

NHS Pay Review Body

GMB response to DHSC review



Introduction

This response is submitted on behalf of GMB. GMB is one of the trade unions that is represented on the NHS Staff Council, and we are the largest union in ambulance services.

GMB welcomes the opportunity to respond to the Department's call for views on the effectiveness of existing Pay Review Body processes. Our members are clear that the Pay Review Body process has drifted far from its original purpose, and that the status quo is unsustainable.

GMB withdrew its participation from the NHS PRB process in December 2022. Our position is that fundamental reform is needed before we could resume our participation.

The Pay Review Body process has failed to safeguard NHS workers from the sharpest and most enduring real-terms pay cuts in living memory,¹ which has led to nearly half (46%) of NHS trusts setting up foodbanks for their own staff.² Every PRB recommendation since 2010 has been below the RPI rate of inflation, and just one recommendation was above the CPI rate. The NHS PRB has been insufficiently independent to challenge central government pay policy, in breach of past assurances,³ which has contributed to current unsustainable vacancy rates across the NHS.

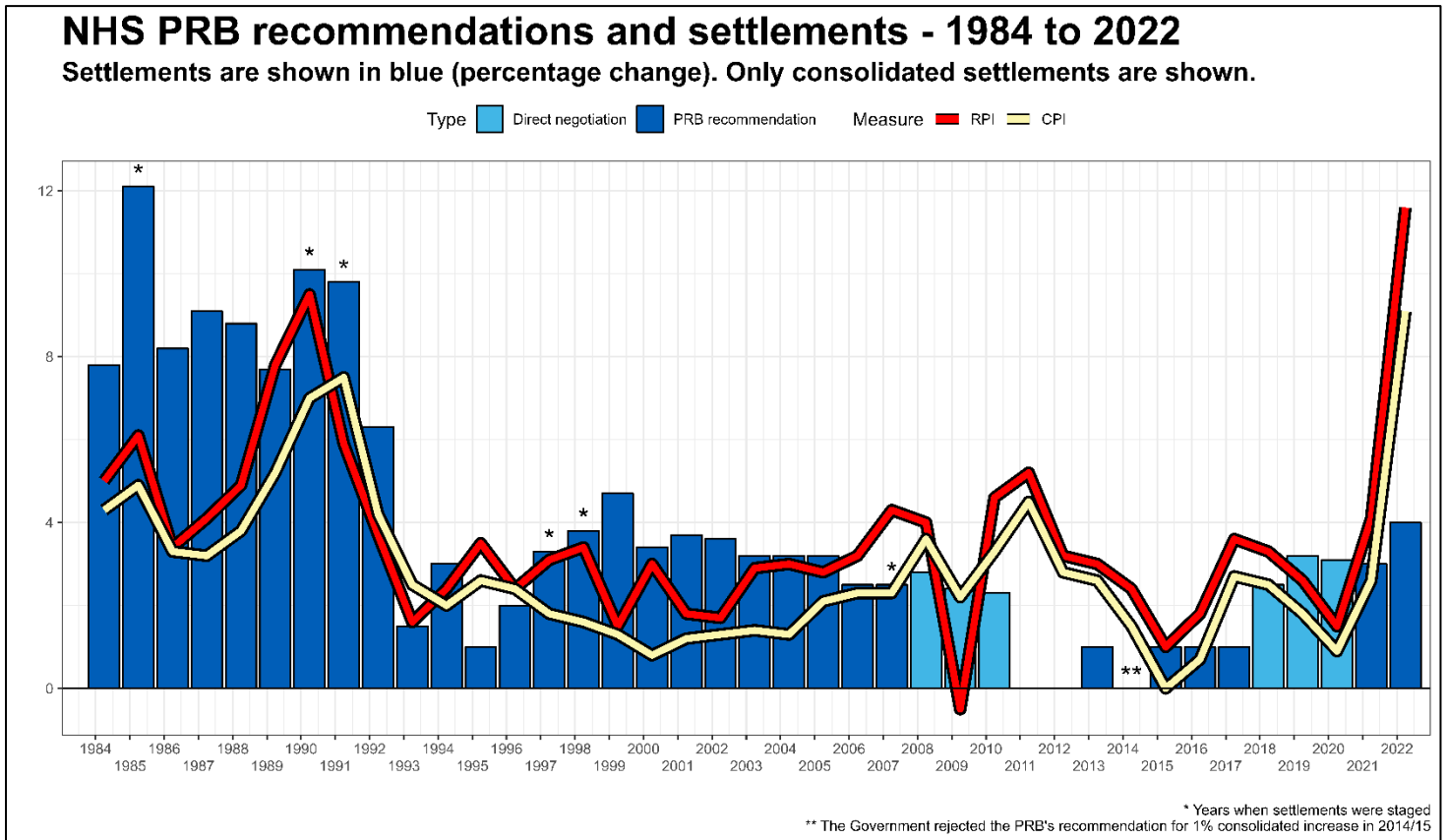
¹ <https://twitter.com/nickmacpherson2/status/1601866961805545473>

