

The consultants' contract: is it value for money?

The *NHS Plan* (Department of Health, 2000) outlined the Department of Health's vision for a health service designed around the patient, with more and better paid staff working differently. Central to the plan was the need to modernize NHS pay, including the need for a new consultant contract to reward consultants more appropriately for their NHS work while improving the way they are managed.

In April 2007 the National Audit Office published its report on whether the new consultants' contract was delivering value for money for the NHS and for patients. The report highlighted that, over the first 3 years, the contract had cost the Department of Health £10 353 million, some £715 million more than if consultants had stayed on the old contract. Furthermore, consultants had seen a 25% pay uplift for working the same if not less hours but had been demoralized in the process. There was also little evidence that ways of working have changed as a result of the contract with few trusts using the opportunity to lever improvements in productivity.

There was universal acceptance that a new contract was needed

In 2000, the 24 000 consultants working in the NHS in England were paid on average around £78 300. Consultants' terms of employment, based on a national contract, had been largely unchanged since 1948. Both employers and doctors' representatives acknowledged that a new contract was needed although it took almost 3 years to agree the terms.

In reaching the agreement, consultants believed that the full extent of their NHS work would finally be recognized, while employers felt that the new contract would give them more control over their consultants' working week. The contract introduced mandatory job planning of consultants' workload, seen as a prospective agreement between trust managers and consultants in return for higher pay.

A consultants' working week was redefined into programmed activities (PA) of 4 hours, with a standard contract consisting of 10 PAs with further supplements for on-call work.

As one consultant commented during a National Audit Office trust study visit in June 2006:

'The Department of Health believed we were out on the golf course but we weren't, we were here working hard for the NHS.'

In 1998, a MORI survey for the Doctor's and Dentist's Review Body, based on consultants' self-reported diaries, suggested that consultants were working on average between 50 and 52 hours per week. The Department of Health, however, modelled the contract on a 2000 diary exercise which suggested that consultants were working 47 hours per week.

As one aim was to reduce the consultants' workload, the Department of Health and the British Medical Association (BMA) agreed that the contract should be based on an average of 43 hours a week or 10.7 PAs; in reality managers, locally, negotiated an average of 11.17 PAs and a higher proportion of on-call supplements. The National Audit Office calculated that over the first 3 years the Department provided £150 million more funding than it originally estimated, principally because it did not test robustly enough its assumptions on the number of hours worked by consultants.

The Department of Health maintain that, following the £150 million uplift in 2005–6, they fully fund the new contract. However, 84% of trust chief executives considered that the contract has not been fully funded and, in some instances, has led to cost pressures. As a result many are now trying to reduce the number of PAs that they negotiate annually with their consultants. Consultants, on the other hand, report that they are still working many more hours for the NHS than they are paid to work. The National Audit Office found that in 2003 consultants were on average working 51.6 hours and

in 2006 were still working on average 50.2 hours but the pressure to reduce PAs meant they were reluctantly developing a 'clock-watching attitude'.

Not all of the intended benefits have been realized

The key benefit expected by the Department of Health was that improved management and control of consultant time would mean consultants working differently and delivering, for example, year-on-year productivity gains and an increase in the proportion of time spent on direct clinical care. However, the National Audit Office found that the most significant benefits of the new contract have yet to be delivered. Consultants reported that they were not working differently and the new contract had not had an impact on the proportion or quality of direct patient care.

Productivity figures for 2005 and 2006 are not yet available but, in the 2 years following the agreement, while the number of consultants increased by 13% the amount of consultant-led activity increased by only 9%. Furthermore the number of consultant episodes per consultant decreased year on year until 2004–5 when it levelled off. The Department of Health believe that, although it is too early to judge the impact on productivity, the contract has helped align consultants' pay levels with their contribution to the NHS. Other benefits include the prevention of an increase in private practice, securing extra work at plain time and increasing the numbers of consultants.

The National Audit Office nevertheless concluded that full and effective benefit realization has been undermined by the lack of effective links between pay and performance in the job-planning process. Indeed job plans remain largely determined by the consultant's own diary exercise, with over two fifths of consultants who responded to the National Audit Office's survey reporting that their job plans still did not have clear objectives linked to organizational improvements.

Reasons for the lack of transformational change

Measuring and delivering the expected benefits of the new contract did not get off to a good start as few NHS trusts were aware of the intended benefits and as a consequence it is only now that the benefits are being discussed. Very few trusts have yet defined or put in place measures of consultant or other workforce productivity, and few trusts are using the contract as a tool to get their doctors to deliver services differently. This has meant that job planning has remained a diary exercise, recording how consultants have always worked, rather than a prospective agreement based on the needs of the NHS trust.

The Department of Health's aim was to encourage trusts to move as many consultants onto the new contract as quickly as possible and, in order to incentivize consultants to switch, authorized trusts to provide a sliding scale of backdated pay. Trusts believed that the implementation timetable was rushed and the process resource intensive with clinical managers concentrating on getting fellow consultants to change to the new contract rather than focussing on the number or type of PAs that might be needed. Clinical managers often lacked the time and sometimes the skills and information to negotiate job plans effectively, and finance director involvement lagged behind. Trusts failed to set themselves an overall cost envelope for the negotiations and did not have the systems or tools to be able to track and monitor the impact of consultant job plans.

Getting more out of the new contract

Alongside recommendations for the Department of Health about improving financial modelling of new policies, the

National Audit Office made a number of recommendations based on improving the rigour of the job planning, in particular that trusts should equip medical managers with the tools, training, information and time to facilitate their negotiations with their consultants.

To be effective job plans need to be a prospective agreement based on identified needs and the development of partnership working between medical managers and clinicians. The National Audit Office suggests that the Department of Health and NHS Employers should support trusts by highlighting good practice and researching technological solutions to help with the administration of the process. Finally, to strengthen the link between the job planning process and the appraisal system it recommended that the Department of Health and NHS Employers should evaluate the systems and processes in Wales whereby trusts agree with their consultants clear indicators of performance, including quality measures, as part of their job planning and appraisal process.

At the end of April 2007, Parliament's Committee of Public Accounts questioned the Chief Executive of the NHS, and other key witnesses about the report findings. David Nicholson acknowledged that the new contract has not yet delivered the benefits that the Department of Health expected but, in his concluding statement, he stated: 'When people look back on this contract they will see it as a really important step forward, not only for the NHS but for the relationship between consultant medical staff and the management of the service. This gives us a fantastic opportunity to connect ... and consult medical staff on the needs of patients in a way we have never been able to do before' (Nicholson, 2007).

While the Committee of Public Accounts remained unconvinced and noted that on the evidence presented they expect to produce a critical report, they also recognized that there were opportunities to use the annual re-negotiation of job plans to reach a 'win-win' situation. In particular, job plans need to be an active document with job planning seen as a flexible tool for providing efficient and effective patient care, while balancing the operational requirements of each trust. The Committee's report is expected to be published in the autumn. [BJHM](#)

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What do you think about the consultant contract? Has it changed the way you work?

If you would like to comment on this article, please write in no more than 250 words to:

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KEY POINTS

- Under the new NHS consultants' contract, higher salaries have not been reflected in improved productivity in the NHS.
- The contract cost the Department of Health at least £715 million, £150 million more than its initial estimate of £565 million.
- There is little evidence that services have improved for patients.
- The National Audit Office report identifies how the NHS can make the most of out the new contract.