To: All Chief Executives of NHS Trusts in England
All Chief Executives of Primary Care Trusts in England
All Chief Executives of Health Authorities in England
All Chief Executives of Workforce Development Confederations in England

Cc: All Chairs of Professional Executive Committees for Primary Care Trusts in England

Dear Colleague

A NEW CONSULTANT CONTRACT

Last week we published a framework for the new consultant contract, agreed by the UK Health Departments and the British Medical Association. The full text of the framework, and supporting annexes, is available at http://www.doh.gov.uk/consultantscontract/ (email enquiry-box@doh.gsi.gov.uk, telephone (0113) 2545710).

Preparation is underway for introducing the new contract, with implementation from 1 April 2003. As part of this process, briefings on the agreement and next steps ahead of implementation will be given at the HR in the NHS Conference in July and Pay Modernisation events run by the NHS Confederation starting in June.

I attach a summary of the new contract and an agreed benefits framework. Also attached is a briefing note with frequently asked questions which Medical Directors and HR Directors may find useful when answering queries.

Please could Chief Executives copy these papers to HR Directors and Medical Directors within their organisations.

CONSULTANT CONTRACT: SUMMARY

The UK Health Departments, the BMA and the NHS Confederation have agreed a framework for the new consultant contract. The framework covers eight areas:

- job planning
- the working week
- pay progression
- on-call and emergency work
- out-of-hours work
- extra programmed activities
- private practice
- transitional arrangements

The parties to the talks have agreed to make a recommendation to the DDRB that the annual general pay award for consultants should be 10% over three years, with equal increases of 3.225% in each of the years 2003/04 to 2005/06.

The new contract will be introduced in April 2003, following an implementation programme for the NHS.

Job planning

- A new system of job planning, linked to appraisal and supported by annual job plan reviews

- Job plans will set out duties and responsibilities, accountability arrangements, objectives and time and service commitments

- All programmed activities (except unpredictable emergency care) will be scheduled into the job plan, ending the concept of fixed and flexible sessions.

- Employers will decide, after discussion with the consultant, how and when the duties and responsibilities in the job plan will be delivered

- Job plans will set out appropriate, identified and agreed service and related personal objectives, for example on activity and efficiency, waiting times and clinical standards

- The employer will be responsible for ensuring consultants have the facilities, training, development and support needed o deliver the commitments in the job plan

- Performance against the job plan will inform decisions on pay progression

Working week

- For full-time consultants there will be ten programmed activities with a timetabled value of 4 hours each. The employer may programme these a blocks of four hours or in half-units of two hours each.

- Programmed activities will be separated into:

  - direct clinical care
  - supporting professional activities
  - additional NHS responsibilities
  - other duties

- For newly appointed consultants there will typically be a minimum of eight direct clinical care activities. After this first phase there will typically be a minimum of seven direct clinical care activities. There will be scope for local variation to take account of service needs and priorities.

- All work (including on-call and emergency work) during the hours of 8am – 10pm Monday to Friday and 9am – 1pm Saturday and Sunday will be paid at plain time rates

- Consultants will be expected to be on site for all programmed activities

Pay progression

- There will be a new starting salary of £63,000 for newly appointed consultants followed by a stepped scale of pay thresholds, leading to a maximum basic salary of £85,250

- There will be four initial annual thresholds of £2,000 and three further thresholds of £4,750 at five year intervals. The new scale, subject to performance, will be

£63,000	starting salary
£65,000	start of year 2
£67,000	year 3
£69,000	year 4
£71,000	year 5
£75,750	year 10
£80,500	year 15
£85,250	year 20

- Progression through the thresholds will not be automatic, but will be based on performance against job plans and commitment to the NHS. Progression will depend on a consultant having (in each of the years between thresholds):

  - Met the time and service commitments in their job plans
  - participated satisfactorily in annual appraisal, job planning and objective setting

- met the personal objectives in their job plans, or – where this is not achieved for reasons beyond the individual consultant's control – having made every reasonable effort to do so
- worked towards any changes identified as being necessary to support achievement of the organisation's service objectives in the last job plan review
- allowed the NHS (in preference to any other organisations) to utilise the first portion of any additional capacity they have
- met required standards of conduct governing the relationship between private practice and NHS commitments

- Where these conditions are not met in any year, pay progression will be deferred until the required number of years' satisfactory performance have been demonstrated

- Employers will have the flexibility to pay a time-limited recruitment or a retention premium to consultants. The value of such a premium will be determined locally, after consultation with other local employer, but will not typically exceed 30% starting salary

On-call and emergency work

- All emergency work that takes place at regular and predictable times (e.g. post take ward round) should be programmed into the working week on a prospective basis.

