

BMA



BMA local negotiating committee representatives handbook



British Medical Association
bma.org.uk

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01 Welcome

1.1 Welcome statement from Tom Grinyer

Welcome LNC member

I would like to welcome you to the BMA local negotiating committee and personally thank you for taking on this vitally important role.

Your LNC pack and handbook include everything you need to know about being an LNC representative and your role as an accredited place of work representative for the BMA.

LNC members are representing their grade, department or sub specialty and fulfil a key role in local negotiations. They work in conjunction with our industrial relations officers to try to achieve the best possible deal for our members locally. This involves negotiating policies and procedures applicable to all doctors within the organisation in which you work. Members like you are best placed to champion the work of the BMA – to look after doctors so they can deliver the best possible care. In practice this means encouraging colleagues to become members to join us to improve the strength and bargaining power of the LNC and ultimately the BMA.

As an LNC member you will help bring the profession together. Thank you for your commitment and invaluable input.

Yours sincerely

Tom Grinyer
Chief executive

01 Welcome

1.2 Introduction

Congratulations on becoming a BMA representative! Your role is key to the success of the BMA at both local and national levels. This handbook will help you understand your new role and how you can best support fellow BMA members. Your fellow representatives, and local IRO/AS (industrial relations officer/assistant secretary) are here to help you and are a good source of advice, and you can also find further detailed advice at [bma.org.uk/lnc](https://www.bma.org.uk/lnc)

The BMA was set up to defend the honour and interests of the medical profession, and has many professional and advisory activities. Ever since the creation of the NHS, the BMA has been the sole, formally recognised organisation to negotiate on behalf of doctors. In the past this has been undertaken at a national level. However, it is now increasingly common for contractual terms and conditions, as well as working arrangements, to be negotiated locally. This is where the local representatives are fundamental. The BMA's negotiating role in England now also extends beyond the NHS to other 'willing providers' and LNCs will be fundamental in negotiating terms within these organisations as well.

When reference to 'trust' is made throughout this document, this includes employers in all four nations.

The BMA is registered as a trade union in accordance with the Trade Union and Labour Relations (Consolidation) Act 1992. As the BMA is recognised at national level for collective bargaining purposes and also has local level recognition agreements in place, your LNC has the rights that the current and subsequent legislation brings.

The most important of these include:

- facilities and paid time off for trade union duties
- the right to be consulted on proposed changes
- collective bargaining
- the provision of information negotiating purposes
- representation of members both individually and collectively.

01 Welcome

1.3 Easy ways to get started

Contact your BMA industrial relations officer or assistant secretary responsible for your LNC
bma.org.uk/contact-your-lnc

Get your BMA representative business cards
bma.org.uk/BMAmaterials

Start your LNC training
bma.org.uk/training

Register for LNC online training
bma.org.uk/BMJonline

Connect with LNCs via the listservers
bma.org.uk/connecting-with-peers

Communicate with colleagues, **letting them know you are the rep.**

Learn about your ambassador benefits
bma.org.uk/ambassador

01 Welcome

1.4 Local negotiating committees

Visit the LNCs (local negotiating committees) webpage:
bma.org.uk/LNCreps



Support and resources for your role

- Get involved with your LNC
- LNC reps: know your rights
- Your LNC handbook
- Your LNC training
- Model policies
- Connect with your LNC peers
- LNC campaign resources
- Order BMA promotional materials
- Industrial relations officer presentations

01 Welcome

1.5 Top benefits for members

Dr Diary

Take control and ensure your job plan accurately reflects the nature of your work. Designed for consultant and SAS BMA members, this mobile app helps you track PAs on-the-go. Generate reports to understand your working patterns, so you can negotiate an accurate job plan, structure your professional development and identify issues with your pay. Download the app on the Apple or Google Play Stores.

Specialist employment advisers

BMA membership includes free access to our team of specialist employment advisers who last year handled over 100,000 enquiries from doctors, 70% being resolved in the first call.

The BMJ

Members receive a free weekly print copy of *The BMJ* and have full access to bmj.com.

Learning and development

BMJ Learning has hundreds of CPD-accredited online learning modules that can help you enhance your knowledge and progress your career. In addition to this we offer webinars, non-clinical masterclasses and CPD events.

Wellbeing support services

Our wellbeing support services are open to all doctors and medical students. They're confidential and free of charge. Call 0330 123 1245 and you will have the choice of speaking to a counsellor or taking the details of a doctor who you can contact for peer support.

In your local area

Members can make valuable connections at local branch of practice meetings, listen to high profile speakers and raise important issues at regional council meetings.

Pensions

Our dedicated in-house team provides free advice on NHS pensions to help members feel comfortable about planning for the future.

Contract checking

You can get your contract checked by a dedicated team of experts before starting FY1. 20% of the contracts checked in 2018 did not comply with the national model.

01 Welcome

1.6 BMA ambassador programmes

‘My advice is to use your BMA membership; that way, when your colleagues come up against issues, you will be able to speak from experience and help them.’

Lydia Akinola, BMA ambassador

The role of a BMA ambassador is not a sales role; the involvement of our ambassadors can be as small as a casual chat – it really is up to you. The programme is simply a recognition of your knowledge of the BMA, and the opportunity to recommend it to anyone who may not fully understand the benefits of membership.

By being part of the programme you will receive:

- £30 voucher for every new member you introduce to the BMA*
- Recruit 6 new members in a 12 month period and we will give you 25% off your annual membership
- An ambassador pin badge
- Regular communications to inform and support you

*Note: the £30 voucher offer does not apply to the recruitment of first year students.

Find out more:

bma.org.uk/ambassadors

bmaambassador@bma.org.uk

01 Welcome

How to order BMA materials

If you are planning to host or attend an event, as a BMA representative you have the opportunity to order a range of materials.

Booklets and service flyers

- Are you missing out?
- Learning and development
- Wellbeing support services

Resources

- BMA library
- BMA rep business cards
- BMA rep lanyard
- BMA pens and freebies
- Copies of *The Doctor* magazine
- Upted subscription rate cards
- BMA member benefits posters

bma.org.uk/BMAMaterials

02 The BMA LNC (local negotiating committee)

The BMA negotiates at local employer level via its LNCs. Our LNCs are made up of elected representatives like yourself who have volunteered to put forward the views of their colleagues to employers. The LNC's role is to be a voice for doctors in the workplace and to negotiate the best possible terms and conditions for them at a local level. Working in partnership with employers, the LNC has the authority to make collective agreements with management for all medical staff, which then become contractual. Within hospitals, the BMA also represents dental staff via a reciprocal agreement with the British Dental Association.

