Response from NHS Providers to the supplementary questions from the Review Body on Doctors’ and Dentists’ Remuneration as part of its special remit on contract reform for consultants and for doctors and dentists in training

ABOUT NHS PROVIDERS

NHS Providers is the membership organisation and trade association for the NHS acute, ambulance, community and mental health services that treat patients and service users in the NHS. We help those NHS foundation trusts and trusts to deliver high quality, patient focused, care by enabling them to learn from each other, acting as their public voice and helping shape the system in which they operate.

NHS Providers has 226 members – 94 per cent of all NHS foundation trusts and aspirant trusts – who collectively account for £65 billion of annual expenditure and employ more than 928,000 staff.

We thank the Review Body for considering our written evidence and sending us the supplementary questions which we have set out below, together with our responses. (Please note that for ease of cross-reference we have numbered the questions.)

We look forward to discussing our members’ views further with the review body.

SEVEN-DAY SERVICES

1. How do you respond to the suggestions that employers may need to provide additional childcare cover or that pay should reflect additional childcare costs from a move to seven-day working?

It is not clear that a move to more seven-day working would automatically increase child care costs. We would also point out that many doctors and non-medical NHS staff already balance child care arrangements and seven-day working. Many of these non-medical staff are on less advantageous pay, terms and conditions than doctors. As such, we do not think there is a need for employers to provide additional childcare cover or increase pay for doctors if more seven-day services are introduced. However, our members would of course continue to consider locally any equality and other issues arising from changes to working patterns, in cooperation with staff.

2. What consideration has been given as to whether seven-day services would meet any equality issues, such as those based on gender or religion, perhaps through indirect discrimination? How would such issues be addressed in working patterns?

Individual providers of NHS care are best placed to address equality issues, in cooperation with staff.
Our members are keenly aware of the need to consider equality and diversity impacts, in cooperation with staff, and, where appropriate, take mitigating action. This is the case as part of day to day business but also when undertaking change, such as changes to working patterns (as we said in our response to question one).

Our members do, and will continue to, treat people as individuals, taking appropriate account of factors such as gender, religion and belief, and disability etc. We would point out that many NHS staff, including doctors, already provide seven-day services and so many of our members will have some experience of issues that may arise.

COMPARATOR GROUPS

We expect to have some questions about comparator groups, once the results of the IDS research about arrangements and pay for seven-day services in a variety of sectors are available (expected March 2015).

We will be happy to comment on the IDS research once the report is available.

CONSULTANT CONTRACT

Do you consider that the proposed new arrangements for consultants (set out by NHS Employers in its evidence beginning paragraph 5.16) will provide sufficient scope for career development?

Most providers of NHS care will not be able to deliver more seven-day services within the existing spend without reform of the consultant contract.

We broadly support the new arrangements for consultants proposed by NHS Employers and agree that a reformed contract should appropriately reward those staff who contribute the most and work the most onerous working patterns.

In particular, our members have been clear that the link between pay and performance must be strengthened for consultants. The current arrangement of automatic pay progression based on time served is inappropriate. Our members also support an end to the local component of clinical excellence awards – which is widely seen as unfair – and the inclusion instead of this funding within new arrangements for performance related pay.

Based on the written evidence submitted by NHS Employers, our understanding is that consultants will continue to be able to access allowances for undertaking additional responsibilities and that our members will continue to have the discretion to offer those who take on formal leadership and management roles extra payments.

As such, we consider that the proposed new arrangements for consultants will provide sufficient scope for career development. In fact, the new arrangements will provide more opportunity than the current system of pay progression based, as it is, on rewarding time served regardless of contribution made.

How realistic do you consider it to require consultants to move to regular weekend working without any increase in the overall pay envelope? Do you have any funding set aside, perhaps on a transitional basis, until acceptance of regular weekend working is more entrenched in working patterns?

Based on the written evidence submitted by NHS Employers and the Government’s special remit letter, our understanding is that the challenge is to deliver more seven-day services “within the existing spend” (so without an increase in the overall pay envelope).

We consider that this is a realistic aim. Many non-medical NHS staff already work over seven-days without extra pay beyond a standard set of arrangements for unsocial hours premiums. Of course, the majority of these staff will also be paid considerably less than consultant doctors. There is also a strong argument that it is appropriate that a reformed consultant contract must reflect changes to expectations and working arrangements in the wider UK economy, where weekend working is now not
uncommon. The NHS needs to deliver more services beyond Monday to Friday if it is to meet the needs and expectations of today’s patients and all employment contracts should support this.

It is also important to remember the context in which providers of NHS care are operating. As has been widely reported, for five years they have consistently met increasing demand for services despite rising costs and a flat budget. And now, as set out in the Five Year Forward View (FYFV), they face the important challenge of transforming the way that care is delivered, including delivering more seven-day services.

We recognise that transition to new arrangements for consultants will have to be handled carefully. Changes to working patterns are a significant matter. However, there is a balance to be struck as the need for reform is clear and urgent, and momentum must be generated and maintained.

**ADDITIONAL COMMENTS ON OTHERS’ EVIDENCE**

We note that on page 12 of its written evidence the British Medical Association (BMA) has said: “the BMA would recommend key improvements to the current system of banding.” It is our understanding that this is a step away from the BMA’s position during negotiations with NHS Employers, where an end to banding and the introduction of higher basic pay was on the table.

Our members have been clear that the pay banding system for junior doctors is not fit for purpose. This came through in the survey we undertook to inform our written evidence, as illustrated below.

- An integrated provider said “We require the abolition of banding payments to junior doctors and replaced with something less vulnerable to change based on hours/intensity monitoring”.
- A specialist provider shared how the combination of banding and the New Deal is “counter productive to change and extending working hours”.
- “… the banding arrangements are extremely unhelpful and actually are a perverse incentive not to comply with working hours”, commented an acute provider.

We also note that, on page four of its written evidence NHS Employers has said: “The ‘banding’ system with its penalty payments on which the New Deal is based is inherently adversarial for junior doctors and their employers. Banding was not the key driver to reducing junior doctor hours and is now an anomaly”.

We therefore support a complete renegotiation of the contract and an end to banding rather than “key improvements” to a system that is fundamentally flawed.