

The new Government offer to stop strikes and end the current pay dispute for the consultant workforce in England



Introduction

For many years, the BMA has been lobbying Government and submitting detailed evidence to our pay review body, the Review Body on Doctors and Dentists Remuneration, (the DDRB), outlining the extent to which consultant pay has fallen since the start of austerity and the devastating impact that this has had, and continues to have, on recruitment and retention. We have also highlighted the catastrophic impact this has had on NHS performance and how it has directly contributed to the increasing waiting lists, which were at record levels long before the pandemic.

The fact that our pay had fallen so significantly was a direct consequence of the failures of the DDRB, which we believe no longer operates in a way that allows it to make independent recommendations on pay. Indeed, since the start of austerity, for a period of seven years, the Government directly constrained the DDRB by imposing a cap of either 0% or 1% to doctors pay, despite inflation running significantly higher than this. In more recent years, whilst they haven't directly capped the pay awards, awards have been severely limited by affordability constraints and the Government's inflation target. These considerations were imposed by the Government both in the remit letters at the very start of the process and in the terms of reference of the DDRB.

In addition, for many years consultants have been suffering from the impact of punitive pension taxation policies that meant consultants faced huge additional tax bills or had little option but to reduce hours or retire early.

Despite extensive lobbying from both the BMA Consultants Committee and the BMA Pensions Committee, our concerns continued to be ignored. Therefore, the BMA Consultants Committee launched its campaign to Fix Pay, Fix Pensions and Fix the DDRB.

What has followed has been a landmark period for consultants in England. The Government's failure to adequately address our concerns resulted in consultants taking strike action for the first time in nearly four decades. This was followed by consultants taking three further rounds of action, two of which were combined with our resident doctor colleagues.

This was not an easy decision for many consultants but your decision to take action has been incredibly effective. The indicative ballot helped the BMA Pensions Committee secure vital reforms to pension taxation in March 2023 and led to tentative discussions with Government around a pay offer and DDRB reform. At every stage, your action, whether it has been in the form of the overwhelming mandate you gave us in the statutory ballots in June and December 2023 or the successive rounds of striking, has made a real difference, has moved the Government and forced them to acknowledge our demands.

Since April 2023, the Government came forward with three offers, each one an improvement on the last but these were deemed by your representatives on the BMA Consultants Committee to be inadequate. This was on the basis of the proposed pay awards being well below the level of inflation, there being insufficient reform of DDRB and too many concessions being sought from us. For context, it should be reiterated that consultant take-home pay has fallen by over 35% since 2008/9 compared to the Retail Prices Index (RPI) and over 26% compared to the Consumer Prices Index (CPI).

The BMA Consultants Committee have always been committed to restoring our pay but have recognised from the outset that this could not be achieved within a single year. The long-term mechanism for achieving pay restoration is to ensure that we have a pay review body that has been restored to its founding principles. This means a DDRB that can not only make truly independent recommendations on pay but is empowered to look at the impacts that pay erosion has had on recruitment and retention and address this accordingly.

At a minimum, therefore, we were seeking a pay award that was above inflation and meaningful reform that would enable the DDRB to progress with restoring pay over the coming years. The urgency of DDRB reform was laid bare this year given that the current DDRB made a pay recommendation of 6% for doctors at a time when CPI inflation was 8.7% and RPI inflation was 11.4%.

Throughout November 2023, the BMA Consultants Committee were in intense negotiations with Government, which led to a further offer. At that point, the committee felt that it was essential to follow due democratic process and consult with our members.

You narrowly voted against accepting that offer (51% vs 49%) and following this the BMA Consultants Committee formally rejected the offer at the end of January 2024 and went back to Government demanding that more progress was required.

Intense negotiations in February 2024 resumed and this has resulted in a new offer which we are putting to you in another electronic referendum. The BMA Consultant Committee believes this offer addresses the key concerns with the previous offer. Those concerns included insufficient movement on restoring the DDRB's independence and that there was still no reassurance that they would look back at what had happened to our pay over time. There was also concern that some groups of consultants, particularly those between years 4-7 would not receive an additional uplift immediately and concern about the proposed changes to supporting Professional Activities (SPA) time.

This new offer addresses these concerns and we have secured significant additional improvements to the DDRB that we feel will make it more independent, as well as the explicit inclusion within the terms of reference that they must take into account developments in doctors' earnings over time, particularly in the context of long-term trends in the wider labour markets including international comparators. In addition, consultants in years 4 to 7 will now receive an immediate pay uplift and given the confusion around the proposed SPA changes, this has been dropped entirely.

Given the significant improvements, the BMA Consultants Committee is now recommending that members vote YES in the referendum.

This document outlines the various elements of the new offer that you will be considering, including flagging key improvements on the previous offer.

Increase to Pay

There has been an uplift applied to the consultant pay scales already for 2023/24. This uplift was 6% and was in line with the current DDRB's recommendation. For context it is worth remembering that in its remit letter to the DDRB, the Government wrote "As described during last year's pay round, the NHS budget has already been set until 2024 to 2025". They added that "in the current economic context, it is particularly important that you also have regard to the Government's inflation target when forming recommendations".

In February, in its evidence to the DDRB, the Government wrote "funding is available for pay awards up to 3.5% for the relevant staff groups within DDRB remit this year".