2.1 Membership of the LNC

All BMA members employed by the trust (health board or public health agency) are eligible to stand for election to the LNC. Members of the LNC will normally be elected for a three-year term and the term of the office bearers of the LNC will be coterminous with the term as an ordinary representative of the LNC. Each LNC should try to ensure there are always experienced members on the LNC, and stagger any new membership. The LNC constitution must be clear on election arrangements and tenure of posts (see Appendix B for model constitution).

It is important that all local representatives on the LNC have the confidence and support of the medical and dental staff they represent, and this relationship is best reinforced through regular formal election.

All LNC members should be encouraged to play an active role in the work of the LNC and have a shared responsibility to ensure that the committee:

- has an up-to-date constitution (see Appendix A)
- encourages LNC members to take on responsibilities (to share the workload and also for succession planning)
- keeps its IRO/AS informed of significant local developments
- keeps abreast of local, regional and national developments that may impact on their organisation
- encourages the recruitment of BMA members
- ensures all LNC representatives have undertaken BMA LNC training
- prepares fully before negotiations and agrees a strategy
- ensures they are aware of the issues and problems affecting each grade of medical staff within the employer
- will provide regular reports to the medical and dental staff, the LNC newsletters, minutes and local meetings.

02 The BMA LNC (local negotiating committee)

2.2 LNC chairs and secretaries

The LNC will appoint a chair, deputy chair and/or secretary. These appointments are for a fixed (renewable) period of not more than three years and should be coterminous with their normal term of office. The chair plays an important role in negotiations and works closely with the IRO/AS on relevant local, regional and national developments. The chair also oversees the preparation of the LNC agenda and joint LNC meeting agenda with management, ensuring that issues relevant and appropriate to all grades of doctor represented by the LNC are covered. The agenda must be issued to LNC members seven days prior to the meeting commencing. Notes of each meeting are taken and circulated with the agenda in preparation for the next LNC meeting. LNCs are advised to appoint a deputy chair or secretary to deputise for the chair when absent.

Your role as a representative is fundamental and is recognised in law with the right to have paid time off for trade union duties, and an honorarium is available from the BMA to assist the committee with secretarial support (see section 2.4).

2.3 Chairing and managing LNC meetings and joint LNC meetings

LNC

The LNC chair is responsible for chairing and managing LNC meetings. These meetings should focus principally, but not exclusively, on business that needs to be achieved at the joint LNC meeting with employers. The LNC chair should aim to ensure the LNC meeting is focused, inclusive and purposeful and that it takes sound decisions and actions, obtaining advice and support from the IRO/AS as required. In certain circumstances, the BMA will arrange video conferencing facilities for LNC members across sites. This facility will have to be pre-booked to avoid incompatibility issues.

The LNC will meet at the most convenient time to all members to ensure good attendance, normally during working hours. The time of the meetings will vary according to convenience. The chair will also agree dates and venues for the year ahead so they can be scheduled into diaries. The committee will meet with employers regularly, at least every three months as a minimum. At the meeting itself, the role of the chair is to ensure the business of the meeting is addressed and concluded within the time set aside for the meeting, while managing the flow

02 The BMA LNC (local negotiating committee)

of discussion and providing everyone present with the opportunity to contribute. The LNC chair should liaise with the employer to ensure that issues relevant to the medical profession are included on the joint LNC agenda. It is important that the chair seeks to ensure a common staff side position on each agenda item in advance of the LNC.

Joint LNC

The joint LNC meeting with management will normally be chaired alternately between the employers and the LNC chair. This is where most of the business is conducted and agreements are reached. This is known as a joint LNC meeting (the name may vary) and is often referred to as JLNC. A model constitution for the joint LNC meetings can be found at Appendix B.

The agenda and minutes should be produced by the employers. However, the LNC chair must agree who will take notes from the staff side and carefully check these with the draft minutes that are produced by management to ensure these are an accurate record of the meeting.

2.4 BMA support

Industrial relations officers/assistant secretaries in the devolved nations (IROs/AS)

Your IRO/AS is a member of BMA staff dedicated to ensuring that the LNC is supported and provides expert advice to the committee. The IRO/AS is a member of the LNC but they do not have voting rights.

Secretarial support

An honorarium is available from the BMA to assist the committee with secretarial support. The honorarium payment is paid to the chair's secretary (or other nominated person) who provides secretarial support to the LNC. To obtain the payment, the LNC chair should inform the IRO/AS by email confirming that secretarial support has been provided to the LNC, giving the name and address of the person and the six-month period for which payment is requested. Payments can only be backdated for a year so it's important that the IRO/AS is informed as soon as the appointment is made. The BMA will contact the secretary directly for bank details. Payment will only be made to the person who has undertaken the work.

03 Role of an LNC representative

As a BMA representative you play a vital role in representing doctors' interests in the workplace and have rights and responsibilities as a result of being formally accredited as a trade union representative. As a representative you will be expected to:

- be a member of the BMA
- regularly attend LNC meetings
- promote the collective employment rights of doctors
- communicate and feed back to medical staff
- represent the LNC on other local committees, joint consultative committee, regional LNCs and national LNC fora as required
- take account of BMA policy [bma.org.uk/policy-database](https://www.bma.org.uk/policy-database)
- take advice from the IRO/AS before entering in to any negotiations on terms and conditions of service or contracts of employment
- recruit members to the BMA – a trade union is only as strong as its membership; the more members the BMA has, the more influence it has at both national and local level
- keep abreast of current issues relating to the employment of medical staff.

3.1 Resident doctor representatives

Resident doctors spend relatively short periods at a workplace and it can be difficult for them to maintain an effective presence on the LNC and ensure continuity on issues that affect them. Therefore, special arrangements need to be in place to safeguard their position. To help maintain continuity once a resident doctor has been accredited as a BMA representative, they can take that accreditation with them when they rotate to other employers.

