC and spoke about its state of medical education and practice in the UK report. The report highlights that SAS doctors are the happiest in the medical and dental workforce compared to other staff groups.

This year, the number of organisations taking part and the number of contributions on social media doubled, in comparison with 2022. There was a strong focus on local events and examples of how the SAS role can be developed and implemented within trusts. Once again, this week of celebration underlines the importance of SAS doctors and their role within the NHS. We plan to hold SAS week annually and will continue to collaborate with stakeholders and raise the profile of SAS doctors and dentists.

SAS advocates

The SAS advocate role was introduced following the 2021 contract negotiations and discussions concerning the health and wellbeing of SAS doctors and dentists. The role was introduced to help promote and improve support for SAS doctors and dentists and is an additional role for an existing employee. It is not intended to replace any existing support for SAS doctors and dentists and is distinct to that of the SAS tutor.

The role of the SAS advocate provides mutual benefits for doctors, dentists, and employers and will help employers to develop and maintain effective engagement and collaboration among the SAS workforce. Providing SAS doctors and dentists with access to an advocate will also help demonstrate the employer's commitment to improving their workplace experience and allows the sharing of good practice across the organisation.

As the role of advocate is not contractual, not all organisations have one in place. There are also challenges to introducing a new role into an organisation and it has been noted that this years' industrial action has taken employers' focus away from delivering improvement activity of this nature.

Along with the BMA, we are committed to work in partnership to produce further guidance on the roles of the SAS advocate and SAS

tutor, to better inform employers and highlight the differences and benefits of the roles.

SAS development funding

To support the implementation of the 2021 SAS contracts and the professional development of SAS doctors and dentists, NHS England included the SAS development funding in 2021/22 and 2023/24, within commissioner allocations.

The purpose of the funding is to invest in professional development activities for doctors under SAS terms and conditions and is separate, and in addition to other funding available to SAS doctors. Despite publishing joint SAS professional development funding guidance with the BMA and an FAQ on how employers should calculate the amount to be spent on development, there are many employers who have still been unable to identify and spend the monies.

We continue to liaise with the BMA and NHS England in an effort to resolve this matter. Employer difficulties in securing the funds mainly stem from the money not being ringfenced and instead, has to be extracted from the Cost Uplift Factor which is distributed to trusts via integrated care systems (ICSs).

Consultants

Contract reform

Employers welcome the potential end to industrial action via the offer that has been put to BMA and HCSA members by government. The offer seeks to modernise the pay scale for consultants in England and in return for the investment some contractual and operational reforms have also been agreed. These proposed reforms seek to

create opportunities for better productivity and efficiency, more effective performance management and a reduction in some equalities risks across the consultant workforce.

There is no current mandate from government for any wider reform of the Terms and Conditions – Consultants (England) 2003 contract. However, employers' long-standing position of welcoming an opportunity to modernise the consultant contract remains. Employers' priorities for any wider contract reform – above the pay scale changes now announced - have remained consistent for a number of years, and include:

- Modernising the TCS to make sure that they are fit for purpose under a changing NHS and provide greater consistency and alignment with other reformed medical contracts and staff groups where appropriate.

- Removal of the opt-out clause, that allows consultants the right to refuse non-emergency work after 7pm and before 7am, to allow for more flexible deployment of the consultant workforce according to service needs.

These priorities will continue to be tested, and we are looking to revisit, refresh, and build an evidence base for what employers would want from a reformed consultant contract.

Maintaining engagement of their current consultant workforce remains the key priority for employers and all reform options should be considered from that perspective. Additionally, prolonged industrial action across the NHS makes providing appropriate resourcing and attention on contract reform challenging.

Local clinical excellence awards (LCEA)

Employers are required to run an annual award round in 2023/24 but with some flexibility about how the scheme is run locally. Variations

to previous LCEA arrangements can be implemented in consultation with an employer's joint local negotiating committee (JLNCs).

Our engagement activities with employers have informed us that for the 2023/24 award year, many employers will be applying an equal distribution approach to spend available funds, as has been the case for the last three award years, when normal rounds were suspended due to the pandemic response. Some employers have started to consult with their JLNC to use the flexibilities with Schedule 30 to design a bespoke locally owned competitive award round.

As part of the agreement to put an offer to union members to resolve the current pay dispute, the contractual entitlement to access to an annual awards round will cease. This will take effect from 1 April 2024. Consolidated LCEAs awarded prior to reform in 2018 will be retained and these awards shall remain pensionable and consolidated. The value of these awards will be frozen and the review process for these awards will be removed.

This change is being made as funding for LCEAs is being redeployed into supporting main pay changes.

BMA rate card

In April 2023, the BMA updated its consultant rate card to increase the values in line with economic conditions (it was first published mid-2022). The rate card suggests a set of pay rates that should be made available to consultants for participating in non-contractual extra work or activity. The BMA subsequently published rate cards for SAS grade doctors and doctors and dentists in training.

The removal of the consultant BMA rate card forms part of the offer put to consultants. Employers welcome this development and the relief from the financial challenges that were presented when arranging and paying for cover for periods of industrial action.

Employers shared that rates had been discussed at JLNCs and they are continuing to work collaboratively with their neighbouring trusts and across their local ICS, to agree on rates to minimise competition between organisations.

Pressure to pay the higher hourly rates in the BMA rate card, to secure minimum staffing levels for the days of industrial action, has further impacted on current financial challenges.

On 13 July 2023, the High Court ruling upheld the judicial review challenge regarding the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2022 ('the Regulations') which, from 21 July 2022, had removed the ban on the supply of agency workers to carry out the duties of a striking worker taking part in official strike action. This added additional pressure to pay the BMA rates as the option to use agency doctors to cover striking doctors was removed.

Salaried primary care dentists

Salaried primary care dentists are a relatively small group of dentists spread across a varied group of providers within different sectors. As per previous years, we have surveyed a small number of employers that employ salaried dentists and we have created a salaried dental reference group that has attracted a small number of members. Using our reference groups, we have been able to provide anecdotal evidence to explain issues facing some employers of salaried dentists. Issues on recruitment, retention and motivation remain as described in recent years' DDRB reports.