In this context, other groups of NHS staff agreed a 5% uplift for 2023/24 and without your action, it is likely that consultants would have received an award of 5% or less in 2023/24.

However, even a 6% pay award was sub-inflationary and your Consultants Committee was clear that this was not acceptable. The Government claimed that this 6% award was final, but your strike action changed this, and the Government have now offered additional investment. The key features of the previous pay offer were:

- 3.45% of additional investment
- 1.5% funding that will be redeployment from the new Local Clinical Excellence Awards (LCEAs) which will be scrapped from April 2024. Although this money is already part of the pay bill, it is non-consolidated, non-pensionable and has not been uplifted in line with inflation for several years; indeed there has been no uplift at all to the value of these awards in recent years.

This provides an additional 4.95% uplift, which is retained in the new offer. It was agreed this would be best utilised to reform the current pay scale. The new offer builds on changes to the consultant pay scale in the original offer and additionally includes a 2.85% (£3,000) uplift for those who have been consultants between four and seven years, who under the original offer received no additional uplift. It is also important to note that this investment remains in addition to the 6% pay award that has already been applied in 2023/24 and in addition to the pay award that will apply for 2024/25.

The pay elements of the new offer would be backdated to 1 March 2024, with back pay expected as soon as practicable during 2024/25, if the offer is accepted. This change is as a result of the previous offer being rejected and it now being 2 months later but backdating to 1 March 2024, rather than 1 January 2024 as in the previous offer, reduces the risk of pension taxation issues that some members may have otherwise faced due to the impossibility of paying the back pay during the 2023/24 financial year.

Modernisation of the current consultant pay scale

There are very significant problems with the current pay scale design and it has been our policy to reform these for some time. The current pay scale was identified as a significant contributor to the gender pay gap and, due to the long time it takes to reach the top of the scale, which penalises consultants who take time off work due to caring responsibilities or health reasons. What is more, younger consultants are paid significantly less than older consultants, despite in many cases fulfilling the same role for the majority of their career. The current structure also works poorly for a career averaged pension scheme, which all members are on as of April 2022.

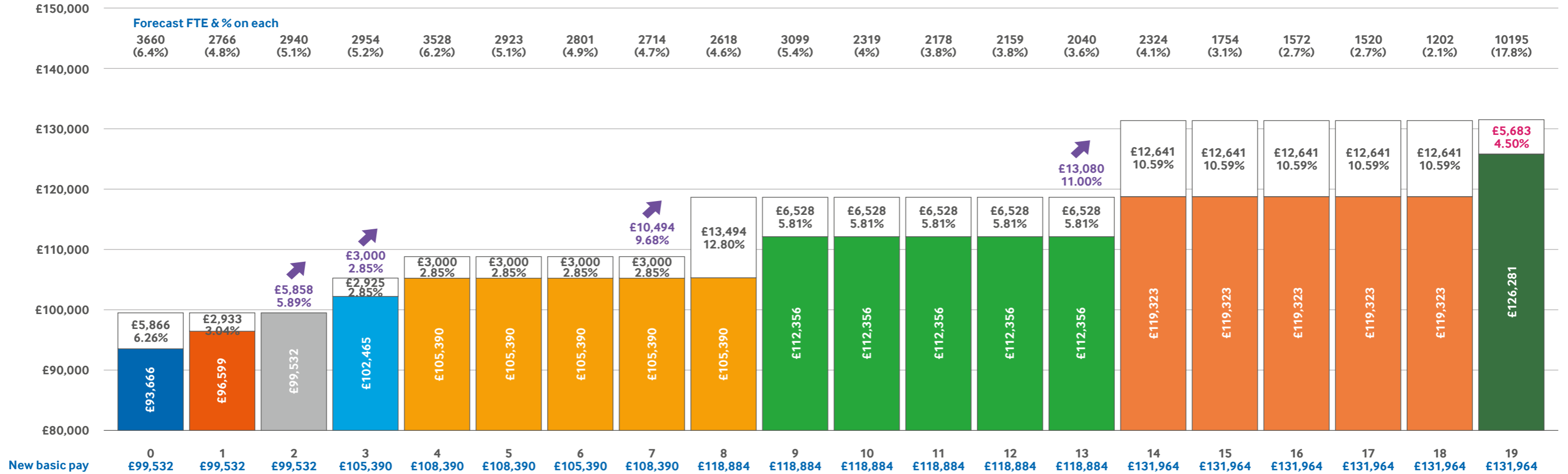
The key changes proposed to the pay scale are:

- A reduction in the length of time it takes to reach the top of the pay scale from 19 years to 14 years. This will ensure younger and future consultants reach the top of the scale sooner. This remains unchanged from the previous offer.
- A reduction in the number of pay point values in the pay scale from 8 to 5. This is one more value than in the previous offer. However, progression from the 2nd (3 years' experience) to the 3rd value (4 years' experience) will be automatic (no pay progression review process). There is no justification for 8 "promotional pay points" within the consultant grade and having fewer pay points will also enable faster progression through the middle of the scale, again benefitting younger and future consultants.
- An increase to starting pay is preserved in the new offer. The starting pay will increase to just under £100,000 which represents an increase of 12.6% compared to the 2022/23 level.
- An increase to pay at the top of the pay scale is preserved in the new offer. This is arguably the most important pay point as it is the one that consultants will spend the longest portion of their career on, especially if the time to reach the top is shortened, and its value is incredibly important from both a final salary and CARE pension perspective.

