

ANNUAL JOB PLAN REVIEWS AND CONSULTANT PAY PROGRESSION GUIDANCE

1. **BACKGROUND**

1.1] This guidance has been created to aid Consultants within NHS Lanarkshire (NHSL) who transferred or were subsequently appointed to the New Consultant Terms and Conditions of Service 2004 to contribute to and fulfil the contractual obligation to undertake job plan reviews. This Guidance should be read in conjunction with the attached appendices which are

- Appendix A: DL(2016)14 Consultant Job Planning Guidance;
- Appendix B: Scottish Association of Medical Directors' Guidance on Consultant Job Planning (this document provides useful guidance on preparing for job planning; however the appendices have been superseded by NHSL's electronic Job Plan Review system);
- Appendix C: Guidance on how to complete the electronic Job Plan documentation (2 versions one for Consultants and one for SAS doctors);
- Appendix D: Job Plan scheme of delegation which details the Reviewers for each specialty.

In addition BMA Guidance is also available at <http://bma.org.uk/practical-support-at-work/contracts/consultant-contracts/consultants-scotland>. It should be noted that Consultants or Staff Grades who have chosen not to transfer to the New Conditions of Service are still expected to participate in a job plan review and the principles outlined in this document should be applied. Whereas much of this Guidance is primarily for Consultants and Locum Consultants, it should be used to support Specialty Doctors (including Locums) and Associate Specialists (SAS) through their Job Plan Reviews until separate guidance is agreed. Please note that SAS doctors are not subject to pay progression. Web-based awareness training can be accessed at <http://vsv-307/jpdemo>.

2. JOB PLAN REVIEW: PAPERWORK TIMESCALES AND PAY PROGRESSION

- 2.1] The Annual Job Plan Review should normally take place between November and February each year, as it is important that the process be concluded in time to inform the Payroll Department on pay progression. The first step in the process is likely to be that individuals will be invited to participate in Team based service planning. This can take place at any point throughout the year and will inform the individual's job planning process. Attached at Appendix A is Scottish Government Guidance on Consultant job planning which is aimed at engaging the team – creating the right connections between Consultant job planning and team service planning. It is further recognised that an interim job plan review can be requested by a Consultant or management at any given time if circumstances require it (eg a change in working practices or change in personal/domestic circumstances.) It is the individual's responsibility, as well as that of their line manager, to ensure that the process is completed timeously and if necessary escalate any issues to the Chief of Medical Services/Associate Medical Director. Further information on timescales is detailed in paragraph 2.4. Section 3 of the Guidance covers mitigating circumstances. To help supplement these discussions, you will find NHSL's Corporate objectives at <http://vsv-307/ari/resources/jobplanning.asp>.
- 2.2] In view of the workload that Job Plan Reviews impose on Medical Managers and in particular Clinical Directors, job plan reviews can be delegated to Deputy Clinical Directors and Clinical Leads to assist with the process. The table attached at Appendix D details which Medical Manager is the first point of contact for each specialty and a Depute if appropriate. Consultants should approach the appropriate contact and make arrangements to meet with them at a mutually acceptable time to undertake the job plan review. Clinical Directors should make arrangements with the Chief of Medical Services/Associate Medical Director to undertake their job plan review.
- 2.3] Job Plan documentation will normally be completed electronically. Screen shots and guidance for this process are attached at Appendix C. Further guidance is available via Web-based awareness training which can be accessed at <http://vsv-307/jpdemo>.

It is the responsibility of all consultants to participate in the Job Plan Review process and they share responsibility with their reviewer to ensure that this is undertaken and approved timeously. Paragraph 6.1 has information on how to proceed if there is failure to agree a forthcoming job plan.

Within Appendix C is a flow chart that summarises who should complete which parts of the process and within specific timescales. Please note that the agreed Job Plan documentation will be forwarded electronically to either the Chief of Medical Services (CMS) or the Associate Medical Director (AMD) as appropriate. Appendix D details who is the appropriate signatory for each specialty. The Deputy CMS may deputise when appropriate. The CMS/AMD will require to view the electronic copy of the job plan (which includes a copy of the up to date Job Plan) and Form 4 for Appraisal as they will not be able to

recommend pay progression without both documents. If Consultants have undertaken appraisal on SOAR, a copy of Form 4 should be downloaded and attached to the Job Plan documentation.