Recruitment

Several employers described the difficulties they face when trying to recruit to band A vacancies, often adverts are active for long periods of time without any applicants. Some of the employers had looked at

band A positions and had developed those roles into band B to aid the attractiveness of the role and pay to generate interest and applications. Additional funding and local incentives are often required when advertising but still found that competing with private practices difficult. One employer noted that recruitment seemed more difficult outside of London, with postholders leaving to return to London.

Retention

Employers described multiple factors that contributed to the struggle to retain dentists. An employer described how band A dentists often leave to go into dental core training posts. Due to competitive salaries for working in private practice, salaried dentists often leave when these opportunities arise.

Motivation and morale

Burnout was a key theme in how employers described their salaried dentists. One employer described how they had put waiting list initiatives in place to try and tackle the backlog, but after a year it was paused due to the pool of staff working additional hours reporting exhaustion. Another employer said that their dentists were having to work harder to maintain their core business and provide continuity of care.

Locally employed doctors (LEDS)

Background

LEDs are simply defined as doctors employed by trusts not on one of the nationally recognised sets of TCS. The term may also extend to dentists employed on local contracts but there is no data currently available to confirm this.

LEDs were included in the LTWP, with commitments to support education and the career development of this group. Our key priority has been to improve our understanding of the use of LEDs across the workforce. NHS England is in the process of devising an LED strategy for which we will continue to ensure employer views are a key consideration.

In July 2023, we ran a series of employer focus groups and interviews following the inclusion of LEDs in the LTWP. These have helped us to better understand the issues surrounding this section of the medical workforce, which are detailed below.

As part of the offer to resolve the SAS doctors pay dispute, as noted above, a commitment from government, NHS England and NHS Employers has been made, to work with the BMA to determine how LEDs can be better supported to progress in their careers, including enabling them to move to permanent SAS contracts, where it is appropriate to do so.

Centrally held data about LEDs

There are challenges in accessing data on LEDs due to lack of consistency in codes used within Electronic Staff Records (ESR). Our recommendation to employers is that LEDs employed on contracts based on the 2016 TCS are recorded using the MT01-05 pay codes in ESR, but this is not applied universally, with a range of other codes being used.

MN37 codes for the 2002 TCS are also used for LEDs which can therefore make it difficult to differentiate between these individuals and doctors and dentists in training, who are subject to pay protection (due to the transitional pay arrangements brought in with the introduction of the 2016 TCS).

Some LEDs may also be on bespoke contracts which have entirely unique pay codes due to having no existing equivalent among the national TCS.

This means that a typical report of national ESR data will not accurately capture all doctors employed on local contracts. This is likely to require detailed data collection at a local level, but this is likely to be challenging and time consuming for employers to complete.

Growth in LEDs

There are many reasons why NHS organisations are employing doctors on local TCS, and its increasing in numbers. In many cases, a suitable national contract may not be available.

- Large numbers of LEDs work alongside doctors and dentists in training and are often on the same rotas, so there are a number of practical reasons for employers to use the same TCS and apply the 2016 contract. However, this contract is only applicable to doctors and dentists in training so many employers have adapted the contractual terms for their LEDs.

- LEDs may not meet the eligibility criteria for a particular national contract, for example, the specialty doctor (2021) contract has eligibility criteria (four-years postgraduate experience, two-years in specialty) which LEDs, particularly IMGs, may not meet. In these instances, a local contract will need to be used to employ the doctor.

LEDs are one of the fastest growing areas of the medical workforce and employers have given us several reasons for this, including:

- unfilled doctors in training posts

- increasing numbers of less-than-full-time doctors in training,

- increasing service pressures

- changes in national TCS, for example 2016/2018 contract refresh, requiring additional doctors to maintain rotas alongside doctors and dentists in training on national contracts

- allowing a much greater degree of flexibility around working patterns, which may be to the benefit of both employer and employee. Employers have highlighted examples of bespoke working patterns which could not have been easily achieved using the national contracts.

Local contracts may also be attractive to doctors for many reasons, from wanting to take a break from rotational training to stepping out of training entirely and opting for a more stable role.

LEDs play an incredibly important role in maintaining services at NHS organisations. Retention can be a challenge, with many LEDs leaving within the first 12 months of their contract. In most cases this is to enter postgraduate training. This creates a constant cycle of recruitment and induction which generates a large administrative and financial burden for employers.

Contractual terms used

The majority of LEDs are employed on contracts mirroring the 2016 TCS, particularly where LEDs are working on rotas alongside doctors in training. Local variations of these contracts will remove references to ‘training’ but will generally retain pay structures and rota rules.

Many employers may also adopt other aspects of the 2016 TCS such as retaining access to exception reporting and the guardian of safe working hours.

The 2016 pay structure is determined by training grade which can cause challenges around the salary to be applied and approaches to

pay progression. As LEDs would not have a training grade, it is for employers to determine the most appropriate nodal point for the post. Since pay progression for doctors in training is linked to progression through training grades this can create a lack of pay progression for LEDs employed for multiple years. This may be a factor in retention challenges for LEDs.

Some LEDs are employed on the closed 2002 TCS. This may be because the doctor has been employed on the contract prior to the adoption of 2016 TCS by the employer or because the organisation has not begun to mirror the 2016 TCS in its local contracts. There are several reasons this might be case, from cost pressures to changes in compliant rostered hours.

Rules have been tightened in the visa application process, which now lists the 2016 TCS pay scales as the expected rate of pay. This has meant that employers using different pay structures for their LEDs have struggled to get approval for a Certificate of Sponsorship application for these individuals. This is a key driver for those moving their local contracts to mirror the 2016 TCS.

Beyond these two groups, there are a small number of other examples of different types of contracts being used. These may be for more senior LEDs, with examples of associate specialist type roles predating the introduction of the specialist grade but after the initial closure of this grade in 2008.

We are also aware that some employers are investing in training and development for their LEDs, by providing access to educational supervision, e-portfolio and training sessions. Barriers to overcome for this include educator capacity, funding, and impact on provision of services. LEDs play a key role in maintaining clinical services for employers and any investment by employers in this area needed to be balanced with their ability to maintain their service delivery.

Differences between and challenges presented by contract variations in different parts of the UK

In its 2023 report, the DDRB requested further information about specific recruitment and retention challenges associated with land borders and contractual differences between different parts of the UK, and between Northern Ireland and the Republic of Ireland

Our considerations are restricted to the position in respect of England, Wales, Scotland and Northern Ireland. Further work will be necessary to consider the impact of any pay related proposals that are successfully implemented following efforts by governments to resolve the current pay disputes with doctors in each of the devolved administrations.