If the offer is accepted, BMA's hope is that this is just the first phase of pay scale reform and that these proposed changes would be part of larger and ongoing conversation around further reducing pay points and the time it takes to reach the top of the pay scale.

When considering the value of this investment it is important to note that because this funding is being used to reform the pay scales, the initial investment is not applied evenly.

Reform adjustment to the 23/24 basic pay structure



Pay Progression

As part of the modernisation of the pay scales, Government sought to review the current pay progression criteria. Contrary to what may be perceived, progression through the current pay scales is not automatic and there is a current schedule, Schedule 15 of the terms and conditions of service, that outlines the current arrangements. Schedule 15 sets out the necessary criteria that must be met and, under the current contract, the decision as to whether these criteria are met lies with the Chief Executive, informed by the medical director. Most of the proposals in this offer are already captured within Schedule 15 but there are some additional requirements.

If the offer is accepted, the new pay progression arrangements would apply from a date to be confirmed (expected to be after September 2024) but any additional pay that resulted from the changes would apply from the 1st March 2024.

The following principles on which progression is based have been agreed with Government. It is the expectation that consultants will be able to progress through these gateways by meeting the performance criteria and there is no intention to unreasonably restrict pay progression.

- Progression cannot be withheld due to financial or other non-performance related issues. Withholding progression shall not be used as a means to coerce a consultant into agreeing a proposed job plan.
- Consultants should be given the appropriate time and resource to meet the pay progression criteria.
- Where a doctor disputes a decision that they have not met the required criteria to progress to the next pay point, the mediation procedure and the appeal procedure set out in the terms and conditions should be followed.
- Where a criterion has not been achieved for reasons beyond the consultant's control, the consultant will not be prevented from progressing onto the next pay point if the other criteria have been met.
- Trusts must make every effort to ensure the performance gateway process is fair and in line relevant equalities legislation as well as with NHS' Medical Workforce Race Equality Standard (MWRES) and Equality and Diversity and inclusion improvement plan: <https://www.england.nhs.uk/long-read/nhs-equality-diversity-and-inclusion-improvement-plan/>. Employers should engage in equalities monitoring of pay progression outcomes.
- If a doctor is absent from work for reasons such as parental or sickness leave when pay progression is due, the principle of equal and fair treatment should be followed so that no detriment is suffered as a result.

The proposed criteria to be satisfied are (the new criteria under the proposal have been **highlighted**):

- **Job Planning:** Participated satisfactorily in the job planning process (taking into account arrangements relating to mediation and appeals in accordance with Schedule 4) including: making every reasonable effort to meet the time and service commitments in their job plan and participated in the annual job plan review.
 - Setting and meeting personal objectives in the job plan, or where this is not achieved for reasons beyond the doctor's control, made every reasonable effort to do so. **This would include demonstrating any service improvements (including via training and teaching) set out in personal objectives.**

- Working towards any changes agreed in the last job plan review as being necessary to support achievement of joint objectives.
- **Appraisal:** Participated satisfactorily in the medical appraisal in accordance with the GMC's requirements set out in "Good Medical Practice".
- **Statutory & Mandatory Training (SMT):** Engaged and participated in employing organisation's mandatory training or, where this is not achieved for reasons beyond the doctors' control, made every reasonable effort to do so.
 - The new additions compared to the current Schedule 15 are the inclusion of Statutory and Mandatory Training and the reference to service improvements (including teaching and training as agreed within personal objectives. However, it is important to note that SMT is already a contractual requirement following amendments to the Employment Relation Act and will typically be set out and included in the employment contract. In addition, agreed if you have agreed personal objectives as part of your job plan in relation to service improvement then there is already an expectation that you make every reasonable effort to meet these objectives. If however, this is not an agreed objective, or you are not given appropriate SPA time or resources to meet these objectives, pay progression cannot be withheld.
- **Extra programmed activities and spare professional capacity:** Taken up any offer to undertake additional Programmed Activities that the employing organisation has made to the consultant in accordance with Schedule 6 of these Terms and Conditions; In line with the provisions of schedule 6 of the 2003 consultant TCS.
- **Provisions governing the relationship between NHS work, private practice and fee-paying services:** Met the standards of conduct governing the relationship between private practice and NHS commitments set out in Schedule 9.
- **No disciplinary sanctions live on the doctor's record:** 'Disciplinary sanction' refers to sanctions in relation to conduct only, and excludes warnings applied in relation to absence due to ill health. It refers to formal disciplinary sanctions such as formal warnings. It does not include investigations, informal warnings, counselling or other informal activities that may come within a disciplinary policy.

If a disciplinary sanction is in place at the time of the pay progression date and is subsequently repealed, for example as a result of a successful appeal, the pay progression will be backdated to the pay progression date if all other requirements have been met.

There are processes already in place as part of the Maintaining High Professional Standards (MHPS) in the NHS framework regarding the process around disciplinary sanctions which would apply here.