- Less predictable emergency work (i.e. work done whilst on-call and directly associated with a consultant's on-call duties) will be treated as counting towards the total number of programmed activities up to a maximum of two programmed activities per year.

- Assessments of the number of programmed activities to be allocated to on-call work will be made on a prospective basis. E.g. eight hours work whilst on-call per week will be allocated two programmed activities per week; one hour per week will be allocated one programmed activity every four weeks or two half-activities per fortnight.

- In addition, consultants who need to be on an on-call rota will receive a salary supplement on top of their basic salary, to recognise on-call availability. Supplements will recognise two basic categories of on-call availability:

  - Consultants who typically need to return to the hospital or other site immediately when called (or undertake analogous interventions)
  - Consultants who can more typically respond by giving advice by telephone and/or by returning to work later

  and the level of supplement will be determined by reference to this category and rota frequency.

- Employers will decide, on a prospective basis, which of these categories will apply. There will be further guidance with indicative examples of which specialties are likely to fall into which category

Out-of-hours

- From 1 April 2004 there will be new provisions to recognise the unsocial nature of work done out-of-hours (outside the hours of 8am to 10pm Monday to Friday and 9am – 1pm Saturday and Sunday)

- This recognition means that either:

- in assessing the number of PAs needed to recognise emergency work done whilst on-call, three hours of emergency work out-of-hours will be treated as equivalent to one PA
- there will be a reduction in a consultant's timetabled weekly work, equivalent to one hour for each (non-emergency) PA scheduled in the times indicated above, up to a maximum of three hours per week; or,
- the consultant will receive a premium payment, worth 3.3% of basic salary (including pay thresholds but excluding discretionary points, distinction awards and clinical excellence awards) for an average of one programmed activity per week – and/or equivalent emergency work whilst on-call – expected to be carried out in the times indicated above.

- Decisions on the allocation of PAs for out-of-hours work and the level of recognition will be made on a prospective basis at job plan review

- There will be a maximum of 10% salary supplement or reduction of three hours per week, to recognise out-of-hours work.

Extra programmed activities

- Consultants will be expected to make available to the NHS (in preference to any other organisation) a greater proportion of any spare capacity they have

- Newly appointed consultants (full-time and part-time) who wish to undertake remunerated clinical work outside their main NHS contract are expected to make themselves available for up to two additional sessions, at normal rates

- All other consultants (full-time and part-time), including existing consultants who transfer to the new contract, who wish to undertake remunerated clinical work outside their main NHS contract are expected to make themselves available for up to one additional session, at normal rates

- Consultants who do not comply with these provisions and undertake remunerated clinical work outside their main contract will not be eligible for pay progression

Private practice

- There will be a new set of contractual provisions governing the relationship between consultants' NHS commitments and any private practice they undertake

- The areas covered by the new rules will include
    - disclosure of information about private practice
    - scheduling of private work
    - transfer of patients between the NHS and private sector, and management of waiting lists
    - use of NHS facilities and staff
    - engagement with measures to increase NHS capacity, including appointments

- Consultants who do not comply with these provisions will not be eligible for pay progression

Transitional arrangements

- There will be a phased approach to introducing some elements of the new contract

- On transfer to the new contract, existing full-time consultants will move up to the fifth pay threshold (£71,000), with the exception of those with between one and six years seniority and those with thirty years or more seniority

- Subsequent progression through pay thresholds for existing consultants will be based on meeting the requirements set out above, but with accelerated eligibility for thresholds linked to a consultant's seniority.