As annual pay awards and contract reform programmes have already started to diverge between doctors working in each of the devolved countries, we have sought views from trusts operating around the borders of England to better understand any recruitment and retention challenges that they are experiencing. The employers contacted were at border trusts in the West Midlands, the north-west and north-east regions.

The organisations reported anecdotally there has been an increase in recruitment levels from other devolved nations in the last 12 months. English trusts are also losing staff to other devolved nations. Where recruitment from the devolved nations has taken place, organisations confirmed there were no additional costs as a consequence of doing so. It is worth highlighting that we received a low level of response to our border trust questions which is assumed from lack of capacity.

An analysis of the latest pay scale values (annex C) across the medical contracts highlights that regardless of the different value of annual pay awards being applied across the devolved administrations, the pay scales remain relatively aligned. Some

divergence is clear to varying degrees across each of the contracts, but as there are a range of additional benefits associated with their respective reward packages, a simple comparison of pay scales does not reveal significant financial push and pull factors affecting employers in England. For example, Scotland has retained the Terms and Conditions of Service NHS Medical and Dental Staff (England) 2002 for doctors and dentists in training, which includes banding supplements for non-compliant rotas and provides up to an additional maximum of 1.8 x basic hourly rate.

Therefore, the financial incentives to move are not currently evident and would support the position being reported by employers.

A comparison of the contractual differences that exist between the grades across each of the devolved nations (annex D) also reveals that the range and scale of variations are limited in scope. As with the difference in pay scales values, these variations do not reveal significant push and pull factors affecting employers in England.

Section 3 – NHS Pensions

Scheme summary and opt out data

The NHS Pension Scheme, the largest public service defined benefit scheme in Europe, is considered generous and plays a crucial role in attracting and retaining NHS employees.

While the participation rate is generally high, there has been an increase in opt-outs, particularly among medical and dental staff (moving to 13 per cent between August 2022-July 2023 (22,000 staff) from 12 per cent between August 2021-July 2022 (19,000 staff)), citing reasons such as affordability and temporary financial priorities.

Recent annual accounts show a slight rise in medical and dental staff, and the scheme faces challenges in providing greater flexibility for reduced contributions and addressing pension taxation concerns.

Emphasising additional benefits, such as life assurance and retirement options, could help promote the overall value of the scheme and encourage retention.

Flexible retirement

The shift towards retiring flexibly leaves behind the expectation that retirement means permanently leaving the workplace and

employment, or that full-time work should immediately be replaced with full-time retirement.

Flexible retirement allows staff and employers to be flexible about the age at which staff retire, the length of time staff take to retire, and the nature and pattern of work in the lead up to final retirement. Our flexible retirement web page explains the options in more detail and provides examples to show how flexible retirement can be used to support staff to retire in a way that suits their individual circumstances.

This year, existing flexible retirement options were extended to members of the 1995 section:

- Partial retirement allows members to access from 20 to 100 per cent of their pension benefits while continuing to work in the NHS and continue contributing to the scheme.

- Members who retire and return may now rejoin the 2015 scheme to build up further pension benefits.

- The 16-hour rule was removed allowing 1995 section members to work without restrictions in the first month after returning from retirement, aiding capacity.

The changes support employees to work flexibly towards the end of their careers, achieve a healthy work-life balance, and bridge the financial gap between taking their NHS Pension and State Pension benefits. The ability to draw pension benefits through partial retirement, and retire and return, is particularly beneficial in helping members to control their pension growth, while continuing to work in the NHS.

Our guidance supports employers to discuss the options with staff and develop effective flexible retirement policies to improve retention.

There is still work to be done to encourage a cultural shift towards fully enabling flexible retirement. Given that partial retirement changes were introduced in October 2023, their impact on retention is not yet known but application figures from NHS Pensions show a positive uptake and steady increase.

McCloud

The McCloud remedy is the process of removing the age discrimination from public service pension schemes, including the NHS Pension Scheme. The discrimination resulted from allowing older members to remain in their legacy scheme (1995/2008 sections), rather than moving to the 2015 scheme when it was introduced. The different treatment of members, depending on their age, was found to be unlawful discrimination.

On October 1 2023, pension regulations were implemented to facilitate an automatic transfer of pension benefits accumulated during the remedy period from the 2015 scheme to the legacy 1995/2008 schemes through a process known as 'rollback.' This may result in new AA charges or changes to AA charges for affected members during the remedy period. HMRC's new digital service allows members to manage their tax position for any over or underpayments incurred.

From April 2025, affected scheme members will receive annual remedial service statements displaying the value of their pension benefits, including figures for the remedy period in both the 1995/2008 scheme and the 2015 scheme. This change could enable some members to access higher-value benefits at an earlier age, potentially allowing NHS staff to retire earlier without the need to return to work for additional pension income.

While employers can promote flexible retirement options, the McCloud remedy could remove the incentive to continue working. A

wider range of new flexibilities would further support employers to retain this important part of the NHS workforce.

Pension taxation

There was an increased risk that more members of the NHS Pension Scheme would breach the AA and incur tax charges in the 2022/23 tax year due to the rapidly rising inflation, and employers voiced their concerns about the impact this would have on workforce capacity, patient care and the ability to tackle treatment backlogs.

Employers reported staff taking early retirement, reducing their work commitments, and a reluctance to apply for promotions or take on additional work and responsibilities due to the impact of pension taxation.

The following changes, announced in the Spring Budget were introduced from April 2023 to help to alleviate some of these pressures:

- The AA was increased from £40,000 to £60,000 making it more difficult to breach and resulting in lower tax charges for those that do.

- The tapered AA, affecting high earners, was increased. Adjusted income was raised from £240,000 to £260,000, and the minimum tapered AA increased from £4,000 to £10,000.

- The legacy and reformed schemes were linked for the purposes of calculating AA, allowing members to offset negative real growth in the 1995/2008 scheme against positive real growth in the 2015 scheme.

- The LA was removed.

Our web page provides employers with further information on the changes and signposts to support for those who may still be affected by pension tax issues. Our NHS Pension Scheme annual allowance Ready Reckoner supports members to assess their AA liability to help manage their tax position.