- **No formal capability process in place:** 'Capability process' will be as set out in the organisation's local policy for applying Part 4 of Maintaining High Professional Standards (MHPS) on which the Joint Local Negotiating Committee has been consulted and covers processes for dealing with lack of competence, including professional and clinical competence, and clear failure by an employee to achieve a satisfactory standard of work through lack of knowledge, ability or consistently poor performance.

'Process' means that there has been an outcome following an investigation which places the employee in a formal capability process (or as otherwise defined in local policy). Investigations, informal stages and processes for dealing with absence due to ill health are all excluded from this pay progression standard.

If a capability process is in place at the time of the pay progression date and is subsequently repealed, for example as a result of a successful appeal, the pay progression will be backdated to the pay progression date if all other requirements have been met.

- The disciplinary and capability sections don't currently form part of schedule 15 but are already part of the "Maintaining High Professional Standards" collective framework. If breaches of these were to take place, progression could be withheld under current arrangements, but the proposed wording provides further clarity, if for example a complaint is not upheld.

What does this mean for you

Comparing offer with current 23/24 DDRB awards

BASIC PAY ANALYSIS						
Government offer compared to current 23/24 payscale	24/25 excluding backpay	24/25 including backpay	Five year (24/25 – 28/29)	Ten year (24/25 – 33/34)	Lifetime (24/25 – retirement aged 60)	Average increase (24/25 – retirement aged 60)
0 years consultant						
£ increase	£2,933	£3,422	£12,347	£44,897	£184,516	£6,590
% increase	3.0%	3.5%	2.4%	4.3%	5.7%	5.7%
4 years consultant						
£ increase	£3,000	£3,250	£29,272	£68,025	£175,419	£7,309
% increase	2.8%	3.1%	5.5%	6.2%	6.2%	6.2%
7 years consultant						
£ increase	£13,494	£13,744	£39,856	£96,948	£166,419	£7,925
% increase	12.8%	13.0%	7.2%	8.5%	6.6%	6.6%
14 years consultant						
£ increase	£12,641	£13,694	£57,300	£85,715	£108,447	£7,746
% increase	10.6%	11.5%	9.5%	6.9%	6.2%	6.2%
21 years consultant						
£ increase	£5,683	£6,157	£28,889	£40,255	£40,255	£5,751
% increase	4.5%	4.9%	4.6%	4.6%	4.6%	4.6%

Comparing offer with current 22/23 DDRB awards

BASIC PAY ANALYSIS						
Government offer compared to 22/23 pay scales	24/25 excluding backpay	24/25 including backpay	Five year (24/25 – 28/29)	Ten year (24/25 – 33/34)	Lifetime (24/25 – retirement aged 60)	Average increase (24/25 – retirement aged 60)
0 years consultant						
£ increase	£8,401	£8,890	£41,179	£104,344	£368,293	£13,153
% increase	9.2%	9.8%	8.6%	10.5%	12.0%	12.0%
4 years consultant						
£ increase	£8,965	£9,215	£59,492	£130,439	£336,329	£14,014
% increase	9.0%	9.3%	11.8%	12.5%	12.5%	12.5%
7 years consultant						
£ increase	£19,459	£19,709	£71,261	£161,729	£309,434	£14,735
% increase	19.6%	19.8%	13.6%	15.0%	13.0%	13.0%
14 years consultant						
£ increase	£19,395	£20,448	£91,464	£155,619	£206,943	£14,782
% increase	17.2%	18.2%	16.1%	13.4%	12.6%	12.6%
21 years consultant						
£ increase	£12,831	£13,305	£64,629	£90,291	£90,291	£12,899
% increase	10.8%	11.2%	10.8%	10.8%	10.8%	10.8%

Case study 1

NB: this is simply a write-up of the consultant 14 years in the table

Ahmed is a psychiatrist who has completed 14 years as a consultant. He is currently 45 years old. He works full time, on 10 PAs (Programmed Activities) per week. Currently he does no on-call. Currently, without the offer, he is on at threshold 7 of the pay scale, earning £119,323 per year.

As a result of the offer, he will be moved onto the new pay scale at Pay Point 5 (top of scale), which means he will earn £131,964 per year in basic pay, which will apply from 1st March 2024. He will receive a backdated pay award of £1,053 for March 2024 as soon as practicable during 2024/25. In total, including the backpay and his higher salary under the offer, he will earn an additional £13,694 in 2024/25, an increase of 11.5% (not counting the backdated pay, he will be 10.6% better off). In addition, this is likely to be further increased because of the 2024/25 DDRB pay award – although future pay awards because of a reformed DDRB are not included in this analysis.

Not considering future pay awards, over the next 5 years, his pay will be £57,300 or 9.5% higher as a result of the offer than it would have been without the offer. Across a 10-year period, it will be £85,715 higher or 6.9% higher. Over his lifetime, assuming he retires at 60 and continues to work full time until then, he will be £108,447 better off as a result of the offer in terms of pay, or 6.2% better off. In addition, his higher pay will lead to a higher value pension when he retires.

This is in addition to the 6% pay increase already provided for 23/24 as part of the DDRB process. Taking the offer and the already awarded 23/24 DDRB award, Ahmed will be 12.6% better off in earnings over his lifetime as a result of the combined 23/24 pay uplift and new offer, compared to 22/23 pay scales, if this offer is accepted.

