Proposed ASMS-DHB MECA 2017 For your consideration

The purpose of this *Special MECA Bulletin* is to assist members in making their decision in the indicative ballot over whether to accept the proposed settlement of the national multi-employer collective agreement (MECA) covering ASMS members employed by district health boards and which follows nearly 14 months of negotiations. You will have received your ballot information with this bulletin. A draft of the proposed MECA is on the ASMS website [https://www.asms.org.nz/employment-advice/2017-dhb-meca-ballot/](https://www.asms.org.nz/employment-advice/2017-dhb-meca-ballot/)

Long winding road

This process has been a long winding road. Despite at the commencement of negotiations stating that they would not attempt to do this, the DHBs did attempt to claw back on existing entitlements and rights such as job sizing agreed hours of work, annual leave, sick leave, above MECA remuneration in certain circumstances (for example, clinical leadership payments), and most recently consultation. None of these succeeded.

As is usual, we did not get everything that we wanted. There is a mix of gains – big, small and in between. There is also no loss of existing entitlements. We now have achieved what the National Executive considers to be a good outcome. They have resolved to recommend it to members and urge you to vote ‘yes’ in the accompanying ballot.

Contextual factors

Three contextual factors need to be considered.

1. From May last year to March this year the DHBs adopted a rigid position of sticking to financial parameters that precluded an acceptable settlement from being reached. It was only through ASMS persuading the DHBs to shift to an informal discussion process and to directly involve chief executives that they agreed to move from this rigidity and exceed their parameters.

2. As a result of the negotiations that followed in May and June, the ASMS National Executive considered the proposal and were confident that it reflects the true upper limit of what the DHBs are prepared to pay and are permitted to pay by Government. The DHBs’ position in these negotiations was being monitored by a cabinet subcommittee, including in the week that the proposed settlement was achieved. This shaped, for example, the effective dates of the salary increases, the timing of the introduction of the two new salary steps, the absence of an increase in the rates for average hours worked on after-hours call rosters and shifts and on the superannuation subsidy, and the expiry date of the new MECA.

3. It became clear that the research undertaken by ASMS on SMO burnout (published) and SMO workforce intentions over the next five years (showing significant job dissatisfaction with a quarter of SMOs intending to leave DHB employment) increasingly influenced the chief executives and shaped the form of the agreement (such as the additional salary scale steps and paid parental leave). The emphasis has been on strengthening the MECA for better retention of the SMO workforce and, as much as can be done in an employment agreement, providing more support for those in the SMO workforce who are fatigued and more vulnerable to burnout.
The Proposed Settlement

Term of new MECA

The stated term of the proposed new MECA will be 1 July 2017 to 31 March 2020 (33 months) but it also covers the time since the current MECA expired (30 June 2016), meaning a span of 45 months overall. Given ratification of this proposal, the next MECA negotiations can be expected to start in February 2020. A draft of the new MECA is available on the ASMS website https://www.asms.org.nz/employment-advice/2017-dhb-meca-ballot/

Salary increases

There are three salary increases of 2% for both the specialist and medical/dental officers’ scales. There is one exception where ‘smoothing’ of the top steps was agreed in order to gain the two extra steps. Overall these increases are above what the DHBs had been prepared to pay even if there had been no other financial improvements in the settlement (which there are).

These increases give a substantial increase to base salary over the term but also have the effect of consequentially increasing the monetary value of the current enhanced remuneration for average hours worked on after-hours rosters and actual hours worked on after-hours shifts, the availability allowance and the superannuation subsidy.

The effective dates for these increases are 3 July 2017, 5 March 2018 and 1 April 2019. The explanation in the second contextual factor above is behind these dates. There is no increase to the salary scale in 2016.

Additional steps on salary scales

On 5 March 2018, a new step will be added to the top of both the specialist and the medical/dental officer scales (new step 14 - $230,000 and new step 13 - $177,706 respectively). Those who have been on the top step of the current scales ($216,500 and $166,000 respectively) for at least 12 months on 5 March 2018 will be eligible to advance to this new step on that date under the same conditions as apply for the current MECA

Those who have been on the top step of the current scale for less than 12 months will be eligible for advancement to this new step on their usual anniversary date (for example, if they advanced to the current top step on 1 May 2017 they will advance to the new additional step on 1 May 2018).

On 1 April 2019, a second additional step will be added to the top of both the specialist and medical/dental officer scales (new step 15 - $240,000 and new step 14 - $186,261 respectively). Those who have been on the new step 14 (or 13 for medical officers) that took effect on 5 March 2018 for at least 12 months by 1 April 2019 will be eligible to advance to this new step on that date. Again, as per the conditions of the current MECA.

The additional steps are important because (a) as at July 2016 40% of specialists were on the current top step with nowhere to go (50% were on the top three steps) and (b) ASMS research reveals that remuneration is among the top three factors for around a quarter of SMOs intending to leave DHB employment in the next five years.