Benefits of the new contract

The UK Health Departments, the BMA and the NHS Confederation are committed to working with the NHS and the profession to ensure that the new contract is implemented in such a way as to maximise benefits for NHS patient services and for the quality of consultants' working lives in the NHS.

The parties to the talks will work together to secure improvements in the following areas, in particular. In preparing for implementation of the new contract, the parties will work up more detailed success criteria to monitor and evaluate progress in these areas when the contract is implemented.

Strand	Benefits for NHS patient care	Benefits for consultants
Job planning	Improved ability to manage consultants' time in ways that best meet local service needs and priorities. Greater clarity of objectives for consultants and more effective systems for engaging consultants in joint action to improve NHS performance and modernise patient care.	A stronger, unambiguous framework of contractual obligations. A more transparent framework for ensuring that consultants have the facilities, secretarial/administrative support and other support needed to carry out their responsibilities and duties and meet agreed objectives.
Working week and recognition of on-call duties	More efficient use of consultants' time and an increase in the time spent on direct clinical care, contributing to improvements in NHS productivity and quality of care. Greater opportunities and incentives to arrange consultant-delivered care in evenings and at weekends, leading to improvements in patient access (e.g. evening outpatient clinics) and in the quality of emergency care.	More consistent and equitable recognition for on-call duties. Agreed action to help reduce the number of consultants on the most frequent on-call rotas. More consistent and equitable recognition for work undertaken out-of-hours, including emergency work.
New pay structure	Improvements in recruitment and retention of consultants, contributing to the target increase of 15,000 consultants and GPs by 2008 (England).	A significant increase in average career earnings, with earnings in the final phase of a consultant career 24% above their current level where requirements for pay thresholds are met.

	Sustained incentives for high-quality performance over the course of a consultant career Enhanced incentives for consultants to maintain commitments for the NHS up to normal retirement age	Greater opportunity for phased careers to recognise the changing focus of the consultant role over an individual's working life.
Extra programmed activities	Ability to secure extra consultant activity more cost-efficiently and thereby release efficiency savings that can be re-deployed in support of better NHS care.	Opportunities to undertake extra work on a more predictable and regular basis for the NHS.
Private practice	Preventing any conflicts of interest, or perceived conflicts of interest, between private practice and NHS commitments. Stronger guarantees that private practice will not disrupt provision of NHS services or detract from NHS performance	Preventing unfair perceptions of abuse in relation to NHS consultants with private practice commitments. Abolition of maximum part time contract. Type of NHS contract based solely on agreed time and service commitments.
Clinical excellence awards (England and Wales)	Greater scope to encourage and recognise outstanding performance. Improved quality of patient care through more transparent and consistent links between consultant rewards and quality of service.	More equitable system of rewarding commitment and quality across the consultant workforce. Access to an increased level of local award for outstanding contributions to improving health services. Consultants making the most outstanding contribution to the NHS will receive total earnings of £150,000.
New disciplinary arrangements (England)	Faster, fair and more effective disciplinary procedures.	Faster, fair and more effective disciplinary procedures.

CONSULTANT CONTRACT FAQ

1. IMPLEMENTATION AND NEXT STEPS

1.1 When will the contract be implemented?

The new contract will be introduced on 1 April 2003. In order to ensure a smooth transition, to manage the build up of investment costs and to ensure there is no unexpected impact on service capacity and continuity, there will be a phased approach to introducing some elements of the new contact.

1.2 What happens next?

The CCSC will consult on the framework. In parallel discussions will continue on the clinical excellence award scheme and disciplinary arrangements and on the detailed provisions and TCS needed for implementation.

As part of the support for implementation we will 'dry run' the framework in selected sites to identify how to secure the smoothest possible transition to the new arrangements and assess the most effective ways of securing benefits.

1.3 Will there be support for implementation?

As part of the implementation programme, starting with the 'dry run' in selected NHS organisations, the Department of Health will work with the Modernisation Agency to ensure NHS organisations are supported to implement the new contract and deliver the benefits for patients and consultants. Further details on the implementation team and programme will follow.

1.4 Will the new contract apply to existing consultants?

Employers will offer the new contract to all existing consultants who will choose whether to remain on their existing contract or take up the new contract. We think the rewards and incentives in the contact should be available to existing consultants who want to move to the new contract.