One month before a resident doctor representative is due to leave the employer, they should provide the IRO/AS with details of the employer they are moving to and confirm that they wish to continue to act as a BMA-accredited representative. They should provide the IRO/AS with a short report on the key issues affecting resident doctors at the employer, which will be forwarded to the incoming representative. The IRO/AS will provide the resident doctor representative with the name and contact details of the LNC at the employer they are moving to and ensure the LNC chair and HR department is informed that they are a BMA-accredited representative, seeking the usual facilities and advising HR that they will attend LNC meetings during their employment at the trust.

03 Role of a LNC representative

The resident doctor representative should contact the LNC chair as soon as possible for copies of previous minutes and dates of the LNC meetings. If an LNC representative is having difficulty getting time off to attend LNC meetings, they should contact the IRO/AS who will take the matter up with the employer.

3.2 Resident doctor forums/guardian of safe working (England only)

Resident doctor forums

The 2016 resident doctor contract has introduced two significant changes. There will be a resident doctor forum in every trust that will allow the elected or appointed representatives the opportunity to raise common issues in connection with the terms of the new contract with their employers and the LNC. The forum can be a powerful tool for doctors in training within the trust. The BMA has written a robust constitution for the forum and it will have among its members resident doctor representatives, the LNC chair and the trust IRO from the BMA.

You can download a copy of the model constitution for resident doctor forums here: bma.org.uk/residentdoctorforums

Guardians of safe working and exception reporting

The second change is the introduction of the guardian of safe working and exception reporting. Any resident doctor working beyond their contractual hours can 'exception report' the extra time worked via their educational supervisor, and to the guardian of safe working. This will ensure that resident doctors are not routinely working beyond their contracted hours.

You can download our advice on guardians of safe working here: bma.org.uk/exceptionreporting

04 Recognition agreements

Once a BMA-accredited LNC is established, it is necessary to ensure that the employer formally recognises it as the sole body to negotiate on behalf of doctors.

NHS Employers in England and the nations have agreed to recognise the BMA for collective bargaining purposes at both national and local level. This agreement dates back to the inception of the NHS and has continued through its various organisational reforms. At local level, negotiation takes place between members of the LNC, who represent the BMA and BDA members, and local employers.

LNCs should have robust recognition agreements that provide for sole recognition of the BMA to negotiate all terms and conditions for medical and dental staff. The BMA LNC would represent all grades of doctors and dentists employed by the trust.

Recognition of the LNC and its role will also bring other benefits including rights to information and consultation and to facilities to enable representatives to carry out their function. Such facilities will normally be set out in the recognition agreement. LNC representatives should familiarise themselves with the content of their recognition agreement.

05 Keeping medical staff informed

It is vital that the LNC consults with medical staff on key issues and keeps them informed of activities and agreements reached to ensure a firm mandate and retain credibility. This helps ensure that the LNC remains relevant to members and responsive to their concerns.

The chair should ensure the LNC communicates effectively with medical and dental staff within the organisation on a regular basis. Each LNC will produce a newsletter, which will regularly report all LNC activity, following joint meetings with employers. Your IRO/AS can help you circulate the newsletter via email.



06 Training for LNC representatives

The BMA provides extensive training for our representatives. A comprehensive training programme of online and one-day, face-to-face training courses is available. The programme is reviewed regularly to ensure it is relevant, up to date and meeting the needs of representatives in the workplace. All representatives must complete BMA training within six months of taking up their role as an LNC representative.

Details of the courses and how to apply can be found at:

bma.org.uk/lnc

learning.bmj.com/learning/info/BMA-local-representatives.html

or via your IRO/AS.

07 Networking with other LNCs

The local policies and procedures you are discussing with your employer are likely to have been discussed and agreed at other LNCs. Your employer will often talk to neighbouring employers about policies and procedures. To ensure the LNC is in the strongest position possible when negotiating, it is vital that LNC representatives can network with other LNC colleagues locally to know what has been agreed elsewhere.

To facilitate networking between LNCs, the BMA supports and organises LNC fora, where representatives from each LNC are invited to attend.

In England, the fora are held regionally and some of these meetings are combined with the local consultant committee meetings. The meetings are usually held four times a year.

In Scotland, the Scottish LNC forum is normally held three times a year at the national office in Edinburgh.

In Northern Ireland, the regional LNC meetings are held three times a year at the national office in Belfast.

In Wales, the Welsh LNC forum is held three times a year.

To find out where and when your next LNC forum will be held, contact your IRO/AS or your local BMA centre.

08 Your legal rights as a BMA representative

8.1 Time off and facilities

Under the terms of Section 168 of the Trade Union and Labour Relations (Consolidation) Act 1992, employees who are representatives of a recognised independent trade union have the right to a reasonable amount of paid time off work to carry out duties concerned with collective bargaining and related BMA issues. The right is irrespective of length of service. There is also an entitlement to a reasonable amount of paid time off to undergo relevant industrial relations training, which will normally have been approved by the BMA.

Local representatives also have a statutory right to take a reasonable amount of time off work to take part in the activities of the BMA (as opposed to their duties as a representative in relation to their employer). There is, however, no requirement that they must be paid for such time off work, although many employers will provide paid time for this work within a doctor's job plan. This is especially the case where robust recognition agreements are in place and local negotiations have delivered such facilities.

Since 1999, the Employment Relations Act has provided individual employees with the right to be accompanied by their local trade union representative when involved in disciplinary procedures or grievances. While members who have more serious issues will normally be represented by BMA advisers, BMA local representatives may also have an involvement in early, and less formal stages of procedures.

Acas has produced a code of practice for time off and this can be found here: [acas.org.uk/index.aspx?articleid=2391](https://www.acas.org.uk/index.aspx?articleid=2391)

8.2 The right to information

The Trade Union Labour Relations (Consolidation) Act 1992 provides that where an employer recognises an independent trade union, the employer is required to disclose to that union or its representatives, upon request, certain information to enable the union to negotiate. If it is not voluntarily disclosed, they may be ordered to do so.

08 Your legal rights as a BMA representative

This right is potentially extremely powerful. It enables local representatives to seek out information about the employer's plans and proposals for changes, for example, to services, staffing levels (including rotas) and terms and conditions of service.