Case study 2

NB: this is based on a 0-year consultant, but with an additional on-call pay supplement.

Emily is a radiologist. She is a new consultant, as of April 2023. She is currently 32 years old. As she is a new consultant, she is on threshold 1 of the current pay scale. This gives her basic pay of £93,666 but she is also required to participate in an on-call rota, which often involves coming in and performing emergency procedures. For this, she also receives a medium frequency (5%) on-call availability supplement, and her actual gross pay is currently £98,349 without the offer.

As a result of the offer, she is moved onto the new pay scale at Pay Point 1, which with her on-call supplement is £104,509 (as the on-call supplement is a percentage of basic pay, the increase in basic pay increases the supplement as well), which will apply from 1st March 2024. She will receive a backdated pay award of £513 for March 2024 as soon as practicable during 2024/25. In addition, in 24/25 she will continue to remain on threshold 1 of the new pay scale – still £104,509, including her on-call supplement. Without the offer, she would move up to threshold 2 of the old pay scale as she would have been a consultant for more than a year, but that would mean her pay would only have been £101,429. In total, including the backdated pay, she will be 3.5% better off in 24/25, an extra £3,593 (not counting the backdated pay, she will be 3.0% better off).

Over a five-year period, she will be 2.4% better off under the new pay scale. Over a ten-year period, she will be 4.3% better off. And over her lifetime earnings, she will be 5.7% better off, assuming she retires at 60.

In addition, her higher pay will lead to a higher value pension when she retires.

This is in addition to the 6% pay increase already provided for 23/24 as part of the DDRB process. Taking the offer and the already awarded 23/24 DDRB award, Emily will be 12.1% better off in earnings over her lifetime, as a result of the combined 23/24 pay uplift and new offer, compared to 22/23 pay scales, if this offer is accepted.

Case study 3

NB: this is based on 7-year consultant but working less than full time – 0.6 of full time. Phoebe would benefit from the consolidated uplift to the pay point value for Years of Experience 4-7 in the new offer.

Phoebe is an anaesthetist. She has been working as a consultant for the last 7 years and has now decided to work less than full time and is working 6 PAs (60% of full time). She does no on-call. Phoebe is 38. Currently, she is on threshold 5 of the consultant contract pay scale, so her current pay is £63,234. Her progression anniversary is 1st April, so without the offer she will only progress to the next threshold 6 on 1st April 2025.

As a result of the offer, she will be moved in the new pay structure to Pay Point 3, which is paid higher than her current pay in the new offer, due to the new consolidated uplift for Years 4-7 (equivalent to £65,034 annually for Phoebe). She will also move to Pay Point 4 on her progression anniversary on 1st April 2024. This means as a result of the offer, her annual pay from April 2024 will be £71,330, and she will receive a backdated pay award for March 2024 of £150 as soon as practicable in 2024/25. Her total earnings are 13.0% higher in 24/25 than they would be without the offer, an extra £8,246 (not counting the backdated pay, she will be 12.8% better off).

Over the next 5 years, her total pay will be 7.2% higher than it would be without the offer. Over a ten-year period, she will be 8.5% better off. Across her lifetime (assuming she continues to work part time and retires at 60), her total pay will be 6.6% higher.

In addition, her higher pay will lead to a higher value pension when she retires.

This is in addition to the 6% pay increase already provided for 23/24 as part of the DDRB process. Taking the offer and the already awarded 23/24 DDRB award, Phoebe will be 13.0% better off in earnings over her lifetime pay as a result of the combined 23/24 pay uplift and new offer, compared to 22/23 pay scales, if this offer is accepted.

More illustrations as to how the offer impacts consultants can be found on the [BMA website](#). The BMA have also [produced](#) a ready reckoner for you to model how the offer benefits you.

BMA rate card

During the negotiations it was clear that NHS Employers and Government wished the rate card to be withdrawn and it was a condition of entering negotiations that we did not promote the rate card or update the rates. This position continues whilst we are consulting on this offer. If members agree to this offer, the BMA has agreed to withdraw the rate card with immediate effect. However, we reserve the right to re-introduce the BMA rate card for consultants if there is a future industrial dispute.

We are very conscious that some groups of employers collaborate on arrangements for securing extra contractual consultant work. Where this is happening, there is an expectation that this should be done in consultation with those employers' Joint Local Negotiating Committees.

The Consultant Committee first introduced the rate card for consultants in England and this was subsequently rolled out to other groups of doctors and also across the other nations. We therefore relinquish this reluctantly but it is vital that consultants are aware that taking on extra- contractual work remains their choice and they should always value their time appropriately. This includes when covering resident doctor colleagues. Furthermore, when it comes to performing scheduled work in premium time or being resident on-call, there has been no change to the contract and such work still requires mutual agreement.