² NHS Providers, Rising Living Costs: The Impact on NHS, Staff and Patients, September 2022 <https://nhsproviders.org/rising-living-costs-the-impact-on-nhs-staff-and-patients/how-trusts-are-supporting-people>

³ During a 1998 meeting between the Prime Minister and the Chairs of the Pay Review Bodies, Clive Booth, the then Chair of the Review Body for Nursing and Allied Health Professions, said:

'As for the proposal to change the terms of reference, the only thing that would cause real difficulty would be if the Government intended to give the Review Bodies a specific figure –

In order to regain the confidence of NHS workers, the Pay Review Body must be empowered to recapture its ability and willingness to make recommendations above inflation where this is in the best interests of the NHS.⁴



Taking into account the fact that the majority of occupations represented by GMB only came under the Pay Review Body in 2007, most of our members have never felt a positive difference from the Pay Review Body

say, 3 per cent – and then ask them to come up with pay recommendations that fitted within that predetermined envelope.'

The PM 'confirmed that this was not the Government's intention – the idea was simply to set out more explicitly the considerations that the Review Bodies take into account.' The National Archives, PREM 49/549.

⁴ 'Periods of wage restraint are generally followed by periods of "catch up" with their trend level in subsequent years.' Monitor, Closing the NHS funding gap: how to get better value health care for patients, September 2013, p. 21

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/284044/ClosingTheGap091013.pdf

process.⁵ As a result, GMB's decision to seek reform – rather than abolition – was finely balanced, but we are committed to pursuing those reforms constructively and in good faith.

We welcome the Department's engagement on the points raised in the consultation. We believe that consideration of these longstanding problems should lead to changes in the NHS PRB's Terms of Reference, with implementation – if a broad consensus on reform can be reached – in time for the 2024/25 cycle.

GMB would also welcome further direct discussions with the Department on any of the points raised in this response.

⁵ The figures shown in this graph are for the Review Body for Nursing Staff, Midwives, Health Visitors and Professions Allied to Medicine (1984 to 2007) and the NHS Pay Review Body (2007 onwards).

Data sources are: PRB annual reports; Parliamentary Answer to Written Question 125276 (23 April 2007); Parliamentary Answer to Written Question 165781 (17 July 2013); Parliamentary Answer to Written Question 175756 (13 April 2023); ONS Consumer Price Inflation timeseries data; Bank of England Millennium of Macroeconomic Data.

CPI rates from before 1996 are estimated retrospectively. 2022 values are for a top-of-band paramedic.

- 1. This survey is for organisations who participate in the current NHSPRB process only. Please indicate which organisation you are from.**

This response is submitted on behalf of GMB.

- 2. Timing: In recent years, the timing of the pay round and current pay setting process for many public sector workers resulted in pay awards being announced in the summer. The start of the pay year for NHS staff begins in April, meaning pay awards were backdated to the 1 April.**

What do you see as the advantages and disadvantages of the current pay round timing for NHS staff? Please provide any evidence or examples to support your view.

The recent trend of late implementation is causing severe problems for NHS workers. Emergency funding injections have twice been needed to prevent Band One and bottom of Band Two wages falling below the National Living Wage uplift. Even with back-pay, implementation delays of up to five months are causing serious financial hardship. This problem was magnified last year as the cost-of-living crisis struck in earnest.

Both the official and the 'unofficial' timetable have been pushed back in recent years. There is no good reason for this slippage. It was normal for Review Body reports to be published in February – or even earlier – before the late 2000s. The difference cannot be attributed to the expansion of the Review Body's workforce coverage in 2007 alone.