Recycling employer contributions

Prior to recent changes, some employers had local recycling policies, allowing eligible employees to opt out of the NHS Pension Scheme and receive unused employer contributions as additional salary. This helped staff with potential pension tax issues manage their tax position without losing part of their total reward. However, many employers were uneasy about offering additional pay only to those opting out for tax reasons, without similar flexibility for those opting out due to affordability or other reasons.

Despite the encouragement to review criteria following Spring Budget changes, employers can still implement recycling for a few members at risk of pension tax charges. However, low uptake and a further decrease in numbers were reported post-pension tax changes.

Additional changes aligning the Consumer Price Index for benefit revaluation with calculations mitigated the impact of AA on members from the 2022/23 tax year. These welcomed changes have helped employers to retain staff who would otherwise have left the scheme, reduced their working commitments, or retired to avoid substantial tax charges. The overall flexibility provided by pension tax changes, combined with partial retirement and retire-and-return options, benefits both members and employers in terms of retention.

Proposed member contribution reform

In October 2022, phase 1 reforms were introduced to modify the contribution tiering system in the 2015 CARE scheme, aiming to

create a more equitable structure with uniform proportional benefits for all members.

Proposed changes include the implementation of phase two reforms, focusing on further reducing the contribution percentage gaps between different tiers to minimise the impact of 'cliff edges.' The progressive tiering structure is designed to make higher earners contribute more, aligning with the principle of encouraging workforce-wide participation.

To enhance the member experience and reduce administrative burdens, futureproofing measures are proposed. This includes:

- Annual adjustments to contribution thresholds to align with the Agenda for Change (AfC) pay award, aiming to streamline the process and minimise the risk of temporary reductions in take-home pay.

- Real-time re-banding to automate the adjustment of member contribution rates for those with fluctuating pensionable pay, ensuring a more accurate reflection of their financial situation.

- Changes proposed regarding the pensionability of overtime for part-time members, aligning the definition with the flexibility in earlier regulations.

Overall, these reforms seek to create a fairer, more consistent, and efficient pension contribution structure.

Proposed April 2024 scheme regulation changes

The Department of Health and Social Care is consulting on the following proposals:

- Deliver phase two reform of member contributions.

- Increase the employer pension contribution rate from 20.68 per cent to 23.7 per cent in line with the results of the 2020 scheme valuation, to be centrally funded.

- Permanently remove abatement for special class status (SCS) members in line with the AfC pay deal for 2023 / 2024, which is currently suspended to 31 March 2025.

- Further miscellaneous amendments.

Proposed amendments to partial retirement

The consultation sets out changes to regulations to make partial retirement more accessible for members, particularly senior clinical staff, by:

- allowing members of the 1995 section who have breached the maximum service limits to access partial retirement

- allowing any overtime or additional hours worked by staff who have partially retired within the previous 12 months to be non-pensionable. Members will be able to meet the required 10 per cent reduction in pensionable pay without affecting their ability to continue working at 100 per cent capacity, benefitting both members and employers.

Scheme flexibilities

The LTWP calls for: “actions needed to modernise the NHS Pension Scheme”. We remain of the view that introducing greater flexibility over the level of contributions members pay into the scheme, and the value of benefits they receive in return, is key to ensuring the NHS Pension Scheme remains attractive and valuable to all NHS staff.

Allowing members to pay a lower level of contribution to the scheme for a proportionately lower pension in return, could help to encourage

more members to join the scheme and access a broader reward package from their employer. Increasing membership levels across the whole workforce makes the scheme a stronger tool for reward, recognition and retention.

We would welcome the opportunity to explore ways of combining flexible pension accrual with recycling unused employer contributions for all staff. We believe that a more flexible reward offer, one which enables staff to save towards their retirement while receiving support from their employer towards other more immediate financial priorities, would be attractive to both staff and employers.