Shared parental leave

As part of this offer, a new provision, which is in line with that which has been enjoyed by other NHS staff members for some time, will be introduced to provide enhanced shared parental leave. The following terms will be introduced:

A consultant working full-time or part-time will be entitled to paid and unpaid shared parental leave and pay if:

- I. they have 12 months' continuous service with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth, or at the beginning of the week in which they are notified of being matched with a child for adoption, or by the 15th week before the baby's due date if applying via a surrogacy arrangement;
- II. they notify their employer of their wish to take shared parental leave and provide a minimum of eight weeks' notice, through the submission of a booking notification form or other local process, which will confirm:
 - a. their intention to take shared parental leave;
 - b. the date(s) they wish to access shared parental leave (noting that two weeks compulsory maternity or adoption leave must be taken by the mother or primary adopter before they can access shared parental leave);
 - c. that they intend to return to work with the same or another NHS employer for a minimum period of three months after their shared parental leave has ended;
 - d. that the mother or primary adopter has returned to work following maternity or adoption leave, or has provided the binding notice confirming that they intend to bring their maternity or adoption leave and pay entitlements to an early end.
- III. they confirm that the other parent meets the statutory "employment and earnings test" by being an employed or self-employed earner in the UK for a total of 26 weeks (not necessarily continuously) in the 66 weeks preceding the week the child is due to be born or matched for adoption. The individual must have earned at least an average of £30 (gross) a week in 13 of those 26 weeks (not necessarily continuously). This amount can be amended from time to time by the Secretary of State.

Local Clinical Excellence Awards (LCEAs)

LCEAs have long been a source of division (previous BMA surveys have found that the profession is split equally between those who support them and those who don't). In very recent years, largely as a result of Covid, many employers have scrapped LCEA rounds and simply shared the pot among eligible consultants. Whilst that has proved popular, the majority of trusts were planning a return to competitive rounds from April 2024. It has long been the desire of the Consultants Committee to scrap this divisive scheme and redeploy this money into basic pay. In doing so, the value of this investment will become more valuable as it will become consolidated and therefore subject to pay uplifts and become pensionable.

As funding for non-consolidated LCEAs is being redeployed into remuneration, the contractual entitlement to access an annual awards round will cease. This will take effect from 1st April 2024. Any multi-year non-consolidated awards issued since April 2018 will not be impacted.

Consolidated LCEAs awarded prior to reform in 2018 will still be retained under the new offer and these awards shall remain pensionable and consolidated. The value of these awards will be frozen. The review process for these awards will be removed.

The reason for consolidated LCEAs remaining in payment is that consultants will have paid pension contributions and in many cases annual allowance tax on them and almost certainly have a legal right to retain them (the BMA brought a legal challenge in 2015 when the government tried to remove them which was ultimately settled out of court).

The renewal process for consolidated LCEAs will also be scrapped as there would be no new LCEA scheme to recycle the money into. The BMA was concerned that trusts would undertake aggressive renewals processes in order to generate a financial saving.

Changes to the operation of the Doctors and Dentists Review Body (DDRB)

In January 2023, the BMA published its report into the DDRB and made a number of recommendations. These were:

- The DDRB’s independence must be restored in line with its original purpose
- Governments of the UK must no longer send remit letters to control the pay review process
- Appointments to the DDRB must be made in consultation with representatives of the medical and dental professions
- Governments of the UK must undertake to respect and promptly implement the DDRB’s recommendations
- There must be clear and enforceable timetables for the pay review process to which all parties must adhere
- The DDRB should publish its report independently
- The reformed DDRB must be empowered to correct for pay losses caused by the current constrained pay review process
- The DDRB’s remit should be limited to remuneration but encompass pensions as a key component of pay

These recommendations were supported by the BMA and BDA and formed the basis of the Consultant Committee’s position on DDRB reform in the negotiations.

As part of the new offer, the Government has agreed to make several changes to address some, but not all, of these points. If the offer is accepted, the Government will work with the BMA to implement the changes set out below in time for the 2025/26 year.

We feel as if this new offer demonstrates considerable progress in the restoration of the DDRB’s independence. A key improvement is the inclusion within the terms of reference that the DDRB should have regard to “development in doctors’ and dentists’ earnings in the context of long-term trends in the wider labour market, alongside comparator professions, including international comparators.” Although this is not an explicit commitment to review pay erosion against inflation, the DDRB must now take into account changes in pay over time and cannot claim that it is not their role “to undo past decision making” when it comes to our pay. We did lobby extremely hard to remove the concept of Government “affordability” from the terms of reference. This was not something that the original Royal Commission directed the future DDRB to have “regard to” as ultimately the Government has the power to accept, reject or modify the recommendations. However, there have been improvements in this regard as the very narrowly defined “Department Expenditure Limits” i.e. the amount the Government budgets for pay rises has been broadened to the “the funds available to the Government Health Departments” and is no longer a separate bullet and makes it clear that this will only be included in Government evidence. (See below for summary of all changes).

As set out below, a number of the proposed reforms address the recommendations made in the January 2023 report.

The key changes/principles are:

- **The process for appointing DDRB members**
The process for appointing members of the Review Body on Doctors’ and Dentists’ Remuneration (DDRB) is governed by the Governance Code on Public

Appointments. The ultimate responsibility for appointments and thus the selection of those appointed rests with the relevant Minister, who is accountable to Parliament for their decisions and actions.