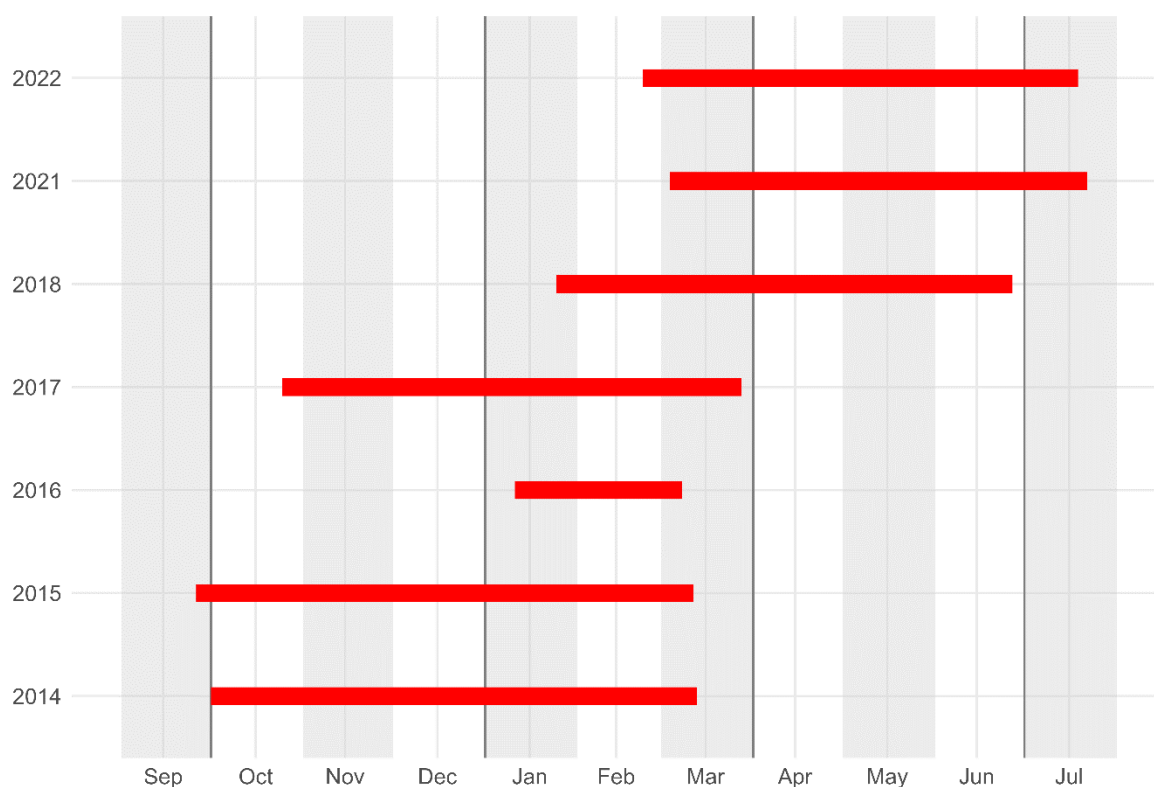
Past reports were also shorter, and more focused on core pay issues. The length of the NHS PRB's reports has grown while its independence has waned. There is an inverse relationship between the volume of their contents and the quality of their recommendations. A return to a more focused approach would provide greater clarity over the PRB's decision-making processes and aid faster publication.

Ultimately, however, the pronounced delays in publication since 2018 must be attributed to the Government. The trade union side has always met the

published deadlines, but the Government has effectively asserted a right to delay the entire process through slower production of remit letters and submission of evidence. This privilege is extended only to the Westminster Government – the timetable has proceeded when devolved administrations were not in a position to submit evidence.

As the last PRB report stated, ‘the late submission of written evidence from some of the parties causes avoidable delays to the NHSPRB process.’⁶ A 2022 OME efficiency review stated that: ‘The work of the PRBs is demand led and essentially non-negotiable – departments set remits and timetables.’⁷ The below graph reflects a direct relationship between delays in the Government’s submissions and the eventual publication of recommendations.

Gap between Department’s evidence submission and NHS PRB report publication, 2014 – 2022



⁶ NHS PRB, Thirty-Fifth Report (2022), p. vii.

⁷ Office of Manpower Economics, Senior Management Team Update on OME review, 31 January 2022 [obtained by GMB under the Freedom of Information Act]

3. Timing continued: In your view, what timetable should the NHS Pay Review Body run to and what factors would need to be considered in moving to this timetable? Please provide specific examples or evidence to illustrate your point, including any potential challenges or benefits.

The original Pay Review Body timetable worked well and steps should be taken to restore it. This would involve evidence submissions in the Autumn, with publication scheduled for February or early March. There are good reasons to retain the April pay date and to keep it aligned with the pay cycle in most of the wider economy.

The timetable should be fixed: in other words, it should begin and end within defined dates. If any party is late in submitting evidence then the PRB should simply attach less weight to its arguments. This approach would place all parties on an equal footing and build confidence in the independence of the process. It would also ensure that Departments would have a clear incentive to submit remits and evidence on time. It is unacceptable that NHS workers have paid a financial penalty for delays in Ministerial decision-making.

4. Appointments process: Members of the NHS Pay Review Body are appointed following an open recruitment process which is run in accordance with the Governance Code on Public Appointments and is regulated by the Commissioner for Public Appointments. Roles are openly advertised and include a published person specification setting out the essential criteria for appointment.

In your opinion, what are the advantages and disadvantages of the current recruitment process for appointing members of the NHS Pay Review Body? Please provide specific examples or evidence to support your views

There is little confidence in the current appointments process, or faith in its record. This confidence has been further eroded by recent revelations that

other nominally impartial appointments to public offices were subject to inappropriate political pressures. In the case of the NHS PRB, the fact that appointees can also be the beneficiary of separate and remunerated posts appointed by the Secretary of State has further shaken our confidence in the process.