Acas has produced a code of practice on the disclosure of information for collective bargaining purposes. It can be found at:

[acas.org.uk/media/pdf/2/q/CP02_1.pdf](https://www.acas.org.uk/media/pdf/2/q/CP02_1.pdf)

Where an employer recognises the BMA, the information to be disclosed includes all information relating to the employer's business:

- without which the trade union representatives would be to a material extent impeded in carrying out collective bargaining; and
- good industrial relations practice dictates that the employer should disclose to those representatives for the purposes of collective bargaining.

The request for the information should be made or confirmed in writing. An employer may refuse to disclose the information if it has been supplied to the employer in confidence, if it relates specifically to a particular individual, or if its disclosure would cause 'substantial injury' to its business for reasons other than its effect on the collective bargaining.

8.3 The right to be consulted

Recognised independent trade unions are entitled to be consulted by the employer about:

- situations when staff may be transferred to another employer
- proposed redundancies
- issues related to health and safety at work.

If any of these situations arise you should take specialist advice from your IRO/AS at the earliest opportunity.

09 Industrial action

There are strict rules about who can take industrial action and when. BMA representatives cannot authorise industrial action. The LNC must firstly discuss the issue with their local IRO/AS. He or she would then be responsible for discussing the matter with the relevant BMA departments and, if necessary, organising a ballot of members. The decision to authorise industrial action ultimately lies with BMA council.

10 Relationship with other trade unions

10.1 JNCC (joint negotiating and consultative committees)

The vast majority of non-medical staff are employed under Agenda for Change contracts (except Northern Ireland). At each employer, their representation is organised through the JNCC. Representatives of all recognised trade unions, including the BMA, can attend meetings of the JNCC – which is the forum for consultation and negotiation on employer-wide issues. The LNC should ensure that it receives the agendas and minutes of the JNCC, and it is important that the LNC sends a representative to JNCC meetings as this is where policies and procedures affecting all staff are discussed. In Scotland these matters are dealt with by area partnership forums (APFs).

It is important to maintain that the LNC is the recognised body representing all medical and dental staff locally and any variations to policies or working conditions affecting doctors must be discussed and agreed by the LNC.

10.2 SPF (Social Partnership Forum)^{1,2,3}

The Social Partnership Forum is a committee that operates at regional and national levels and brings together representatives from the Department of Health and Social Care, NHS Employers and NHS trade unions and is the forum for discussing, debating and involving partners in the development and implementation of policy where there are workforce implications. Topics for discussion might include NHS reconfiguration, STPs (sustainability and transformation plans) and other pan regional or national issues.

1 In Northern Ireland it is called the strategic health partnership forum.

2 In Scotland it is the Scottish partnership forum. In Scotland the Scottish Partnership Forum (also SPF) brings together representatives from Scottish Government, Health Boards and NHS trades unions to discuss the configurations, development and service planning of the NHS. Specific workforce and governance issues are addressed through partnership by the Scottish Workforce and Governance forum (SWAG). The Scottish Terms and Conditions forum (STAC) negotiates terms and conditions that apply to Agenda for change A4C staff and/or all NHS staff. BMA Scotland participates in the SPF and SWAG and keeps a watching brief on STAC.

3 In Wales this is the Wales partnership forum.

11

BMA media relations & public affairs services

The BMA provides media and public affairs services, voicing the BMA's views and policies across the media and to parliamentarians. The BMA media and public affairs offices in BMA House, Brussels, and the devolved nations are made up of highly experienced staff who promote the public image of both the association and the medical profession. They do this through national and local media, and UK, EU and devolved parliaments and assemblies, with whom they have daily contact.

BMA media officers can also provide advice to doctors or local committees.

The **BMA media office** can be contacted on:
020 7383 6448 / mediaoffice@bma.org.uk

The **BMA public affairs office** can be contacted on:
020 7383 6520 / publicaffairs@bma.org.uk

Scotland – contact head of public affairs and strategic communications
Tim Jays for advice on media or lobbying MSPs on:
0131 247 3018 / tjays@bma.org.uk

Wales – contact head of media and public affairs **Carla Murphy** for advice on media or lobbying AMs on: 029 2047 4626 / cmurphy@bma.org.uk

Northern Ireland – contact strategic communications manager
Elizabeth Hendron for advice on media on:
028 9026 9672 / ehendron@bma.org.uk

Contact political liaison officer **Bernadette Maginnis** for advice on lobbying MLAs on: 028 9026 9678 / bmaginnis@bma.org.uk

12 Appendix

Appendix A – Staff side local negotiating committee constitution

Accountability and purpose

The staff side members shall be accountable to the medical staff of the St Elsewhere Hospitals NHS Foundation Trust, (The Trust) and will provide regular reports to the Medical and Dental Staff via LNC newsletters, minutes of meetings and meetings of medical and dental staff. The role of the staff side members shall be to agree and represent the collective interests of all medical and dental staff employed by the Trust or otherwise working in or for the Trust (Health Board or other employing authority).

In particular, the staff side members will:

- continually monitor terms and conditions of service of all medical and dental staff within the Trust, including the application of national terms and conditions of service
- identify and evaluate scope for change in the terms and conditions of service of medical and dental staff in the Trust
- negotiate with representatives of the Trust on all matters relevant to the employment conditions of medical and dental staff in the Trust
- ensure that medical and dental staff at the Trust are represented on other relevant committees as appropriate (eg JCNC (or equivalent), Health and Safety Committee etc)
- ensure that it communicates effectively with and has due regard to the policies of the British Medical Association and other organisations as appropriate
- participate in appropriate regional and national activities
- undertake the BMA LNC representative training programme

Membership

Membership of the staff side of the LNC shall be as follows:

- Up to XXX medical and dental consultants elected by their constituents who will be ratified and accredited by the BMA
- Up to XXX representatives of the Staff, Associate Specialists and similar grades, who will be ratified and accredited by the BMA
- Up to XXX resident doctor representatives who will be ratified and accredited by the BMA
- A directly employed GP and a public health representative, where applicable
- The BMA industrial relations officer

12 Appendix

The medical and dental members of the LNC shall be members of the BMA/BDA and be accredited in line with BMA policy.