- 2.4] Job Plan review documentation should be returned for authorisation to the CMS/AMD by 28th February to allow the Pay Department to process incremental credit timeously for an April uplift. Unless written confirmation of an agreed exemption has been received, all Job Plan Review documentation MUST be forwarded to the AMD/CMS for recommendation by the deadline of 31st March. Documentation received after 28th February but before the absolute deadline of 31st March will be processed but may result in late implementation of any changes in pay. Failure to submit the job plan review documentation by 31st March will result in no new EPA contract being issued (if applicable) and a recommendation may go forward that no pay progression is awarded. Please see Section 3 for exceptions under mitigating circumstances.
- 2.5] The appraisal process is separate from job planning but the job plan review/(er) will agree specialty specific objectives with Consultants in respect of the coming year. Consultants should confirm any other known interests that have funding associated with them (including sponsored attendance at meetings); this is in order to comply with NHS Lanarkshire's policy on Standards of Business Conduct and is a regular feature of annual job plan reviews.
- 2.6] Where there is a failure to agree in the job planning process, but there is active participation in mediation or appeals ongoing, the dates and provisions of paragraph 2.4 will not apply and both the existing job planning and pay arrangements will remain in place until such time as agreement is reached, whereupon the provisions of the new job plan will be applied and pay changes (if appropriate) backdated to the date of the original job plan review request. Pay progression will be actioned even if the mediation/appeals process has been invoked and providing annual appraisal has been undertaken within the relevant timescale.
- 2.7] It is recognised that Consultants in Public Health Medicine will not be able to follow the same approval process as Consultants within other specialties. Job Plan reviews will be undertaken by the Director of Public Health who will also decide whether pay progression criteria has been met or not. Appeals will be held in line with Section 7 of this Guidance.
- 2.8] To summarise, with the exception of Consultants in Public Health Medicine, all annual job plan review documentation must be with the Chief of Medical Services /Associate Medical Director who will recommend to the Divisional Medical Director if pay progression criteria has been met or not. These recommendations and documentation should simultaneously be shared with the Medical and Dental Staffing Department.
- 2.9] Where individuals have not been recommended for pay progression, the individual should be advised immediately through the electronic process and

the job plan review should also be shared with the Divisional Medical Director/Medical Director (North/South Health and Social Care Partnership) who will make the decision taking into consideration all criteria (see paragraph 3 below) on whether pay progression should be awarded. If pay progression has not been awarded, the Consultant should be advised that an appeal can be lodged as per Section 7 of this Guidance.

3. MITIGATING CIRCUMSTANCES

- 3.1] If a Consultant has failed to satisfy the criteria for pay progression in any given year, it is possible that there may be mitigating circumstances pertaining to that individual which may still allow pay progression to be confirmed. Each case will be considered on its merits. Where either party believes that the criteria for pay progression may not be met, these need to be highlighted in advance of the Job Plan Review to allow for an interim Job Plan Review to be undertaken (T&C's s.5.2.6).
- 3.2] If a Consultant encounters any difficulties in completing the electronic Job Plan documentation then contact should be made directly at the earliest possible opportunity with the Head of Human Resources (Medical, Dental and Employment Services), who will offer assistance or agree that they will revert to the paper process on this occasion.

4. PAY PROGRESSION

- 4.1] Pay progression is relevant to the Consultant grade only. Paragraph 5.2.3 of the New Consultant Terms and Conditions states that "The employer may decide to delay pay progression through seniority points in any year only where it can be demonstrated that, in the year, the Consultant has not:
- a) met the time and service commitments in his/her job plan (T&Cs **Section 3, paragraphs 3.2.2 to 3.2.6**); and/or
 - b) met the personal objectives in his/her job plan or – where this is not achieved for reasons beyond the individual consultant's control – having made every reasonable effort to do so (T&Cs **paragraph 3.2.16 to 3.2.21**); and/or
 - c) Participated satisfactorily in annual appraisal, job planning and objective setting; Participation in annual appraisal is defined as "having completed appraisal or, where mitigating circumstances apply, have an exemption certificate". Participation in job plan review is defined as "having completed the employee's section on the electronic job plan review system and requested a meeting with the appropriate Reviewer" and/or
 - d) worked towards any changes agreed as being necessary to support achievement of the organisation's service objectives in the last job plan review; and/or