The make-up of the NHS PRB panel has changed over the last decade. It has become too dominated by former corporate HR managers, many of whom do not have relevant experience of public sector recruitment and retention problems. Across the Pay Review Bodies, labour market economists and people from trade union backgrounds are less likely to be appointed. This shift has led to a lack of diversity of backgrounds and opinions, which we believe was manifested when the PRB 'gave serious consideration to the case for a nil award' even when central public sector pay policy set a cap of 1 per cent.⁸

5. Appointments process continued: In your opinion, how could the appointments process be adjusted to address any concerns with the current process? Please provide evidence, experiences, or specific example, including any potential challenges or benefits of such adjustments.

GMB believes that members of the NHS Pay Review Body should be appointed on a tripartite basis, with nominations being agreed on a proportionate split by the government, NHS employers, and trade unions respectively. We would expect to see prioritisation given to individuals with public sector experience.

A potential challenge could occur when it comes to Chair appointments. It may be appropriate for Staff Council representatives from each of these groups to sit on an interview panel, or otherwise for trade union and employer representatives to act as observers during recruitment to add assurance as to the process's impartiality.

⁸ NPS PRB, Twenty-Ninth Report (2016), p. 101.

6. Use/availability of data: The NHSPRB welcomes evidence from stakeholders and considers this alongside already published data and evidence relevant to their terms of reference. Parties are welcome to share any evidence they wish, alongside specific areas requested by the NHSPRB.

In your opinion, what are the advantages and disadvantages of the current process for providing evidence to the NHS Pay Review Body? Please provide specific examples or evidence to support

The current NHS PRB process allows interested parties to submit analysis based on a wide range of data, which is welcome. However, expectations have varied by pay cycle. In some years, the PRB has sought parties' analysis of published data, and in other years the PRB has seemed to place a higher value on survey results and individual union members' testimony. Even when union side analysis is replicated, and apparently accepted, by the PRB, it is usually unclear what weight – if any – the PRB placed on external analysis and arguments when it reached its conclusions.

7. Use/availability of data continued: In your opinion, what changes could be made to the use and availability of data during the NHS Pay Review Body process? Please provide specific examples, evidence, or suggestions that can inform possible improvements.

Clearer expectations around the types of data that the PRB is seeking in any given cycle would enable trade unions and other parties to allocate resources more efficiently. The PRB should also be more transparent about the scope for external analysis to influence its findings and recommendations.

8. Involvement of the NHS Staff Council in the NHS PRB process: The NHS Staff Council is a national partnership of Agenda for Change (AfC) unions and employers, which works to negotiate any changes in core conditions for staff on AfC terms. Currently the NHS Staff Council is a party which participates in the NHSPRB process, providing written and oral evidence. In your opinion, what are the advantages and disadvantages of the current interaction between the NHS Staff Council and the NHS Pay Review Body? Please provide specific examples or evidence to support your views.

The existence of the Staff Council has provided an essential mechanism for negotiation when the Pay Review Body process has broken down, or when it has otherwise been superseded.

However, as a Staff Council member, GMB's view is that the Staff Council's functions are not well defined. It is unable to initiate direct negotiations, even when there are issues – such as Recruitment and Retention Premia and High Cost Area Supplements – which both the trade union and management sides agree are overdue for reform.

The need to refer these issues through the Review Body process is therefore a block on modernisation. For example, the NHS PRB's 2020 report concluded that 'there is a clear case to review the geographical coverage, minima and maxima, and rates' of High Cost Area Supplements, but no progress has been made subsequently. There is a lack of a clear link between the Pay Review Body's recommendations and subsequent action on non-headline pay and allowances.

The lack of regular, direct negotiation through the Staff Council has also contributed to the fragmentation of the Agenda for Change agreement over the last decade, including its non-coverage of apprentices, and the lack of coverage among workers in outsourced functions and wholly-owned subsidiaries.

9. Involvement of the NHS Staff Council in the NHS PRB process continued: In your view, how could a more effective feedback mechanism be established between the NHS Staff Council and the NHS Pay Review Body? What would the process look like? Please provide specific examples, evidence, or suggestions to support your ideas.

GMB believes that the Staff Council should have a general power to initiate negotiations on a wide range of pay-related matters, including on pay and terms and conditions. The Pay Review Body may wish to comment on ongoing negotiations, or on agreements in principle, but this should not be pre-requisite for amendments to the Terms and Conditions of Service Handbook where agreement can be reached and (if applicable) funding can be identified.

The Staff Council could also take a more active role in the drawing up of model policies and advisory codes of practice that would not necessarily need to be incorporated into the Handbook or the Agenda for Change Agreement.