1.5 Will the new contract apply to all new consultants?

Employers will only be able to offer the new contract to all new consultants.

1.6 Has the contract been costed, and will it be financed centrally?

We will ensure that the necessary investment is made before any new arrangements are implemented.

1.7 What does 'phased approach to implementing' mean?

In order to manage costs and ensure a smooth transition to the new contract without disruptions to service continuity we have agree to phase certain elements of the new contract. The arrangements for on-call work and for out-of-hours work will be phased, alongside assimilation of MPT contract holders. The requirement to make available two extra sessions for newly appointed

consultants will also be phased, applying for one year only for consultants appointed during the first year of the contract.

1.8 How will the new contract apply to the other UK countries?

The negotiations are taking place on a UK basis, with the involvement of all four countries. We have agreed a UK framework with flexibility in the overall framework so that the other UK countries can adapt proposals as necessary to suit their circumstances and needs.

2. PAY

2.1 How will the new pay system work

The new pay arrangements are not an incremental scale as progress through the pay thresholds will not be automatic, although we expect the great majority of consultants will meet the standards. There will be an explicit link between fulfilment of personal objectives and progression through the pay system. To achieve higher salaries consultants will be expected to demonstrate sustained commitment to meeting service objectives and helping establish new ways of working.

2.2 Is progression at the discretion of management?

Progression will be linked to performance against the job plans which have been agreed between management and consultants. One of the outcomes of the annual job plan review will be a recommendation via the Medical Director to the Chief Executive whether the consultant has:

- Met the time and service commitments in their job plans
- Met the personal objectives in their job plan or – where this is not achieved for reasons beyond the individual consultant's control – having made every reasonable effort to do so
- Participated satisfactorily in annual appraisal, job planning and objective setting
- Worked towards any changes identified as being necessary to support achievement of the organisation's service objectives in the last job plan review
- Allowed the NHS (in preference to any other organisation) to utilise the first portion of any additional capacity they have
- Met required standards of conduct governing the relationship between private practice and NHS commitment

Progression will depend on consultants having met these requirements in each of the years between thresholds.

2.3 What is the new pay scale?

There is a new career long pay progression scale, from £63,000 starting salary to £85,250 in year 20. Progression through thresholds is based on performance against job plans and commitment to the NHS. Progression will not be automatic, but we expect the great majority of consultants to progress. The new scale, subject to performance, will be

£63,000	starting salary
£65,000	start of year 2
£67,000	year 3
£69,000	year 4
£71,000	year 5
£75,750	year 10
£80,500	year 15
£85,250	year 20

All at 2002/03 prices (i.e. will be uprated by 3.225% general pay award for 2003/04)

2.4 Will all new consultants be appointed at the £63,000 starting point

There will be provisions through which recognition for previous service in the NHS can be recognised, and to cover circumstances in which employers may have discretion to recognise appropriate service outside the NHS, for example a previous substantive consultant post in the NHS or service in the armed forces. However, these will be the exceptions, and the vast majority of new consultants will be appointed at £63,000.

2.5 How quickly will existing consultants move up the new pay system?

It depends on experience and seniority. Assimilation arrangements onto and up the new pay scale have been designed to recognise existing service with quicker progression through thresholds for consultants with more seniority. Further details of progression arrangements for existing consultants are set out in the framework document.

2.6 What is the average increase for consultants under the new contract?

The new contract, with higher pay progression, and additional recognition for on-call and out-of hours is likely to result in a total increase of 15% in average consultant earnings over the course of a career, with the highest increases going to those with sustained performance and commitment.

The salary component leads to a rise of 11.8% in career earnings, subject to sustained performance. Individual increases will be dependent on service and performance, and commitment to the NHS. However consultants who meet these targets will, after the first 5 years service, earn 10.5% more under the new contract and after 16 to 20 years service will earn 17.5% more under the new contract .

The agreement with BMA includes a process of phasing in these costs, so the increase in the paybill due to the new contract (excluding annual salary increases) is 8.2%, 3.3%, 2.9% in April 2003, 2004 and 2005 respectively. These increases will be fully funded.

