

The last report?

The annual deliberations of the NHS Pay Review body have been a fixture of industrial relations in the NHS for nearly 40 years. But declining trust among staff, high inflation and a marked failure to tackle spiralling staff shortages have put the NHS pay system under severe strain, writes **Craig Ryan**. Has the review body run out of road? And what could take its place?

After a decade in which NHS pay has fallen further and further behind pay in the rest of the economy, there are staff shortages in almost every profession, in every country and region. This autumn, NHS staff across the UK will vote on whether to take strike action over pay. Some NHS employers have even set up food banks to help staff cope with the soaring cost of living. There seems to be something very wrong with how we pay people in the NHS.

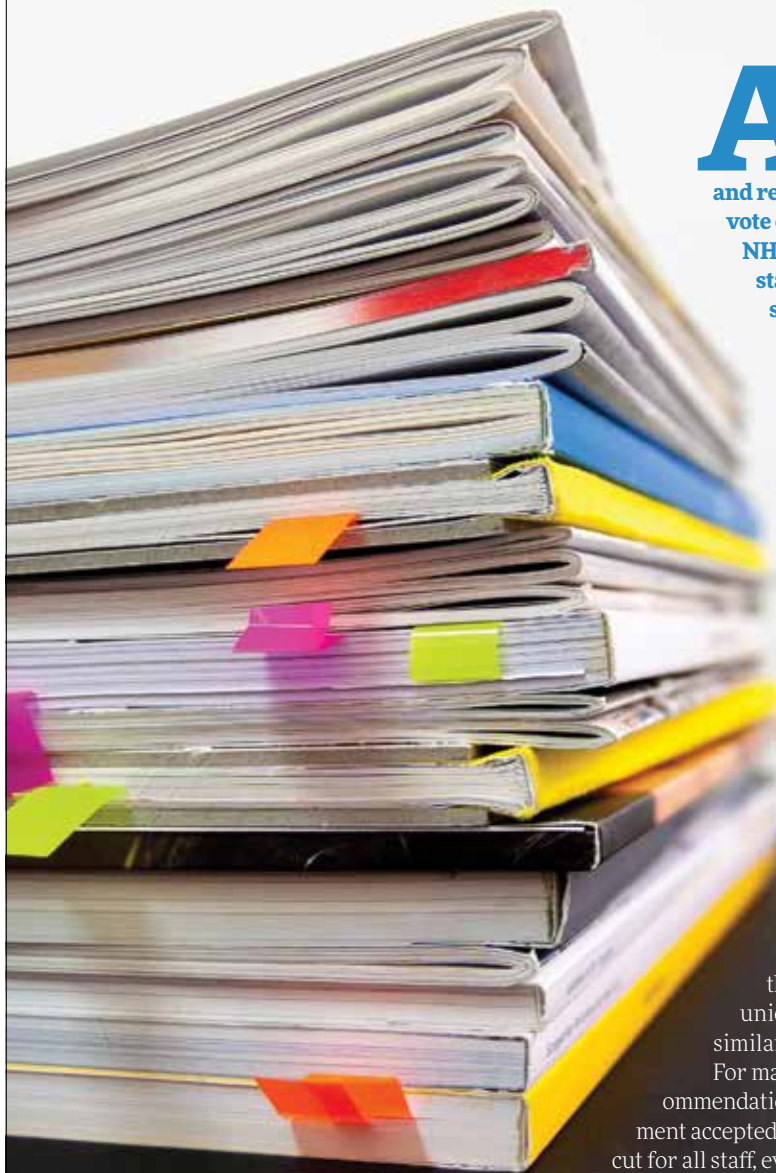
Since 1983, UK governments have relied on the NHS Pay Review Body (PRB) and its predecessor bodies to take the sting out of industrial relations in the NHS. During the decades of low inflation, the review body just about pulled off its careful balancing act between what the Treasury claims it can afford and the need to keep NHS salaries vaguely competitive with earnings elsewhere. But as inflation surges into double figures, has the review body finally fallen from the wire?

Writing on the wall

The writing has been on the wall for years. The PRB's recommendations have failed to tackle staff shortages, which emerged well before the pandemic and have only accelerated since. Its services were not required for three years when unions and employers directly negotiated a package of reforms tied to a three-year pay deal in 2018. Scotland never went back: the Holyrood government now negotiates NHS pay directly with the unions. And UNISON, the biggest healthcare union, is now consulting members on pressing for a similar change in the rest of the UK.

For many, the PRB's 2022 report was the final straw. Its recommendation for a £1,400 flat-rate increase, which the government accepted but refused to fund in full, means a real-terms pay cut for all staff, even the lowest paid, while many managers will get less than 2%. It's scant reward for the Herculean efforts of staff during the pandemic and a toothless response to what the review body itself describes as a "vicious circle" of staff leaving and increasing pressure on those who remain.

