

Dr Richard Morey, Consultant Anaesthetist  
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14 December 2011

Dear Richard

**Re: Parity of pay for extra-contractual NHS orthopaedic work**

Thank you for contacting the Association of Anaesthetists of Great Britain and Ireland (AAGBI) regarding the issue of payment for orthopaedic waiting list activity in your Trust. We understand that the orthopaedic surgeons are to be paid substantially more than the anaesthetists for the same time commitment when treating NHS patients in NHS premises. The AAGBI believes that this is unacceptable for the following reasons;

1. Equal pay for consultants treating NHS patients was a founding principle of the National Health Service in 1948 and is supported by many professional organisations including the BMA, the HCSA, the AAGBI, the Royal College of Anaesthetists, the Medical Women's Federation and the Federation of Independent Practitioner Organisations. These key principles have been endorsed by the 2009 NHS Constitution: "Staff have extensive legal rights... to help ensure that all are treated fairly, equally and without discrimination" (page 10) and "all NHS organisations, as well as third sector and independent organisations providing NHS care, should be legally required to take account of the NHS Constitution in performing their NHS functions" (page 6.1 Handbook to the NHS constitution 2009). Equal pay for extra waiting list work was formally written into the NHS 2003 consultant contract in Scotland and in Wales.
2. If Trust employees normally have pay that is equivalent to other colleagues but are then asked to do the same task at another time but at a lower rate than colleagues on the same pay scale, this is clearly belittling and demeaning, and could be held to be deliberately undermining their professional status. This proposed orthopaedic work is without doubt NHS work, and there can therefore be no other logical reason for any disparity. Belittling, demeaning and undermining staff are all acknowledged forms of bullying within the NHS's anti-bullying policy. Would the Trust ever consider asking nurses to work on a Bank Holiday, and then pay the orthopaedic ward nurses overtime while asking the renal nurses to work for 40% less?
3. The AAGBI understands that the LNC has negotiated a sessional rate of pay to be applied to all consultants undertaking extra-contractual temporary work such as waiting lists, and that this policy has not been re-negotiated in favour of orthopaedic surgeons. Any negotiations on pay and conditions outside the LNC undermine the LNC constitution and are inappropriate.

4. It is completely unreasonable for the orthopaedic surgeons to hold the Trust to ransom in this way when every other consultant in the hospital is being paid according to the LNC agreement. In this respect, it is likely that consultant physicians are doing extra outpatient clinics, pain consultants are providing additional sessions and surgeons are doing other specialist surgery. If this disparity is brought before the Medical Advisory Committee, we suspect that considerable disquiet would be stimulated and that the ability of the Trust to continue to rely on this extra activity might be substantially undermined. This will be greatly against the interests of the Trust and the patients as a whole, both now and in the future.
5. If the Trust prefers to make preferential deals with orthopaedic surgeons, it will open the floodgates to every other speciality to argue their worth in confrontational negotiations. Meanwhile, other consultant groups may refuse or be unwilling to do this work, dramatically reducing productivity. The negative effects on morale and goodwill persist long after any resolution. In addition, for the Trust managers, it will be a nightmare processing the different pay agreements.
6. For all the above reasons, the vast majority of NHS Trusts across the nation enforce a unified pay scale for extra-contractual work, valuing all medical specialities equally according to time-based parity of remuneration. Such pay policy should be negotiated with the LNC and not devolved to Divisional Directors.
7. Nationally, 36% of consultant anaesthetists are female, as opposed to only 7% of consultant surgeons. If a similar gender difference exists in your Trust, equal pay legislation suggests that any differential in pay between anaesthetists and surgeons will be regarded as indirect discrimination on grounds of gender. We note that in 2010 the South London Healthcare NHS Trust produced its single equality scheme and now, as with all public authorities, the South London Healthcare NHS Trust has a duty to eliminate unlawful gender discrimination and to promote equality of opportunity between men and women.

The AAGBI suggests all anaesthetists at the South London Healthcare NHS Trust should consider carefully whether the proposed differential rates of remuneration are reasonable given their professional expertise and time involved.

Yours sincerely,

Dr Iain H Wilson  
**President, AAGBI**