2.7 What are the new recruitment premia?

In place of the current arrangements for appointing consultants above the minimum point of the pay scale, employers will have the flexibility to offer time-limited (up to 4 years) premia in cases of recruitment or retention difficulties. To offer premia, employers will have to

- demonstrate clear evidence of recruitment and retention difficulties
- demonstrate evidence they have adequately considered and tried non-pay solutions
- consult with other local employers and Workforce Development Confederations

2.8 What is the value of these recruitment premia?

The value of recruitment, or retention, premia will be determined locally but should not exceed 30% of starting salary.

2.9 What happens to MPT consultants transferring to the new contract?

Consultants who are currently on MPT contract who choose to take up the new contract on a full-time basis will receive higher rates of pay on a phased basis. In year one they will receive

their current level of pay (including annual increase) plus 1/3rd of the difference between this and target pay (i.e. the pay a full-time consultant with their level of seniority would ordinarily receive under the new contract), in year two they will receive current level of pay (including annual increase) plus 2/3rd of difference between this and target pay. In year 3 they will receive target pay.

2.10 What's the long term pay deal?

We have agreed a general pay increase of 10% over three years from 2003/04 to 2005/06, spread equally as 3.225% per year.

2.11 Will the DDRB make recommendations

The Health Departments and the BMA will make a joint recommendation to the DDRB that the general pay award for consultants should be 10% over three years from 2003/04 to 2005/06, and that the Review Body should not recommend any other changes to the consultant pay system during this period.

2.12 Will this apply to other staff groups

We will be offering the same long term pay deal to other staff in the NHS alongside reforms to their pay systems.

3. JOB PLANNING

3.1 How will the new job planning arrangements work?

Employers will draw up and agree job plans covering main duties, responsibilities and objectives. The employer will decide how and when the duties and responsibilities will be delivered. Performance against the job plan will determine access to pay progression, alongside compliance with the private practice rulebook and provisions on extra activity. All activities will be fixed and timetabled in the job plan, and consultants will be expected to be on site for all activities.

3.2 What objectives will be included in the job plan?

Objectives set out a mutual understanding of what the consultant and employer will be seeking to achieve over the next 12 months. Objectives will be set in terms of protocols, policies and procedures to be followed, output and outcome measures and work patterns. They will be set individually, and will vary according to speciality, but the heading under which they could be listed include:

- activity and efficiency
- clinical outcomes
- clinical standards
- local service objectives
- management of resources including efficient use of NHS resources

3.3 Will consultants be penalised for not meeting objectives?

First of all objectives have to be realistic and they have to be agreed. But pay progression is determined by performance including performance against objectives and consultants will be expected to meet – or make every reasonable effort to meet – objectives set in the job plan.

The employer will be responsible for ensuring consultants have the facilities, training, development and support needed to deliver the commitments in the job plan.

4. WORKING WEEK

4.1 What is the consultant working week?

For a full-time consultant there will be 10 programmed activities with a timetabled value of 4 hours each. The employer may programme these as four hour activities, or in half-units of two hours. For newly appointed consultants there will typically be 8 direct clinical care activities and 2 supporting professional activities. For experienced consultants there will typically be 7 direct clinical care activities and 3 supporting professional activities. There will be scope for local variation to take account of local service needs and priorities.

4.2 Are there core hours?

Working patterns and working hours will be decided individually. However, all work (including on-call and emergency work) during the hours of 8am – 10pm Monday to Friday and 9am – 1pm Saturday and Sunday will be paid at plain time rates.

4.3 What is the recognition for out-of-hours?

All work outside these hours will attract special recognition. This will mean either three hours of emergency work is treated as equivalent to one programme activity, and there will be a reduction equivalent to one hour for each (non-emergency) programmed activity out of hours or there will be a premium payment of 3.3% of basic salary per activity (emergency and non-emergency) per week.

This will be subject to a limit of 10% or a reduction of three hours per week. Recognition for out-of-hours will be agreed on a prospective basis.