- The sift and interview panels that make recommendations on appointments are apolitical, consisting of senior civil servants, PRB Chairs and an independent panel member (an individual who is independent of the department and of the body concerned). In the preparation of future job descriptions for the recruitment of DDRB members, relevant unions will be invited to work collaboratively with DHSC to prepare the job specification.
 - Selection processes should be fair, impartial and each candidate must be assessed against the same criteria for the role in question. This must be undertaken objectively against the published selection criteria for the role. As part of that selection process, one union representative will be invited to provide their assessment to the Advisory Assessment Panel at the initial sifting stage.
 - Overall, it is agreed that the members of the DDRB must be people of eminence and authority with a broad range of appropriate experience. The Government will also increase the compensation available to members of the DDRB ensuring it continues to attract the appropriate calibre of appointee.
- **Remit letters and terms of reference**
Remit letters will not include information about inflation and wider economic performance, which will instead be addressed through Government evidence. The terms of reference will be refreshed, guiding the pay review body to consider a range of additional factors affecting attraction, recruitment and retention, including the specific labour market for consultants and encompassing local and regional factors. See below for a full commentary on these proposed changes and how they should positively impact the direction of the DDRB.
 - **The timetable for the pay round process**
The parties will agree to a timetable which would see awards announced earlier than in recent years and which the Government would use its best endeavours to meet. As part of this, the Government will look to implement the outcome of each year's DDRB process as soon as practically possible, with the aim of the pay award being known at the start of the financial year from the 2025/26 pay round.
 - **The data submitted in Government's evidence to the DDRB**
The parties will identify ways to reduce the duplication of data provided to the DDRB, and ensuring this data offers the best possible picture of the prevailing economic conditions and prices, as well as wages in the wider economy, and the impact of pensions on recruitment and retention.
 - **DDRB for the 2024/25 pay round**
If the offer is accepted, the Government will make clear in its evidence to the DDRB for 2024/25 that there should be a headline pay award for consultants and the Government will not suggest that the level of this award should be below awards for the wider public sector as a result of the negotiated settlement on pay scale reform.

In principle, this should mean that the 2024/25 pay award should not be in anyway downgraded as a result of consultants receiving an 'additional' 2023 pay award.

Changes to the DDRB Terms of Reference

The below provides the precise text of the proposed new terms of reference, followed by a summary of the intentions behind each change.

REVISED DDRB TERMS OF REFERENCE

The Review Body on Doctors' and Dentists' Remuneration was appointed in July 1971. Its terms of reference were introduced in 1998, and amended in 2003, 2007 and 2024 and are reproduced below.

The Review Body on Doctors' and Dentists' Remuneration is independent. Its role is to make recommendations to the Prime Minister, the Secretary of State for Health and Social Care, the First Minister and the Cabinet Secretary for NHS Recovery, Health and Social Care of the Scottish Government, the First Minister and the Minister for Health and Social Services of the Welsh Government and the First Minister, deputy First Minister and Minister of Health of the Northern Ireland Executive on the remuneration of doctors and dentists taking any part in the National Health Service.

In reaching its recommendations, the Review Body is to have regard to the following considerations, evaluating the weight of each independently, in parallel and non-contingently

- The need to attract, recruit, retain and motivate doctors and dentists, including consideration of local and regional labour market factors, in view of their contribution to the health of the nation;
- Developments in doctors' and dentists' earnings in the context of long-term trends in the wider labour market, alongside comparator professions, including relevant international comparators;
- Economic and other evidence submitted by the Government, and the funds available to the Government Health Departments;
- Economic and other evidence submitted by staff and professional representatives, and others;
- Wider macroeconomic factors;
- The overall strategy that the NHS should place patients at the heart of all it does and the mechanisms by which that is to be achieved; and
- The legal obligations on the NHS, including anti-discrimination legislation regarding age, gender, race, sexual orientation, religion and belief and disability.

The Review Body may also be asked to consider other specific issues, where agreed by relevant unions and the Government.

These Terms of Reference are intended to give all parties, including the remit groups, confidence that the Review Body's recommendations have been independently, properly and fairly determined.

Reports and recommendations should be submitted jointly to the Prime Minister, the Secretary of State for Health and Social Care, the First Minister and the Cabinet Secretary for NHS Recovery, Health and Social Care of the Scottish Government, the First Minister and the Minister for Health and Social Services of the Welsh Government, and the First Minister, deputy First Minister and Minister of Health of the Northern Ireland Executive.

COMMENTARY ON PROPOSED CHANGES

In reaching its recommendations, the Review Body is to have regard to the following considerations, evaluating the weight of each independently, in parallel and non-contingently;

- The main objective achieved with this wording is to get the DDRB to consider these factors not in a series but instead to consider them in parallel to ensure that no factors are ignored or overridden. Reviewing previous DDRB reports, there is the clear sense that the DDRB have recognised pay has fallen over time and/or pay has fallen against comparators but have in effect ignored this as the Governments “affordability position” has overridden these arguments. This change makes it clear that the factors needed to be considered separately.

The need to attract, recruit, retain and motivate doctors and dentists, including consideration of local and regional labour market factors, in view of their contribution to the health of the nation;

- The specific mention of the ‘contribution to the health of the nation’ will empower DDRB to recognise the intricacies of working for a monopsony employer whilst recognising the unique nature of the medical profession and its contribution to the nation. The inclusion of “attraction” ensure that the NHS is able to attract high calibre individuals into medicine and dentistry.