- e) allowed the NHS (in preference to any other organisation) to utilise the first portion of any additional capacity they have (T&Cs **paragraph 4.4.6 to 4.4.12**); and/or
- f) met required standards of conduct governing the relationship between private practice and NHS commitments (T&Cs **Section 6 and Appendix 8**).

The Terms and Conditions also state (Paragraph 5.2.4) that “Progression through seniority points will not be deferred in circumstances where the inability to meet the requirements set out in Paragraph 5.2.3 (T&Cs) is occasioned by factors outwith the control of the Consultant”. The Terms and Conditions are clear as Paragraph 5.2.5 indicates that progression through seniority points must not be related to or affected by the outcome of the Appraisal process. A recommendation to withhold pay progression entitles a Consultant to invoke the Mediation and Appeal process at stage 2 mediation. It is therefore necessary that NHSL has robust and demonstrable criteria for withholding pay progression.

5. CRITERIA FOR WITHHOLDING PAY PROGRESSION

5.1] Time & Service Commitments

It should be possible to determine whether a Consultant has undertaken those activities which have a specific location and time with a high degree of accuracy within the core and EPA contracts. As these are the activities which generally have the greatest impact on waiting lists and waiting times, it is intended that any shortfall in the total number of expected activities delivered – for which there is not a wholly satisfactory explanation acceptable to management – would be adequate grounds for withholding pay progression. Activities not undertaken at specific locations or times are usually less easily quantified and pay progression would only be withheld on these issues where specific concerns had been identified and the individual Consultant, having been made aware of these concerns, had failed to address them satisfactorily.

Time spent on supporting professional activities may be more difficult to assess. The NHSL Non DCC guidance specifically requires Consultants to collect evidence for the use of their SPA time and indicated that such evidence would normally be visible outputs eg: completed audit projects, minutes of meetings, attendance certificates, attendance registers, educational programmes etc which either demonstrate that something specific has been achieved or which confirmed the presence of the Consultant at the activity. Consultants have an allocation of PAs in their job-plan each week for SPAs i.e. 10 hours per week for 42 weeks/year. Excluding the one hour / week allowed for private study of journals, Consultants will therefore have to account for the remainder of the time allocated to SPA in their job plan although there will inevitably be some subjectivity about the time allocation for certain activities (eg: an audit project). It will normally be the case that failure to provide sufficient evidence would warrant either a) withholding pay progression in line with 4.1 a) above or b) a proportionate reduction in the

number of paid programmed activities in the Consultant's job plan for the following year or, if necessary and justifiable, c) an increase in the number of DCC activities in the Consultant's job plan for the following year. The selection of an option from these would be discussed by the Reviewer and the Consultant at the job-plan review meeting, and appropriate recommendation made to the CMS/AMD.

5.2] **Objectives**

Consultants have NHSL medical and dental generic and specialty-specific objectives. The number and scope of objectives varies somewhat from Consultant to Consultant. However, objectives should be appropriate, identified, agreed and may include numerical outcomes and outputs. NHS Lanarkshire's objectives for the service should be considered as part of the job plan review. These (and other job planning documentation) are available at <http://vsv-307/arj/resources/jobplanning.asp> . The significance of failing to meet individual objectives also varies. Apparent failure to meet a proportion of objectives might demonstrate a pattern of behaviour which would justify withholding pay progression.

5.3] **Appraisal/Job Planning/Objective Setting**

This is an absolute criterion and failure to have satisfactorily participated in Annual Appraisal within the preceding 12 months would (subject to mitigating circumstances) automatically result in pay progression being withheld. Similarly, failure to attend a Job Plan Review meeting or participate in Objective setting (subject to mitigating circumstances) would both justify withholding pay progression. Any consultant on the new contract who fails to undertake a Job Plan review and a Consultant Appraisal relevant to these periods of time and without substantial reason will not be recommended for pay progression on their incremental date or be eligible to apply for the Award of Discretionary Points (if applicable) for the relevant year.