Annex A

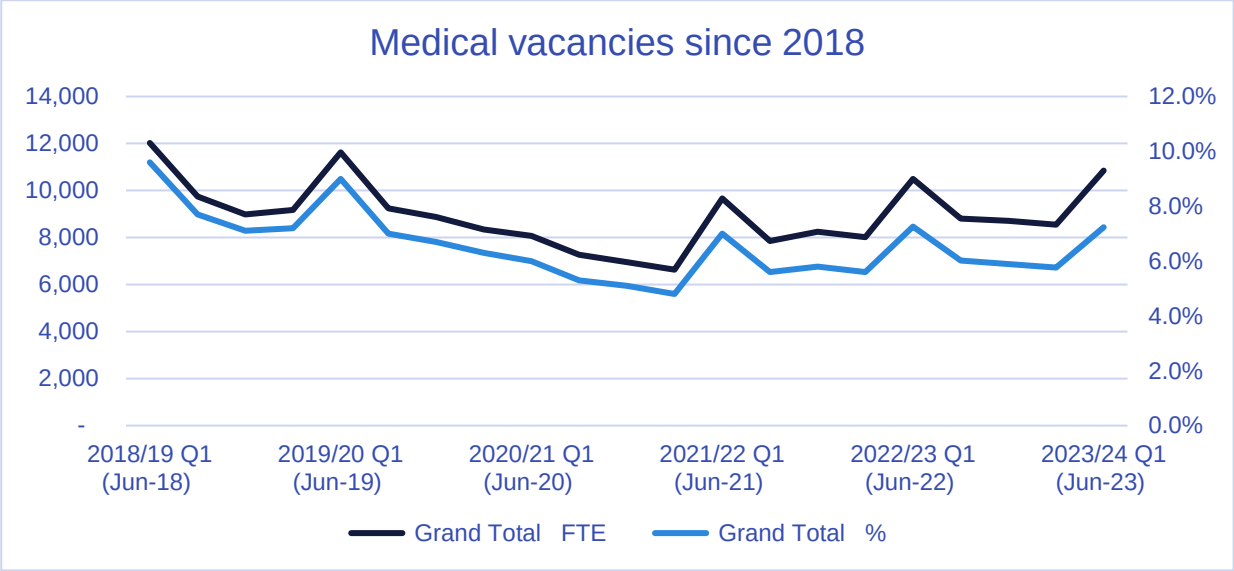
Industrial action dates in 2023/2024

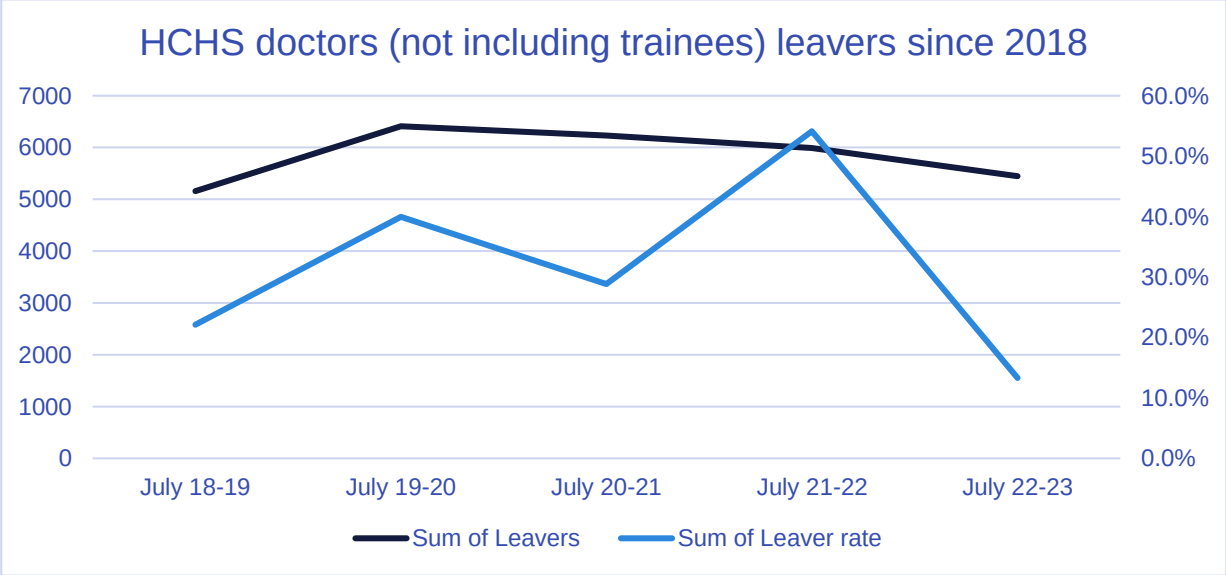
Doctors and dentists in training		
Trade Union	Dates	Duration
BMA/HCSA/BDA	13-15 March	72 hours
BMA/HCSA/BDA	11-15 April	96 hours
BMA/HCSA/BDA	14-17 June	96 hours
BMA/HCSA/BDA	13-18 July	5 days
BMA/HCSA/BDA	11-15 August	4 Days
BMA/HCSA/BDA	20 September	24 hours (Christmas Day level of cover)
BMA/HCSA/BDA	21-22 September	48 hours
BMA/HCSA/BDA	2-5 October	72 hours (Christmas Day level of cover)

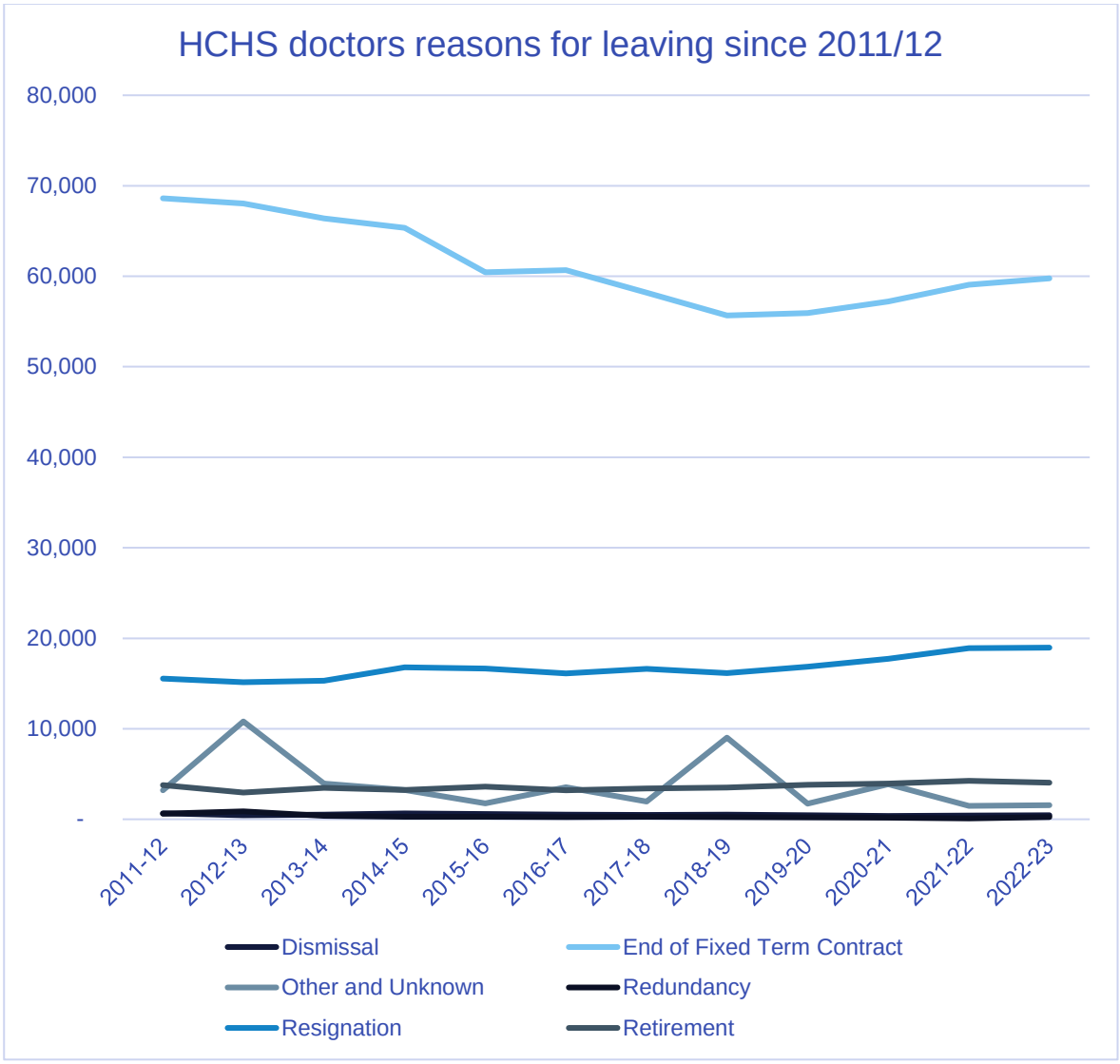
Consultants		
Trade Union	**Dates**	**Duration**
BMA/BDA	20-21 July	48 hours (Christmas Day level of cover)
BMA/BDA	24-25 August	48 hours (Christmas Day level of cover)
BMA/BDA	19-20 September	48 hours (Christmas Day level of cover)
BMA/BDA	2-5 October	72 hours (Christmas Day level of cover)