BMA accredited representatives will enjoy time off for their trade union activities and duties as provided for within the terms of sections 168 and 170 of the Trade Union and Labour Relations (Consolidation) Act 1992.

The Medical Director of the Trust will not be a staff side member of the LNC. Clinical managers and their deputies will normally represent the Trust.

Medical and dental members shall serve for a period of three years and be eligible for re election and/or re-appointment with no more than 50% of the committee being elected at one time. Membership shall cease at the request of the electing constituency or on ceasing to hold office.

Officers

The members of the LNC shall elect a Chair from their number, who may be a consultant and must be a member of the British Medical Association.

The members of the LNC may also elect an honorary secretary from their number, who must also be a member of the British Medical Association.

Officers shall be appointed for a period of three years and be eligible for re election. Their period of office will be coterminous with their term as an LNC representative.

Decisions

The LNC will seek to decide all matters through consensus for discussion at the Joint LNC. However, where this is not possible decisions shall be reached by simple majority vote of members attending a meeting. In the event of a tie, the chair shall have a second and casting vote.

Quorum

The LNC will determine the number of representatives required to be present to form a quorum.

Changes

Changes to the constitution of the staff side may only be made by resolution of the medical staff of the LNC and ratified by the Regional Office of the BMA.

12 Appendix

Accreditation

Provided that the staff side operates in accordance with this constitution, the British Medical Association will formally accredit it and provide support in accordance with its policy.

Signature

LNC Chairman

Signature

Industrial relations officer

DateJuly 2019.....

Appendix B – Model JLNC (joint local negotiating committee) constitution

1. Title

- 1.1 The committee shall be called the [] joint medical and dental staff joint negotiating committee ('the committee').

2. Terms of reference

- 2.1 The role of the committee shall be to agree terms and conditions of service, working arrangements, policies and procedures relevant exclusively to medical and dental staff in the trust, including arrangements for the application of national terms and conditions of service.
- 2.2 The committee will also be the forum through which the employer will, where appropriate, formally consult with medical and dental staff on relevant matters, including those of wider application to the staff of the trust.
- 2.3 The BMA LNC will have sole collective bargaining rights and will be the only body recognised by the employer for these purposes.

12 Appendix

3. Membership

- 3.1 Membership of the committee shall be as follows:
 - 3.1.1 [XXX] representatives of all categories of medical and dental staff within the employer.
 - 3.1.2 [XXX] representatives of the management of the employer.
 - 3.1.3 The BMA IRO/AS.
 - 3.1.4 Provided that the employer employs GPs a representative of the LMC shall be entitled to attend meetings of the committee.
- 3.2 Where possible, deputies will be appointed to attend meetings in the absence of the principal member(s).
- 3.3 The committee may by agreement invite any other person to attend a meeting of the committee. Any such invitee will not be eligible to vote nor counted in a quorum.

4. Officers

- 4.1 The committee shall appoint a chair and deputy chair annually. These positions will rotate between the management and local negotiating committee members annually.
- 4.3 The committee will appoint a secretary who will agree agendas and minutes with the LNC Chair. The management side secretary will be responsible for administrative arrangements.

5. Decisions

- 5.1 The committee shall decide all matters through agreement between the sides, each side coming to its own position in its own manner.
- 5.2 Where this is not possible, failure to agree will be recorded and the status quo will be held until such time as the dispute is resolved.

6. Meetings

- 6.1 The committee shall normally meet bi-monthly and written notice of the date, venue and agenda shall be circulated in advance.
- 6.2 A special meeting of the committee must be called at the written request of three members.
- 6.3 The quorum for a meeting shall be [] members on each side.

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7. Changes

- 7.1 Changes to the constitution may only be made by agreement of the committee.
Approved by the LNC chair (date)
Employing Authority (chief executive)
(date)

Appendix C: Specimen Recognition Agreement, Joint local negotiating committee

1. Introduction

- 1.1 This document is a Recognition Agreement between (insert name of Employer) (hereinafter referred to as 'the XXX Employer') and the BMA local negotiating committee (hereinafter referred to as 'the LNC') and sets out the arrangements for the recognition of the LNC within the Employer.
- 1.2 The XXX Trust, hereinafter known as the Employer recognises the British Medical Association and it's accredited local negotiating committee, hereinafter known as the LNC, as having sole recognition and collective bargaining rights to consult and negotiate on behalf of all medical and dental staff employed by the organisation.

2. Purpose

- 2.1 The purpose of this agreement is to maintain harmonious, constructive and efficient industrial relations within the employer, by working in partnership.
- 2.2 This will be achieved through the establishment of a framework for consultation and negotiation on such matters as pay and conditions of employment, including those matters requiring local agreement.

3. General principles

- 3.1 The Employer and the LNC believe that good employee relations are an important factor in achieving the organisation's objectives and high quality patient care. Cooperation and communication are important features of the relationship between the employer, medical staff and the BMA.

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- 3.2 The Employer and the LNC share a common objective in ensuring efficiency and success of the Employer for the benefit of patients, their relatives, the community and the medical staff.
- 3.3 The parties to this agreement have a common responsibility to ensure the efficiency and success of the Employer in achieving its aims for the benefit of patients, clients and staff.
- 3.4 The LNC recognises the Employer's responsibility to plan, organise and manage its activities to achieve its set objectives.
- 3.5 The Employer recognises the LNC's responsibility to represent the interests of the medical staff and to work for improved conditions of employment.
- 3.6 Both parties agree that their pursuit of these common objectives and responsibilities shall be by information, consultation or negotiation, as appropriate to the issue.
- 3.7 Both parties agree that every effort will be made to resolve all issues at the earliest possible stage.
- 3.8 The Employer will consult and where appropriate, negotiate on proposals for major changes affecting the delivery of services and recognise that the time scale of such consultation may be determined by a business or service need. The Employer acknowledges the benefit for services, which meaningful consultation can bring, and neither party would see consultation as a device to prevent or delay change. Both sides are committed to following best practice.
- 3.9 Both parties agree that it is in their mutual interest to observe agreed consultative and negotiating procedures.
- 3.10 Both parties recognise the need to develop a localised approach for local issues.
- 3.11 Where necessary, participation in other negotiating forums within the employer may be required, the LNC will therefore be responsible for nominating members as deemed appropriate.