Developments in doctors’ and dentists’ earnings in the context of long-term trends in the wider labour market, alongside comparator professions, including relevant international comparators;

- In response to the arguments about pay erosion, which have repeatedly been submitted to the DDRB, their response has always been that their “recommendations and observations are not explicitly intended to undo past decision making”. This makes it explicitly clear that the DDRB must consider developments in earnings over time and consider this in the context of longer-term trends in the wider labour market. This enables the DDRB to consider the impact of pay caps and pay erosion when making its recommendations. This is particularly important as the earning trends in the wider labour markets over the same period since 2008 has shown that the pay for other sectors has recovered to or indeed exceeded 2008 levels.
- The addition of ‘relevant international comparators’ recognises the reality that doctors operate in an international market and the ability of the NHS to recruit and retain should not be assessed solely on national metrics but in relation to the doctors’ pay and condition in countries that are competing for UK trained doctors such as Australia, New Zealand, Ireland and Canada.

Economic and other evidence submitted by the Government, and the funds available to the Government Health Departments;

- This is an important change as it removes the very tightly defined “departmental expenditure limits” which was essentially the amount that the NHS had allocated for pay rises to the more global funds available. In addition, it removes this as a stand-alone bullet in the ToR and makes it clear that Government must outline this in its own evidence. This corrects an important imbalance where previously Governments were allowed to set the same parameters from three different routes, i.e. the TORs, remit letters and their own submissions. UK CC did try and go further and have the “funds available” removed completely but this was not something that could be agreed.

Economic and other evidence submitted by staff and professional representatives, and others;

- Ensures equal standing and prominence of the submissions of all stakeholders.

Wider macroeconomic factors;

- Helpfully replaces the previously very restrictive inclusion of Governments' inflation targets. Wider macroeconomic factors include things such as inflation, economic growth rate, price level, GDP, national income and levels of unemployment. This ToR can be positive or negative depending on the prevailing conditions at the time. For example, in recent years, cost of living would have been an important consideration pushing towards a higher pay award, but immediately post financial crash, national income and GDP would push towards a lower pay award.

Appointment Process

There is much greater union representation including co-designing the role specification as well as a role in the long listing panel. In addition, there is a commitment to ensuring that the members of the DDRB are people of eminence and authority.

Pensions

A key part of restoring pay is to ensure that we restore the value of pensions. When considering pay scale reform we needed to consider the impact both for those with predominantly final salary pension and those with predominantly CARE pension. The proposed pay scale design was developed with these considerations in mind.

People may rightly be concerned about the impact of pay rises and whether this will trigger an annual allowance tax charge. Whilst this cannot be avoided entirely, especially for those nearer the top of the scale who typically have higher accrued final salary membership, the changes announced at the budget in March 2023 go some way to mitigating this.

There is a moderately high opening value uplift (6.7%) applied to the value of your pension in 2024/25. The opening value is uplifted by this figure (in line with the level of CPI from the September of the preceding year) to enable your pension to grow with inflation before it is tested for the annual allowance. In effect, this means that you can receive a larger than “typical pay rise” before it is assessed against the annual allowance.

Secondly, following the budget changes, not only has the annual allowance increased to £60,000, some technical changes mean that you can now offset negative growth from your 1995 scheme against positive growth in the 2015 scheme. As well as this, the value of inflation applied to the opening value is effectively aligned with the value of inflation used for the revaluation.

The net impact of this is that whilst some may have AA charges that can't be avoided, this is a better time than in many recent years to get higher pay rises.

It is expected that any backpay due for the month of March 2024 will be paid during 2024/25 as soon as practicable if the offer is accepted. Therefore, this, along with consolidated pay uplifts, would affect your 2024/25 pension growth.

BMA stance on the offer

The BMA Consultants Committee believe that the new offer represents a significant step forward in restoring fairness and sufficient progress on your key concerns with the previous offer **and it is therefore our recommendation that you vote YES**. There is no doubt that the reason we have seen further improvement on the previous offers is due to your collective strike action.

Ultimately, each of you will have your own decision to make but we believe that the new offer marks significant progress in reaching our aims of reforming the pay review process and preventing further pay cuts.

It is important that all consultants consider the impact of the potential outcomes of the referendum. If the overall vote is yes and to accept the offer, and the result is endorsed by the Consultants Committee, we will move to agree to the necessary changes for these proposals to be implemented as soon as practicable, with any additional pay being payable with retrospective effect from 1 March 2024.

If the overall vote is no, the current offer including the additional investment will be withdrawn. We do not believe we can secure a better offer through negotiation alone and it is highly likely that it will be necessary to call further strike action and that this strike action will need to be prolonged to move the Government further. It is essential therefore, that if you reject this offer that, you are personally prepared to take significant further strike action should the BMA need to call it.

Please take the time to carefully consider your choice, read the materials available, and keep an eye on our [live resources](#), which will continue to be updated. We are asking members to vote in this offer by taking part in another digital referendum, which will run from 14 March to 3 April 2024; if you have any questions or do not receive the referendum link from Civica, please contact consultantspay@bma.org.uk.

The BMA consultants committee is recommending that you vote Yes but ultimately the decision is down to you.