Annex B

Vacancy and leaver data






HCHS doctors reasons for leaving since 2011/12
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
-
2011-12
2012-13
2013-14
2014-15
2015-16
2016-17
2017-18
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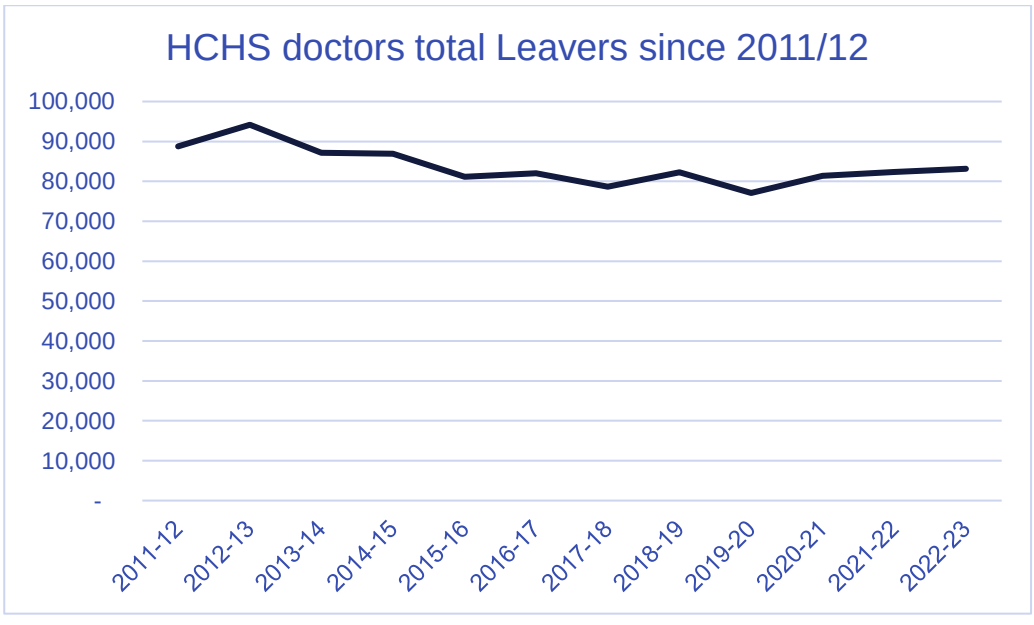
2021-22
2022-23
Dismissal
End of Fixed Term Contract
Other and Unknown
Redundancy
Resignation
Retirement


HCHS doctors total Leavers since 2011/12
100,000
90,000
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
-
2011-12
2012-13
2013-14
2014-15
2015-16
2016-17
2017-18
2018-19
2019-20
2020-21
2021-22
2022-23

Annex C

Comparison of key contractual provisions across the devolved nations

Contract	Working hours	Premium time	Additional earnings	Annual leave	Maternity leave
Consultant (England)	40 hours	7pm-7am weekdays, all day weekends/BH	On-call availability supplement and additional PAs	6 weeks + 2 days depending on service	8 weeks full pay, 18 weeks half pay, 13 weeks SMP/SMA
Consultant (Wales)	10 sessions averaging 37.5 hours a week	Same as England	Same as England	6 weeks + 3 days depending on service	Same as England
Consultant (Scotland)	40 hours	8pm-8am weekdays, all day weekends/BH	Additional PAs depending on OOH frequency	6 weeks	As above
Consultant (Northern Ireland)	40 hours	Same as England & Wales	Additional sessions	6 weeks	As above

| Contract | Working hours | Premium time | Additional earnings | Annual leave | Maternity leave |

Specialist 2021 (England)	40 hours	9pm-7am weekdays, all day weekends/BH	On-call availability supplement and additional PAs	5 weeks + 2 days increasing to 6 weeks + 2 days after 2 years and then 6 weeks + 3 days after 7 years' service	8 weeks full pay, 18 weeks half pay, 13 weeks SMP/SMA
Specialist 2021 (Wales)	40 hours	Same as England	As above	6 weeks + 4 days	As above
Specialist 2022 (Scotland)	40 hours	7pm-7am weekdays, all day weekends/BH	As above	6 weeks + 6 days	As above
Specialist 2021 (NI)	40 hours	Same as England	As above	5 weeks + 2 days increasing to 6 weeks + 1 day after 2 years and then 6 weeks + 2 days after 7 years	As above

Contract	Working hours	Premium time	Additional earnings	Annual leave	Maternity leave
Specialty doctor 2021 (England)	40 hours	9pm-7am weekdays, all day weekends/BH	On-call availability supplement and additional PAs	5 weeks + 2 days increasing to 6 weeks + 2 days after 2 years and then 6 weeks + 3 days after 7 years' service	8 weeks full pay, 18 weeks half pay, 13 weeks SMP/SMA

Specialty doctor 2021 (Wales)	40 hours	Same as England	Same as England	5 weeks + 4 days increasing to 6 weeks + 4 days after 2 years' service	As above
Specialty doctor 2022 (Scotland)	40 hours	7pm-7am weekdays, all day weekends/BH	As above	5 weeks + 6 days increasing to 6 weeks + 6 days after 2 years' service	As above
Specialty doctor (NI)	40 hours	Same as England	As above	5 weeks + 2 days, increasing to 6 weeks + 1 day after 2 years' service and then 6 weeks + 2 days after 7 years' service	As above