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4. Scope of agreement

The remit of the LNC will encompass all terms and conditions relevant to medical and dental staff where local collective agreements are specifically required by terms and conditions of service, Whitley councils, Department of Health, social services and public safety letters and circulars or pay review body and include issues such as:

- pay, overall salary structure, terms and conditions of employment
- allocation of work, such as job grading, job descriptions, hours of work, job evaluation and flexible working practices
- policies relating to recruitment, redundancy, redeployment and termination of employment
- matters of health and safety including the physical conditions in which staff work
- disciplinary, grievance and other personnel/human resources policies
- facilities and time off for BMA representatives and committee members
- holiday, sickness and pension arrangements
- equality and diversity policies
- training and development of staff
- introduction of new working practices, new technology, new equipment and new techniques
- contracting out or TUPE (transfer of undertakings – protection of employment)
- strategic planning decisions, including the allocation of resources that have workforce implications, reorganisation of staff and relocation of offices
- consequential operational decisions – especially those likely to affect the job prospects or job security of particular branches of practice or grade

The employer shall disclose all requested information for collective bargaining purposes such as pay, benefits, conditions for service, productivity and financial information. This information may be of a sensitive or commercial nature and could be subject to the confidentiality clause in the employer employment contract or by the professional codes of conduct. Certain aspects of consultation and negotiation may also be confidential within the employer.

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5. Areas for consultation include:

- changes to internal management structures
- introduction of new work practices, technology, equipment and new techniques
- policies that are required because of new or changed legislation
- contracting out/TUPE
- matters of health and safety including the physical conditions in which staff work

6. Areas for negotiation include:

- terms and conditions of employment, including physical working conditions
- engagement, termination or suspension of employment or the duties of employment of one or more employees
- allocation of work or the duties of employment as between employees or groups of employees
- matters of discipline
- negotiation or consultation machinery and other procedures relating to the above matters including rights of recognition
- notice periods for holiday leave, holiday leave blocks
- any changes to national T&Cs job planning, SPAs
- any changes to policies resulting from harmonisation
- strategic planning decision, including the allocation of resources that have workforce implications, reorganisation of staff and relocation of offices

7. Facilities

The employer will make such arrangements as are appropriate for the LNC to carry out its activities.

Arrangements will include the use of appropriate accommodation for meetings and access to word processing/reprographic facilities, providing this does not unreasonably interfere with the employers work and provided that representatives have due regard to costs and use the facilities as economically as possible. The use of Employer email addresses for consultation and guidance to medical staff will also be included.

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8. Time off for LNC activities

Both parties accept that time off will be available for LNC activities and requests for time off work will be made in advance with the line manager. As much notice as possible should be given with a reason for the time off and the anticipated duration of the time off – keeping in mind the demands of the service. All time off for structured meetings and activities such as the LNC/JLNC should form part of the individual representative’s job plan. No staff side member of the LNC will suffer any loss of pay due to their trade union work. Staff will be remunerated for any costs incurred as a result of having to travel to and from LNC meetings with management.

9. Resolving differences

It is expected that negotiations on any issue will reach a final agreement as quickly as possible and every effort will be made to achieve this. In the event of failure to agree, both parties will make every effort to resolve their differences, which may include seeking the advice and assistance of an agreed third party for example, Acas. While the matter is in dispute, both parties agree that the status quo will be observed and neither side will take any precipitous action that may undermine resolution of the issue. This agreement is not legally binding and is binding in honour only.

10. Regional LNC

The Employer will allow time off for LNC representative(s) to attend the BMA’s regional LNC meetings. In Scotland this will be regional or devolved national LNC meetings.

11. Review

This Agreement will apply from the date of signature and shall be reviewed every three years.

Parties to this agreement

This agreement is made between (insert name of employer) and the British Medical Association

For and on behalf of the employer:

..... chief executive

For and on behalf of the British Medical Association

..... industrial relations officer

..... LNC chair Date:.....

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Appendix D – Local bargaining, guidance for local negotiators

Key messages

- LNCs should not negotiate any agreement that is detrimental to a national contract – you should only negotiate agreements that supplement and improve national terms and conditions
- Other local BMA groups (such as RSASC, RRDC, LMC etc) provide relevant expertise and feed in local issues, helping to promulgate messages – wherever possible, get involved!
- The legal powers of an LNC will depend on collective agreement between the LNC and management. Your IRO can advise on this
- You and your local LNCs should continue to work closely with other local unions.
- Any arrangements that are reached outwith the LNC can set undesirable precedents and undermine the collective strength provided by the LNC. This type of arrangement should be avoided and all such approaches referred to the LNC
- It is important to share good and bad practice with other LNCs
- Your IRO should be your first point of contact for further information and advice

1.1 Who is this guidance for?

Recent developments, including the UK Government's proposals for reform of the NHS in England and its approach to managing the national deficit, have resulted in unprecedented demands on NHS organisations and on the medical workforce, with increased pressure to find local rather than national responses to those demands.

This guidance is predominantly aimed at local negotiating committee members. It provides a useful resource to inform, guide and support you in a variety of negotiating situations.

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1.2 BMA negotiating principles

The BMA has adopted the following five key principles in its approach to national and local collective bargaining and these may help you when faced with local situations:

1. First, and foremost, stand up for doctors and do all possible to protect doctors from adverse impacts.
2. Maintain national negotiations of terms and conditions of service where possible.
3. Prevent the erosion of fundamental terms and conditions of service, and while we can expect lower annual pay settlements in the short term, we will resist the permanent withdrawal of elements of pay.
4. Look to avoid redundancies as far as possible, but be prepared to engage with employers in looking at better and more flexible ways of working and identifying productivity improvements.
5. Protect the future of the profession by ensuring high-quality training for doctors and retaining medicine as an attractive and fulfilling career.

There are several arguments against wholly local negotiations. The key argument is that they are very resource heavy. National agreements are more cost and time efficient than each trust creating its own negotiating body and spending time negotiating detailed terms and conditions and subjecting them to the scrutiny of lawyers to ensure they are legally sound.

Local negotiations often have the most negative impacts on the weaker groups, with management using threats to pressurise them into quick (and often detrimental) agreements.