"The government needs to scrap this award and start again by addressing the cost of living at all levels of the pay system," says MiP chief executive Jon Restell. Without an improved offer, there is a "much



stronger risk” of strikes this winter, he warns, and “worse still, the trend of staff leaving will accelerate. The health select committee has described this as the worst workforce crisis in the NHS’s history and pay is a big cause and a big solution in that crisis.”

What’s the question?

Like all public sector review bodies, the NHS PRB is supposed to operate independently, taking evidence from unions, employers and the government, and making recommendations on the salaries needed “to recruit, retain and motivate suitable qualified and able staff”, taking into account what the government claims is affordable. Its findings are not binding: the government can accept, reject or modify the review body’s recommendations each year.

But it’s become harder and harder to square the review body’s findings with its remit. If this year’s answer was a real-terms pay cut of 5%, what exactly was the question?

“You can’t really find their thinking in the report,” says Helga Pile, deputy head of health at UNISON. “Why is it £1,400 this year? Why not £1,500 or £1,600? They don’t really explain why.”

Although the its reports are voluminous—this year’s runs to more than 170 pages—the review body rarely takes a view on the evidence it receives or explains how it arrives at its conclusions. Given that its recommendations invariably come in just above the government’s ‘offer’, it’s hard to avoid the suspicion that the review body’s real work is trying to second guess what the government will accept.

Professor James Buchan, senior fellow at the Health Foundation and a seasoned observer of the workings of the review body, estimates that a rise of 10-15% would be necessary to close the gap that has opened up between NHS and private sector pay in the last decade. It would be unrealistic, he says, to expect the review body to close that gap “when the affordability issue has been flagged so strongly” by the government.

Limited independence

The tightening of the affordability

criteria in recent years has reduced the review body’s independence. In its recommendations, the review body must now “have regard” to the funds available “as set out in the Government’s Departmental Expenditure Limits”. In other words: not what the government *can* afford, but what the government *says* it can afford. Let’s put it politely: recent experience suggests that’s not always exactly the same thing.

MiP’s Jon Restell argues that the review body should not even consider affordability. “That’s the government’s job, and its funding decisions are political ones,” he says. “The PRB should be asked the exam questions on what pay levels will recruit, retain and motivate, so the government can decide how to respond to those unfettered recommendations.”

The tendency for affordability “to over-ride everything else” is a key reason why the review body’s independence is now “open to question”, says Pile. While accepting that it isn’t a “complete government puppet”, UNISON’s discussion paper on the PRB’s future says it gives governments “a process to ‘hide behind’, maintaining the fiction of independence and allowing decision-making to be drawn out and timed according to the government’s convenience”.

Reforms “too slow”

The review body also faces criticism for being too slow to tackle long-term problems with the NHS pay system. One example is the issue of promotion from Band 7 to Band 8A. The loss of overtime and unsocial hours payments often means promoted staff are worse off, and

How the review body works

Who’s covered by the review bodies?

The NHS Pay Review Body (PRB) covers all NHS staff on Agenda for Change contracts. That’s 1.22 million people in England, 95,000 in Wales and 67,000 in Northern Ireland. Since 2021, the review body has not covered NHS staff in Scotland.

The Senior Salaries Review Body (SSRB) covers very senior managers (VSMs) working for trusts and ICBs and executive senior managers (ESMs) working for NHS England and associated bodies. The SSRB also recommends pay levels for judges, top civil servants and military top brass.

Is the review body independent?

The review bodies operate independently of government and can reach their own conclusions. But review body members are appointed by the ministers (the current chair of the NHS PRB is Philippa Hird, former HR director of ITV) and the government sets the review body’s terms of reference and the criteria it uses in making recommendations (see below). The government also decides whether to accept, reject or modify the review body’s recommendations.

What are the criteria for pay recommendations?

In making recommendations on NHS pay the PRB must “have regard” to:

- the need to recruit, retain and motivate suitably able and qualified staff
- regional/local variations in labour markets
- the funds available, as set out in the government’s Departmental Expenditure Limits
- the government’s inflation target
- the principle of equal pay for work of equal value in the NHS
- the NHS’s overall strategy of placing patients at the heart of all it does

What evidence does it consider?

As well as its own analysis (supported by the Office of Manpower Economics) and intelligence gathered on visits to NHS organisations, the review body considers evidence from NHS unions (including MiP), the government and representatives of NHS employers. It may also take evidence from other interested parties such as academics and think tanks.

the problem was compounded by the removal of incremental progression in 2018. The problem has been a fixture of MiP’s evidence for years, but has been ignored by the review body until now.

“This is now a major obstacle on the clinical as well as managerial career path,” says Restell. “The PRB has shown that it’s now alive to some of the problems with senior pay by calling for evidence on this next year. But it’s missed the opportunity to do something this year.”