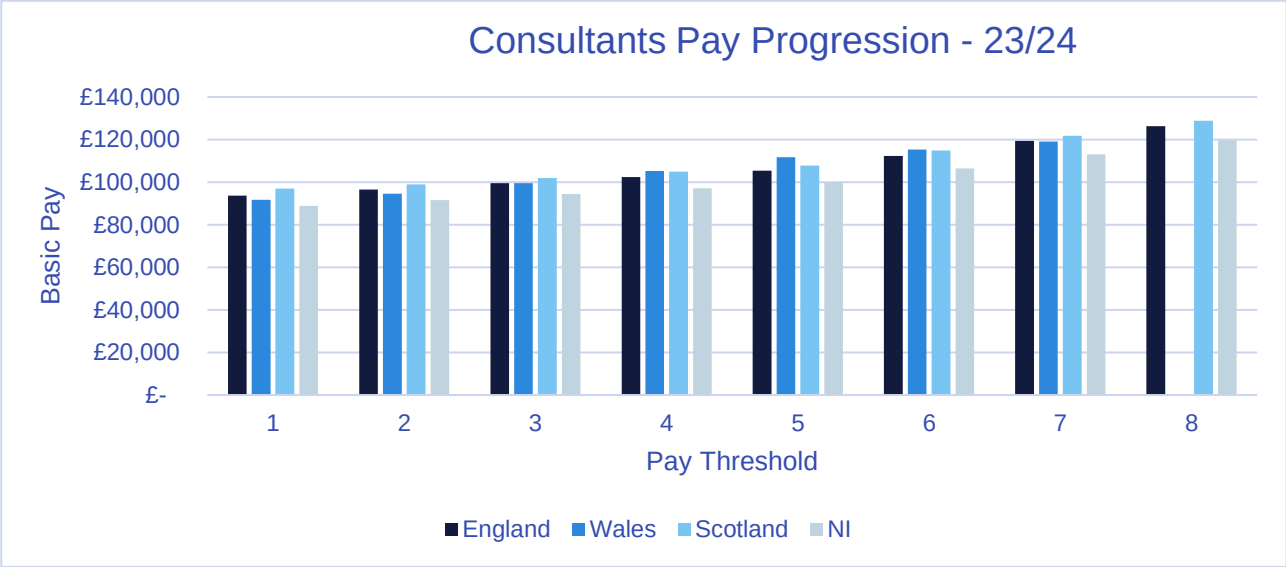
Contract	Working hours	Premium time	Additional earnings	Annual leave	Maternity leave
Doctors in training (England)	40 hours including breaks	7pm-7am weekdays, all day weekends/BH	On-call between 2-6% depending on frequency and pay premia.	25 days increasing to 30 after 5 years' service	8 weeks full pay, 18 weeks half pay, 13 weeks SMP/SMA
Doctors in training (Wales)	40 hours	9pm-7am	OOH increase in hourly rate, weekend frequency allowance, on-	5 weeks + 3 days increasing to 6 weeks + 3 days after 5 years' service	As above

			call allowance depending on frequency and pay premia.		
Doctors in training (Scotland)	40 hours	7pm-7am	Banding	5 weeks	As above
Doctors in training (NI)	40 hours	As above	Banding	5 weeks	As above