1.3 NHS Trade Unions bargaining advice

The NHS Trade Unions has issued bargaining advice to regional and local trade union representatives on terms and conditions. This advice is aimed at Agenda for Change staff but includes a checklist approach to be adopted in discussions with local employers. The guidance also includes questions to ask employers about their financial plans, which the BMA suggests you use to assess the situation before further discussions. The guidance is available at:

bma.org.uk/lnc

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1.4 The role of LNCs in negotiating agreements

LNC representatives individually, and the LNC collectively, should regard themselves as the guardians of the terms and conditions enjoyed by their colleagues and seek to prevent any permanent erosion of these by their employing trust, a role that is particularly crucial with the advent of foundation trusts and in times of radical change or financial pressure.

LNCs also constitute the vehicle by which the representatives of medical staff can significantly improve the working lives of their colleagues, by raising issues of collective concern and by negotiating local collective agreements, policies and procedures that benefit all medical staff, including those on honorary contracts. LNCs should be constituted in such a way as to ensure the medical staff members elected to it represent and negotiate on behalf of all medical staff, including consultants, SAS doctors and doctors in training and clinical academics.

Preserving national terms and conditions for doctors is important. National terms and conditions are essential for maintaining an equitable spread of doctors across the UK, safeguarding against variable and substandard working conditions and avoiding the creation of barriers to doctors moving around the UK. LNCs should only look to negotiate agreements that supplement and improve national terms and conditions, which should be seen as a minimum benchmark.

1.4.1 National agreements and contracts

As indicated above, the LNC should ensure that national agreements are properly implemented. Many national agreements constitute 'frameworks' with a wide scope for local interpretation and it is often necessary to negotiate local implementation agreements. These include, among others:

- Improvements to or consolidation of the national contracts of employment for consultants, SAS doctors and doctors in training
- Implementation agreements in respect of the national terms and conditions of service for consultants and SAS doctors, including, for example, job planning procedures and guidelines

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- National disciplinary procedures (incorporating the requirements of the 'Maintaining High Professional Standards' directive in England) (UPSW in Wales) need to be adapted to local circumstances and there is scope to incorporate arrangements aimed at eliminating time-consuming formal process being applied to less serious concerns
- Clinical excellence awards, optional points and discretionary points processes
- Working time directive implementation arrangements
- Agreements promoting the proper management and monitoring of resident doctors' hours in accordance with national terms and conditions

1.4.2 Local agreements, policies and procedures

There is a huge range of issues and areas of work and practice not covered by national terms and conditions of service, which will require local agreement if medical staff are to benefit. Examples include acting down arrangements, remuneration for additional clinical work/waiting list arrangements, annual and study leave policies and procedures.

1.4.3 Substantive and procedural agreements

Agreements may be 'substantive' or 'procedural'. If an agreement provides new rights it is described as substantive. If it relates to administration of existing rights it is regarded as procedural, eg annual leave policies. However, the benefits of having such agreements that provide for consistent, equitable and clear application of local rules should not be under-estimated.

1.4.4 General or LNC-specific agreements

The Recognition Agreement in respect of the LNC will normally provide that it has the remit to deal with terms and conditions of service and other matters that are exclusive to medical staff. Agreements that have general application to all staff are usually the remit of, and are negotiated within, the trust's JNCC (joint negotiating and consultative committee), which usually involves all the recognised trade unions. LNCs should ensure they maintain the influence of medical staff in that forum by ensuring attendance at JNCC meetings.

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Any arrangements that are reached out with the LNC can set undesirable precedents and undermine the collective strength provided by the LNC. This type of arrangement should be avoided and all such approaches referred to the LNC.

1.4.5 Policy or agreement?

Often management will prefer to 'consult' on 'policies', whereas trade unions prefer to 'negotiate' and reach 'agreements' that are recorded either as a formal agreement or within the formal minutes of the meeting. The trade union approach ensures that agreements reached cannot be unilaterally altered at a later date. In contrast, a policy that has only been subject of consultation may be reviewed and revised by management without the need for further agreement. The BMA recommends that LNCs reach agreement whenever possible.

All agreements should look to improve upon anything that is available nationally, and be subject to review and to the provision that they must be referred back to the joint LNC to agree any changes.

The number and scope of local agreements reached will vary from trust to trust. Some LNCs have restricted themselves to areas covered by national terms and conditions of service, whereas others have negotiated a wide range of local agreements and can have as many as 30 or 40 locally agreed policies and procedures requiring regular review and updating.

There are, however, a number of crucial local agreements that all LNCs should seek to achieve and these are referred to below (para 3.6).

1.4.6 LNC recognition agreement and joint LNC constitution and terms of reference

A model recognition agreement appears as an appendix to the LNC handbook. The BMA recommends that individual LNCs adopt similar arrangements with their trusts.

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Such arrangements are necessary for an LNC to be effective in negotiating agreements on behalf of medical staff and should be regarded as essential. The LNC constitution and terms of reference should be regularly reviewed (at least bi-annually), and in the case of foundation trusts, be formally readopted at the first LNC meeting following confirmation of foundation status.

It is essential that the joint LNC constitution and terms of reference describes the remit of the LNC, by confirming that all terms and conditions of service, policies, procedures and working arrangements that are exclusive to medical and dental staff, will be the exclusive remit of the LNC in order to ensure no changes or new terms and conditions of service are introduced without the agreement of the LNC. The constitution and terms of reference should also include the following elements:

Administrative arrangements – the agreement should specify the arrangements that are designed to ensure the LNC can function effectively to enable local agreements to be properly negotiated, recorded and implemented. These are included in the model constitution, and include:

- identification of the chair and any provision to rotate the chair between management and staff sides,
- joint secretaries
- minute taking and administrative support (this can be crucial to the effectiveness of an LNC. Proper and adequate resource is imperative and should be provided by the employer)
- agendas and minutes – it is imperative these are well organised and not left to the last minute
- schedule of meeting – the agreement should specify that meetings will be held on a regular basis (eg a minimum of one scheduled meeting every three months), together with the ability of either side to call further meetings as necessary
- The benefits of the medical staff side having a pre-meeting cannot be over-emphasised, and it is advisable to provide for these within the constitution document

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1.4.7 The importance of a strong LNC

Terms and conditions of service can be altered by negotiation at national and local level but also by individual negotiation. Individual negotiations and consultation or negotiation of doctors' terms and conditions in any forum other than the LNC can have the effect of undermining the bargaining power of the LNC and doctors generally at the employer. It is therefore imperative that medical staff committees and other groups of doctors are made aware of the LNC, its role and purpose and, most importantly, that it should be regarded as the only forum where consultation and negotiation on doctors' terms and conditions should take place.