While welcoming the review body’s endorsement of a flat-rate award to help tackle low pay—after years of campaigning by UNISON—Pile says it’s this failure to engage with wider pay issues that “throws into question” the system itself.

“Things that really matter to staff, like banding and pay on promotion, could make a bigger difference to retention than any cost of living increase,” she says. “But the PRB doesn’t to engage with them. It makes observations or comments, but it doesn’t feel able to make recommendations in those areas.”

Buchan agrees the PRB has not traditionally been pro-active on reform, tending to rely on the unions, employers or the government itself to come up with new approaches to NHS pay. He points out that the introduction of Agenda for Change (AfC) 20 years ago did lead to significant pay rises for NHS staff, fully funded by the government. “But it took several years of negotiations, and came at a time when the economy was in good shape and there was money around,” he says. “There’s not the same scope at the moment to oil the wheels of change. I don’t see an appetite from the stakeholders for getting into that level of fairly significant reform.”

He also argues that viewing pay “entirely in isolation” limits the system’s ability to tackle recruitment and retention problems. “We need a connection between pay policy and workforce policy, but that doesn’t exist at the moment because there’s no workforce policy,” he says.

Winning back trust

MiP’s Jon Restell says strengthening the review body’s independence and reforming the process could help to win back the trust of staff. As well as stripping out the affordability requirement, he suggests publishing PRB reports as soon as they’re delivered, with a mandatory timetable to ensure annual awards are paid on time.

“The review body system is only ineffective if you think there’s something better on the cards. Which, in England, you’d have to say there isn’t,” Restell says. He sees Liz Truss’s hastily-withdrawn proposals for regional pay during the Tory leadership election as evidence of a “direction of travel” away from national terms and conditions: “That for me is the crux: if we lose national, then the slide is well and truly on.”

He points out that the Senior Salaries Review Body (SSRB), which recommends

Pay in the UK

Here’s the latest situation on pay in the four countries of the UK at the time of going to press (22 September).

England & Wales

NHS unions have rejected the £1,400 pay award for Agenda for Change staff recommended by the review body. MiP and UNISON are organising a ballot for industrial action, expected to open in late October. In the meantime, you can pledge your support for industrial action on the campaign website (nhspay.org).

Both the UK and Welsh governments have imposed the award and it should be included in your September pay packet (backdated to April).

Scotland

In Scotland, NHS pay is negotiated directly between the Scottish Government and the unions, and the review body recommendations do not apply.

The NHS unions have rejected the government’s 5% pay offer and MiP and UNISON are balloting members on industrial action. The ballot opens on 3 October. MiP members in Scotland should receive their ballot papers by post directly from UNISON.

Northern Ireland

Health minister Robin Swann has accepted the review body’s £1,400 award, but with no functioning Stormont executive and no budget set, it’s unclear when the award will be paid. NHS unions have rejected the award and are consulting members about further action. More information will be sent to MiP members in Northern Ireland as soon as it’s available.

pay awards for board-level NHS managers, recently delivered a 3% rise with extra cash to tackle the overlap with AfC Band 9 salaries. “Without a review body, I couldn’t see the government offering anything to this group,” he warns. “The SSRB has partially de-politicised pay for our senior members and that’s a step forward.”

Not a binary choice

UNISON will decide on any policy change at its Health Group conference in spring 2023. While “the mood music among activists is very much that the pay review body system doesn’t work for us anymore and we need to effect a change”, Pile says it’s not a straightforward binary choice between the existing system and following Scotland’s return to full-on collective bargaining.

“There are ways to make [the review body] more independent, or change its composition so it becomes more of a tripartite body like the Low Pay Commission,” she explains. Another alternative, she says, is a “hybrid system” with a reduced role for the review body alongside collective bargaining “on a wider set of issues” as happened with the 2018 pay deal.

But it’s far from clear that abandoning the review body would deliver higher pay rises for staff. UNISON comparisons between the outcomes of collective

bargaining in local government and NHS pay review body awards since 1983 show little difference over the long-term, suggesting government pay policy and general economic conditions may be more significant factors.

Buchan also points out that the Westminster government is unlikely to be as receptive to collective bargaining as its Scottish counterpart. “The Scottish government has a very different political outlook and has maintained national partnership working in way that doesn’t exist south of the border. The mechanisms were all in place in Scotland, but it’s still led to a situation where the unions are balloting for industrial action,” he warns.

And MiP’s Jon Restell says that, while any alternatives are “worth considering if they are on the table”, he’s sceptical that unfettered collective bargaining will produce better results for managers. “Let’s be candid. The centre of gravity on pay for both unions and government is well away from our grades—probably around Band 5,” he says. “If numbers hold sway, managers’ interests will be neglected, which is not good for a well-managed NHS. Pay review bodies, as the SSRB shows, potentially offer more objectivity. So it’s a finely balanced debate from our point of view.” //