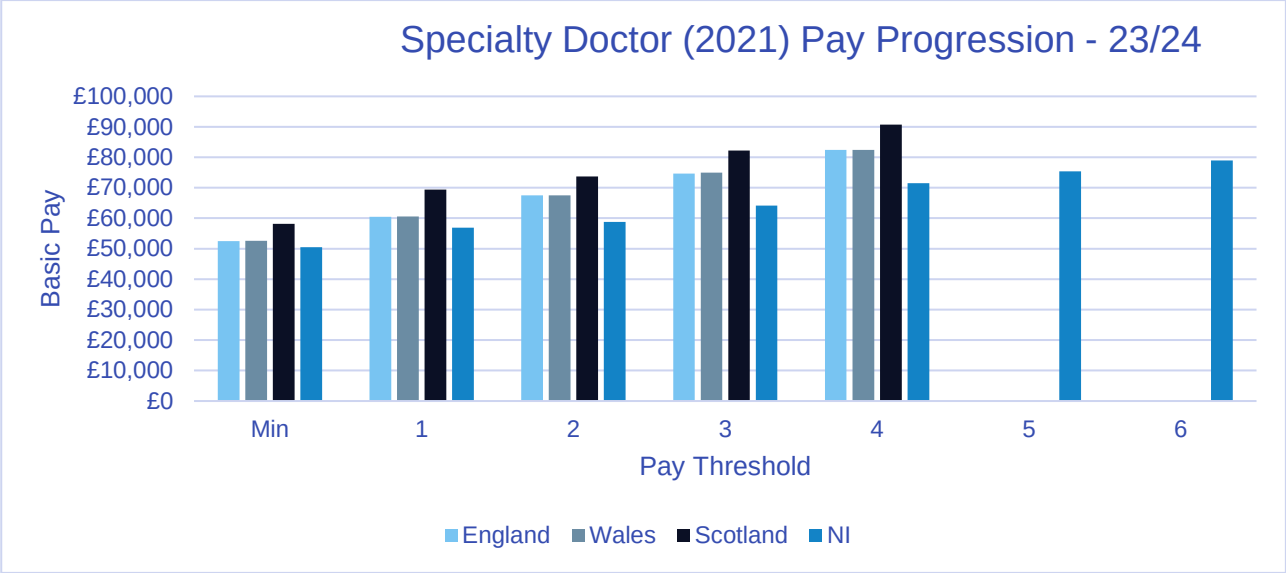
Annex D

Comparison of medical and dental pay scales across the devolved nations

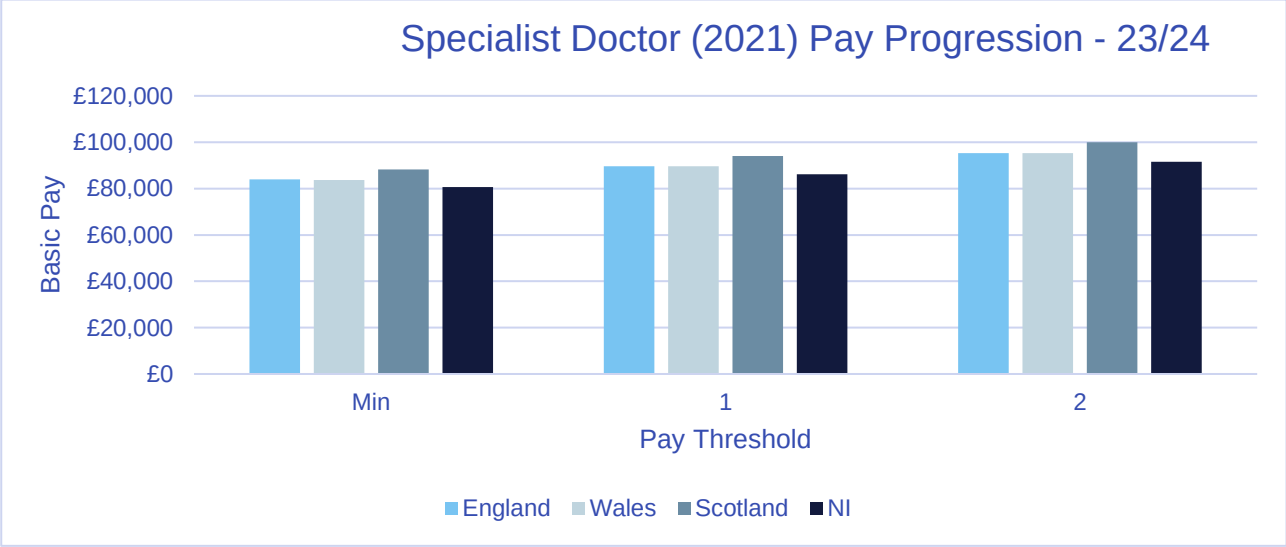
Consultants



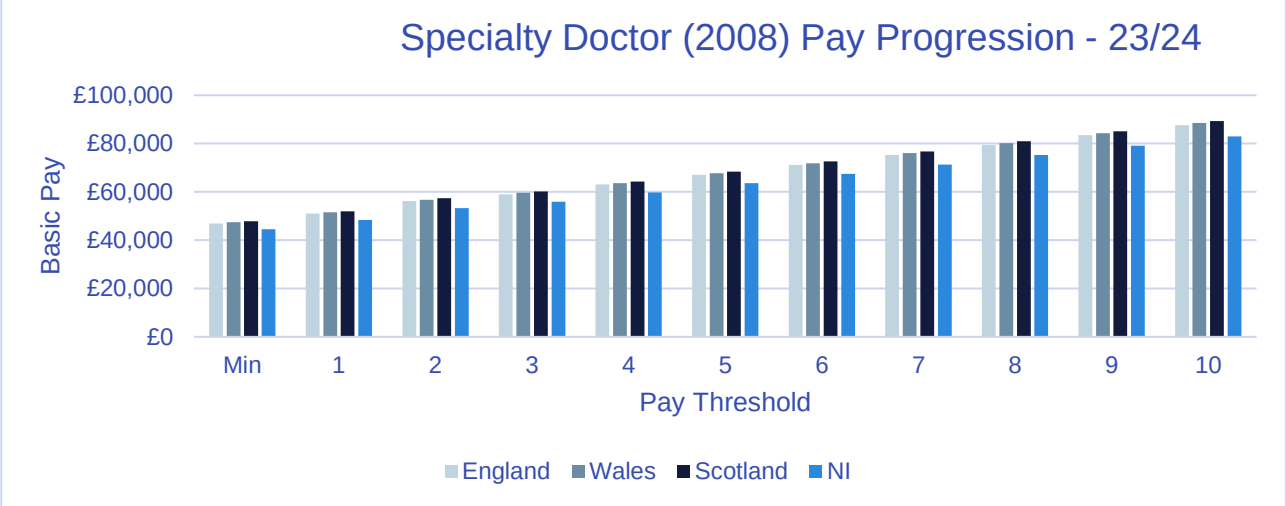
Specialty doctor 2021



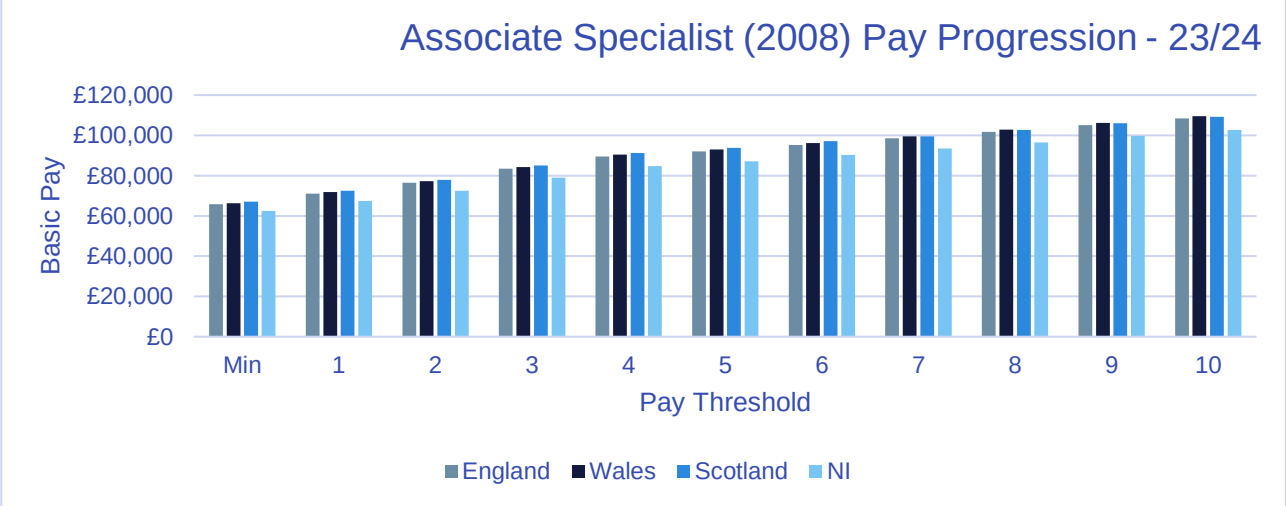
Specialist doctor 2021



SAS 2008 specialty doctor



SAS 2008 associate specialist



To note: a comparison of pay scales for doctors and dentists in training across the devolved nations remains under consideration.

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