4.4 What is the recognition for on-call?

There are <u>two</u> types of recognition – <u>on-call work</u> and <u>on-call availability</u>. Regular and predictable emergency work should be programmed into the working week. All other work done whilst on-call will be treated as counting towards the total number of programmed activities, up to a maximum of two programmed activities per week. So a consultant working on average four hours on-call each week will have one programmed activity per week set side and a consultant working on average one hour on-call each week will have one programmed activity every four weeks.

There will be a separate supplement to recognise on-call availability, based on rota frequency <u>and</u> typical need to return to site when called. It has been agreed that supplements will be designed to provide for payments equivalent to 3.48% of the consolidated pay bill for consultants. It is likely that the payments will range from around 1% to 8% of basic salary. Allocation of sessions for on-call and the recognition for availability will be decided on a prospective basis.

4.5 Why are there limits on the recognition for out-of-hours and on-call work?

We wanted to set clear limits because we do not expect consultant to typically work more than 3 programmed activities out-of-hours per week or undertake more than 2 programmed activities of work whilst on-call.

Where on-call work exceeds this level there should be a review of arrangements and employers should consider programming emergency care rather than using the on-call system.

5. PRIVATE PRACTICE

5.1 The February 2001 proposals said that newly appointed consultants would be prevented from engaging in similar work outside the NHS. Is this part of the framework agreement?

We have agreed that in the first seven years of a consultant's career the NHS will be able to have exclusive use of up to 48 hours of a consultant's time, in other words up to the maximum permitted under the Working Time Regulations. This will achieve the objective of securing consultants' full commitment to the NHS during the first phase of their career.

No-one will be forced to undertake additional programmed activities, but those who wish to undertake clinical work outside their main NHS contract will first have to consult their NHS employer and give the NHS exclusive access to two extra sessions of their time at normal rates.

5.2 How long does this apply to newly appointed consultants?

Newly appointed consultants will be expected to make available to the NHS (in preference to other organisations) up to two programmed activities at normal rates for seven years.

This will be phased as part of the implementation arrangements and for consultants appointed before 1 April 2003 these provisions will not apply. For consultants appointed (i.e. when post is offered) during 2003/2004 the provisions will apply for the first year, for those appointed during 2004/2005 the provisions will apply for the first three years, for those appointed during 2005/6 the provisions will apply for the first five years. After this period the provisions will apply for seven years to all newly appointed consultants.

5.3 Do these rules apply to existing consultants?

The principle that consultants will be expected to make available to the NHS (in preference to any other organisation) a proportion of spare capacity applies to all consultants.

Newly appointed consultants (full-time and part-time) who wish to undertake remunerated clinical work outside their main NHS contract are expected to make themselves available for two additional sessions at normal rates. All other consultants, (full-time and part-time) including existing consultants transferring onto the new contract, who wish to undertake remunerated clinical work outside their main NHS contract are expected to make themselves available for one additional session at normal rates.

5.4 What about part-time consultants?

These provisions apply equally to part-time consultants who wish to undertake work outside their NHS contract.

After the new contract comes in, consultants wishing to work part-time and undertake private practice will normally only be offered contracts for six or fewer programmed sessions above which they will then be expected to offer an additional one or two sessions (according to number of years as a consultant) to the NHS. This does not apply to consultants who do not wish to undertake remunerated clinical work outside their contract.

5.5 How will these additional activities be paid?

These additional programmed activities will be paid at normal rates.

5.6 Do these rules apply to work on NHS patients in the private sector?

Employers have the flexibility to decide what categories of extra-contractual activities may be exempted from these arrangements. Consultant's time must be spent for the benefit of NHS patients and this is for the local employer to decide.

5.7 What is the new private practice rulebook?

We are introducing a new set of contractual rules that:

- **clearly separate out what consultants do for the NHS in their NHS time and what they do for other employers or organisations outside their contracted NHS time**
- **make explicit how consultants should manage waiting lists and how they should manage the transfer of patients between private practice and the NHS in ways that prevent any possibility of preferential treatment**
- **spell out how NHS and private work, including on-call duties, should be scheduled in ways that prevent any disruption to NHS commitments**

Employers will be required to satisfy themselves annually that a consultant is complying with the requirements in determining pay progression. Consultants who do not comply with the principles or the rules will be denied pay progression. Compliance will also be a contractual requirement.