5.4] **Standards of Conduct**

Failure to comply with NHS Lanarkshire's Standard of Conduct and Private Practice (Para's 6.1.1 & 6.1.2 of the Terms and Conditions of Service) may result in pay progression being withheld.

6. **MEDIATION & APPEAL PROCESS WHERE THERE IS FAILURE TO AGREE FORTHCOMING JOB PLAN**

6.1] Where there is failure to agree a forthcoming Job Plan, the following process will be applied in line with TCS section 3.4.

6.1.1] The disagreement is referred to the Chief of Medical Services / Associate Medical Director (as appropriate for Mediation).

6.1.2] If there is still a failure to agree a forthcoming Job Plan then the disagreement should be referred to the appropriate Divisional Medical Director for consideration (this stage is for Consultants only).

6.1.3] Where there remains a failure to agree, a formal stage 3 level appeal can be invoked. Details of panel membership can be obtained from Human Resources or LNC Officers.

7. APPEALS PROCESS FOR PAY PROGRESSION

- 7.1] Pay progression is relevant to the Consultant grade only. Where the decision is taken not to award pay progression, a Consultant will have the right to invoke Stage 2 of the Mediation and Appeals Process as described in paragraphs 3.4.1 and 5.2.8 of the Terms and Conditions of Service.
- 7.2] Following receipt of the decision not to award pay progression, where exceptionally a Consultant remains dissatisfied with the decision, he/she may refer the point of disagreement to the Chief Executive. This referral should be made, in writing, within two weeks of receipt of the decision. The Chief Executive may convene or instruct a panel to be convened by the Medical Director, who will meet with the Consultant, their trade union or other representative, should they choose to have one, and the Divisional Medical Director (who has made the decision not to allow pay progression) to discuss the point of disagreement and to hear the parties' consideration of the issues. This panel may or may not include HR representation. All parties will use their best endeavours to ensure that agreement is reached at this stage. The Medical Director, panel Chair will, normally within two weeks of meeting, advise the Consultant and Divisional Medical Director in writing of his/her decision concerning the point of disagreement, giving reasons to explain their decision.
- 7.3] When an individual does not receive pay progression, it should be noted that completion of the following year's paperwork will not retrospectively count for pay progression for the previous financial year.
- 7.4] Further information on the Process or Terms and Conditions of Service are available from the HR Medical and Dental Staffing Department, Law House, Airdrie Road, Carlisle, ML8 5EP or from BMA Local Negotiating Committee representatives (contact via LNC-NHSLAN@bma.org.uk).

8. CONFIDENTIALITY AND USE OF INFORMATION

- 8.1] For the purpose of providing up-to-date information on engagement with both the appraisal and job plan review processes, details regarding appraisal, revalidation status and job plan review are recorded electronically in the NHS Lanarkshire's Appraisal/ Revalidation database. This database also underpins the electronic job plan review database. In this respect a Privacy Impact Assessment Questionnaire (PIAQ) was completed. This document outlines that NHSL are the sole data controllers for these databases. It confirms that personal information collated and retained is stored effectively and also ensures a high standard of confidentiality is maintained. The use and disclosure of the data is outlined in the PIAQ and complies with Information

Governance Legislation. General, Medical Managers and Human Resources Medical and Dental Staffing will have access to the data. All will have undertaken the “Safe Handling of Information” training.

- 8.2] On some occasions, information will be anonymised and shared with NHS Education for Scotland and collaborating Universities, for research and planning purposes.
- 8.3] If you wish to apply for access to your data, or if you would like more information about your rights under the Act you should, in the first instance, contact the Head of Medical Staffing in the Human Resources Department.
- 8.4] A copy of the PIAQ is available from <http://firstport2/staff-support/human-resources/hr-medical-dental-services/privacy-impact-assessment-questionnaire>

Appendices:

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