

Clinical Excellence Awards

Member Briefing on BMA Agreement



March 2018

Background

The British Medical Association and NHS Employers have announced a collective agreement on changes to Local Clinical Excellence Awards, and also impacting on National Clinical Excellence Awards from next year.

HCSA, while invited to sign the deal, felt unable to do so on several levels.

What does this settlement agreement for CEAs do?

It sets out specific changes to the current consolidated, pensionable LCEA system. It includes the details of a short-lived, interim scheme between 2018-21 (New LCEAs) and the underpinning principles of a 2021 replacement (Future LCEAs).

Neither of the new schemes will offer pensionable awards, and both will introduce annual bonus payments for a fixed term rather than consolidated payments in wage packets. The “future” scheme from 2021 will be a “performance” award scheme, the details of which are unknown.

The agreement includes some short-term incentives to sign, which will last until 2021. It also includes protections for current CEA holders, whose awards will, however, ultimately be subject to review, although not before 1st April 2021.

Finally, the agreement details the intention to change the National CEA scheme from 1st April 2019. It accepts that the Secretary of State and Department of Health and Social Care will be able to do this unilaterally. However, it signals that the value of these awards will be reduced. It creates a NCEA “reversion” scheme whereby those who lose their national award at review can move onto a local award scale.

HCSA has not been involved in the construction of this interim agreement, which is a contract variation that in effect represents an out-of-court settlement of a legal case pursued by the BMA, but we were asked to comment on specific aspects and to sign up to the final agreement.

The BMA says it is a good deal – why does HCSA not agree?

While in the near term the arrangement does protect payments and pension rights for those currently in receipt of LCEAs, in a few years Consultants would be worse off, while the future shape of awards for excellence is left uncertain. In effect this agreement introduces a completely new type of scheme, although it may bear a similar name.

It is important that any successor scheme to LCEAs is carefully thought through and based on a standard national agreement in order to avoid unintended consequences in future.

Worryingly, however, this agreement contains a clause that from 1st April 2021 would allow NHS Trusts to implement their own performance-related replacement schemes (after “consultation” with Joint Local Negotiating Committees) in a piecemeal manner:

“Local variations to any LCEA schemes or new performance pay schemes may be introduced by the employer in consultation with the JLNC.”

Consultation is not the same as negotiation. This gives away a lot of bargaining power to employers, in particular, over a scheme where national discussions have not yet begun in earnest. This runs against our understanding of professional trade unionism.

Fundamentally, this agreement enshrines the successor template to LCEAs as a “performance” award scheme, while failing to define properly what this means. This leaves the door open to a far greater emphasis on narrow Trust objectives at the expense of the wider interest of the NHS and its patients, who benefit from medical advances, research, good leadership, and the training and development of future doctors by Consultants.

We believe the correct course is to negotiate the future of LCEAs within the context of Consultants’ wider pay and contractual terms. After all, some form of recognition for additional responsibilities or excellence has existed since the NHS was founded as part of senior doctors’ overall pay and reward structure.

It is not sensible to trade away bargaining rights over a long-term replacement scheme, which if implemented correctly could have such a fundamental role to play in rewarding innovation and excellence, for a few short-term concessions.

What is the positive side to the proposals for hospital doctors?

There are some real short-term incentives. For Trusts where the interim, New LCEA scheme will apply from 2018-21, Local CEA points will be awarded at a rate of 0.3 per full-time consultant annually, representing a headline 50 per cent increase in the available number of points per Trust each year. It should be noted, though, that Trusts will only receive funding for any “New LCEAs” awarded between 2018-21 until March 31st 2021 – effectively, New LCEAs will expire at that point.

The agreement also sets out a requirement for Trusts to distribute the value in full, although award points in a given year can be deferred to the following year by agreement with the JLNC.

For those in receipt of LCEAs prior to 31st March 2018, schemes can be varied locally over the three-year interim period with the “agreement of the JLNC”. However, the deal will offer short-term protection, in particular around pension contributions, and retaining the consolidated nature of the payments. All those holding an old-style LCEA will be subject to a review from 2021 whereby awards can be reduced depending on point score and against the pre-2018 scoring domains. Recipients will be assessed by “Employer Based Awards Committees or their successor” within five years of their last award, although not before 1st April 2021.