1.4.8 Pointers for local agreements

As stated above, there is scope for a huge range of local agreements that will benefit medical staff and provide for consistency and equity in the approach to such matters as study leave, annual leave, job planning, clinical excellence awards, SAS extra annual leave, new contract implementation and many more.

LNCs will need to prioritise if they are going to be effective and in deciding which areas to tackle first, they should ask themselves the following questions:

- Is there a need for a local agreement? For example, is the matter adequately covered in existing national or local agreements, policies/procedures?
- Does it conflict with national rules or agreements?
- If it is not an improvement, it is sometimes best to leave well alone! The default position should usually be national terms and conditions of service
- Does it affect other staff? It may be the remit of the JNCC forum or equivalent as it is not a matter exclusive to medical and dental staff
- Review: LNCs are advised to include a review date for each agreement where possible. If the agreement is contentious or the benefits not readily obvious, then LNCs should consider including a termination clause. Conversely if the benefits are obvious and likely to continue, a notice clause would be inappropriate and LNCs will want the agreement to apply until and unless otherwise agreed by the LNC

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- Communication: whenever an agreement is reached, LNCs should establish a strategy to ensure that the fact and details of the agreement are effectively communicated both to medical staff and managers within the trust
- Does it require consultation for the changes? This may be with the MSC, with the appropriate regional branch of practice committee or wider

1.5 Legal information – legal powers of an LNC

The legal powers of an LNC or individual in relation to a local collective agreement will depend on the terms of that agreement. In the event of dispute or attempted imposition of terms or conditions by management, immediate advice should be sought from the IRO/AS.

An agreement made by the LNC will only be binding on individuals where the terms of the collective agreement have been incorporated into the doctor's contract of employment.

All LNCs must observe the BMA guidance on collective action, which has been produced by the BMA legal department, and should always seek advice from their IRO/AS.

1.6 The impact of local bargaining

Local bargaining can be a vehicle for achieving local improvements or benefits to patient care and can be used to address local financial issues. National agreements have the same aims of protecting doctors and creating the best employment practices to enable the provision of excellent patient care. All LNCs must ensure that they do not agree anything that is detrimental to national terms and conditions of service. The impact of local agreements can be far reaching and there are many issues to consider when engaging in local bargaining.

The BMA would suggest that your main aim must be to maintain national terms and conditions of service where possible. Sometimes you will be able to agree beneficial local implementation procedures or local variations that are in line with and clarify or improve the implementation of a national framework agreement.

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If there is any larger variation in local agreements there can be far-reaching consequences and several questions for LNCs should consider include:

- How will local variations affect the ability of staff to move across UK?
- What are the effects on other areas or nations?
- How will this affect resident doctors on rotation to your area?
- How will taking time to negotiate local amendments affect the ability of doctors and other staff to provide patient care?
- How often will local amendments need to be negotiated? Will they entail constant variation?
- How will local agreements affect the national gender pay gap? Will starting salaries be affected?
- What will happen to the NHS pension scheme with local bargaining and contractual variation?

Guidance on these issues should be sought from your IRO/AS.

1.7 Communications – the benefits of good communications and how to communicate better

It is important to share good and bad practice. Sharing information with other local BMA groups will help you in researching issues and arguments. It will also confirm the status of the LNC as the sole forum for local negotiation as local groups gain confidence that their issues will be fairly and effectively represented. The easiest way to share information is to attend formal meetings but this can also be achieved through less formal routes. Your IRO/AS will also be able to assist you in considering other communication channels.

The BMA has recently introduced a regular e-newsletter for LNCs in England. This will give you an easily digestible list of issues for discussion and updates on any developments. This is available from your IRO/AS.

1.8 BMA support

The main areas for agreement are referred to above; however, priorities will depend on the circumstances pertaining in each trust. The input of BMA member relations/services support, in the shape of the local IRO/AS, is crucial to informing the LNC as to national, regional and local developments in neighbouring trusts and the network of regional services staff, regional and national branch of practice committees and secretariats is an invaluable source of information and advice for LNCs.

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They can provide examples of good practice in the form of model procedures produced centrally, regionally or by LNCs in other trusts.

The BMA also has national branch of practice committees that will continue to provide you with a lead as well as advice and support on issues of contention.

The BMA website is an essential source of information, advice, guidance and model agreements which LNC members should find invaluable: bma.org.uk

1.9 Foundation trusts (England only)

The Health and Social Care Bill (England) puts great pressure on the remaining NHS trusts to rapidly become foundation trusts. The BMA fears this could lead to a focus on achieving financial stability rather than the maintenance of high-quality patient care. However, it is likely that your trust will be considering financial trust status and hence it is important that you are aware of the implications of this.

Foundation trusts are independent, not-for-profit, public benefit corporations. They have greater powers to set their own contracts but to date our experience has generally been positive (in that they have chosen to retain national terms and conditions of service and introduced some beneficial supplementary arrangements) although this depends on good engagement with medical staff.

Successful foundation trusts appear to be those that adopt a partnership approach to involving medical staff and you should advocate and facilitate this as soon as possible.

1.10 Working with other unions

You and your LNCs should continue to work closely with other local unions. The importance of joint working at a local level was reinforced at a BMA meeting with the RCN, Unite, Unison, the Royal College of Midwives and the Chartered Society of Physiotherapy, where the leaders of all the unions said they would support and encourage cooperation at a local level. In issues, particularly affecting clinical academics, you may wish to work with the University and Colleges Union locally.

However, there will be issues where the other trade unions may be prepared locally to agree changes to service, if these undermine national contracts for medical staff the LNCs should not agree to such changes. LNCs should also be prepared to engage with employers and colleagues to look at how best to manage financial problems without attacking staff pay and conditions. Further guidance will be prepared as to the areas that could be pursued.

Contacting the BMA

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