Where National CEA awards are withdrawn, there will be a mechanism based on point scoring to allow reversion to a local award. This will be funded outside of the general local award pot until 31st March 2022.

What other aspects of the agreement should I be aware of?

All eligible Consultants will be able to apply for awards. Those eligible must be substantively employed with at least one year's service on 1st April of the award year, and not already hold an NCEA or Distinction Award.

Both the interim "new LCEAs" awarded between 2018-21, and the "future", performance-related CEAs from 2021 which are yet to be defined, will be non-consolidated, non-pensionable, and paid annually by lump sum. They will be for a three-year term, after which they will be reviewed.

Existing LCEAs awarded via rounds prior to 1st April 2018 will maintain an uplift linked to Additional Programmed Activities, while any awards from that date will not.

HCSA is extremely concerned over proposals to replace LCEAs currently paid in a consolidated way via monthly salaries with "banker-style" annual bonuses. While some parts of the national media already depict them as such, CEAs are simply part of the wider pay, reward and recognition landscape.

We believe a shift to annual lump sum payments could have harmful and unforeseen consequences both in terms of how it shapes behaviour and also the way in which such a scheme will be depicted in future, and it will also, more importantly, risk fundamentally changing the nature of CEAs from an increment awarded for the achievement of excellence to a target-linked bonus scheme – a completely different proposal.

While in the short-term there may be a LCEA funding boost to 0.3 points per FTE Consultant, from 2021 funding for the future "performance pay" scheme will revert to 2016-17 levels. This pot (and uplifts as applied by the DDRB pay review body) will be guaranteed, but this sum will be expected to fund:

- Those in receipt of consolidated "existing LCEAs" – those in receipt prior to 1st April 2018, whose awards will be subject to review by point score after five years
- All "Future LCEAs", which are still to be undefined
- From 1st April 2022, the reversion mechanism which sees NCEA recipients receive a "parachute" entry into the LCEA scale if they lose their national award status.

What about National CEAs?

The current proposals for National CEAs envisage a revised scheme effective from 1st April 2019 with full details yet to be resolved. It does, however, outline some aspects.

The agreement acknowledges the right of the Secretary of State for Health and Social Care, and the Department of Health and Social Care, to introduce, following consultation, amendments and changes to NCEAs after that date.

This will not immediately affect those in receipt of NCEAs prior to 31st March 2019, who will retain their award and the associated payment will be consolidated and pensionable, subject to a reversion mechanism to LCEAs.

So, is HCSA in favour of keeping LCEAs as they are?

We believe that there are clear flaws with LCEAs as they currently stand. There is a risk they are used unfairly as a tool by non-clinical and clinical management. As well as amendments to the existing scheme, which we were invited to suggest, we have put forward a number of proposed alternatives to LCEAs – these are detailed in our submission to the DDRB and we also consulted members on their view last autumn. However, to date NHS Employers and the BMA have been more focused on implementing an interim scheme that peels this part of the overall Consultant pay bill away from the rest.

We feel that the NHS would be better served by looking at the whole system alongside Consultants' other terms, as part of a coherent approach. We fear that this “half-baked” measure will come back to haunt the NHS.

What amendments did HCSA propose to the agreement that has been announced?

HCSA did put forward a number of suggestions to amend the interim proposals:

- All eligible consultants should be automatically included in the assessment process to ensure a better balance of specialties is involved, and to eliminate any gender or racial barriers
- A cap should be applied to the number of award points which can be allocated to any individual in any one round, particularly under plans to increase the points available within the interim “New LCEAs” scheme
- There should be a schedule of centrally devised principles and guidance which directs local assessment processes to recognise meritorious performance by those practitioners whose access to leadership and conspicuous development roles is inhibited by organisational factors and resource limitations
- A strengthening of the Appeals process to improve the perceived fairness of awards. Panels should include an external adjudicator, and HR advice to the panel should be from an independent neighbouring trust
- Equal opportunities monitoring should include a distributional analysis report by race and gender within the specialties.

The bulk of these suggestions were rejected by the other parties to the negotiations.