Here are the two salary scales, including the effective dates of the three salary increases and the two additional steps.
Using the specialist scale some practical examples might assist understanding the effect of the proposed settlement.

- A member on Step 1 under the current MECA can expect to advance from $114,250 to $125,488 or $129,733 (depending on anniversary date) by 1 April 2019 under the proposed MECA, compared with $122,250 under the current MECA.
- A member on Step 5 under the current MECA would expect to advance from $131,500 to $144,434 or $149,365 (depending on anniversary date) by 1 April 2019 under the proposed MECA, compared with $140,750 under the current MECA.
- A member on Step 10 under the current MECA would expect to advance from $154,500 to $168,997 or $176,161 (depending on anniversary date) by 1 April 2019 under the proposed MECA, compared with $161,000 under the current MECA.

Using the medical and dental officers’ scale:

- A member on Step 1 under the current MECA can expect to advance from $196,000 to $213,500 or $221,000 (depending on anniversary date) by 1 April 2019 under the proposed MECA, compared with $208,000 under the current MECA.
- A member on Step 12 under the current MECA would expect to advance from $220,000 to $227,500 or $233,500 (dependant on anniversary date) by 1 April 2019 under the proposed MECA, compared with $215,500 under the current MECA.
- A member on the current top step (Step 13) under the current MECA who had been on that step for 12 months or more on 5 March 2018 would expect to advance from $216,500 to $233,500 or $240,000 (depending on anniversary date) by 1 April 2019 under the proposed MECA, compared with no increase under the current MECA. This affects approximately 35% of all ASMS members.

Paid parental leave

As time went on paid parental leave became an important issue in these negotiations, particularly given the higher vulnerability of female SMOs in their 30s to burnout. The current entitlement is for six weeks paid leave (which is in addition to the statutory IRD entitlement of up to 18 weeks of average weekly pay capped at $538.55 per week). Current provisions also include two weeks paid partner leave.

Under the recommended settlement, SMOs will have 14 weeks paid parental leave on full pay through the DHB topping up the statutory IRD payment (i.e. 14 weeks’ full pay offset against the IRD payment). SMOs can also claim a further 4 weeks of IRD payments. SMOs can still have the existing 6 weeks’ parental leave on full pay if not in receipt of the statutory IRD payment. Overall this represents a significant advance for most of those who will exercise the entitlement. Further, despite strong pressure from the DHBs to remove it as a ‘trade off’, the two weeks paid partner leave remains.

Recovery time

In the previous MECA negotiations ASMS endeavoured to establish a right of members to negotiate recovery time after call. However, the DHBs took the position that SMOs had sufficient control over their workplace and didn’t need this in the MECA. Our research into fatigue and burnout showed that the DHBs’ perspective was incorrect and we therefore claimed and gained a recovery time clause this time.

The main points of this new clause are:

- It applies to services that operate an after-hours call roster.
- These rosters are required to have agreed arrangements in place.
- These agreed arrangements are to allow an SMO to have an adequate break without deduction from full pay before commencing work followed periods of on-call related work where the SMO is “too fatigued to safely undertake their next scheduled activity.”
- These agreements are expected to be in place by 31 March 2020 (when the new MECA would expire).

ASMS attaches high importance to this new clause, believing it will empower SMOs to have greater protection over their working environment. Our industrial officers will be available to support members in achieving these agreements.

Placement of Medical Officers on the Specialist Scale

The ASMS has argued for some time that in more cases some medical officers should gain access to the specialist scale. There is a new clause that makes explicit what is already permissible and happens — that under certain circumstances medical and dental officers may be remunerated on the specialist scale. This is to be in exceptional circumstances and based on the assessment of the chief executive and chief medical officer.

Long service leave

Currently in 12 DHBs there is an entitlement for long service leave that varies somewhat but is normally two weeks every 10 years’ service (or two weeks after 10 years and a further two weeks after 20 years). There are also a small number of DHBs with grandparented long service leave entitlements. These are protect in Schedule 3 of the current MECA. Current employees covered under these existing arrangements will continue to be eligible.

ASMS claimed to extend this entitlement to all DHBs, including recognition of previous service. Eventually we succeeded in this objective and have achieved long service leave for all SMOs. Unfortunately, we had to compromise on the recognition of previous service. In the recommended settlement for those SMOs with no existing entitlement, recognition of service will commence from 3 July 2017.

Time in lieu for CME taken on non-DHB work day

The current MECA provides an entitlement for a member who undertakes approved CME on a weekend or public holiday to take a day-in-lieu on a day they normally work for the DHB. Where they make this election, a day is deducted from their CME leave entitlement. Many part time SMOs have questioned why the principle of the existing clause should not include part time employees.

ASMS have successfully claimed to extend this entitlement to CME lieu days to non-DHB work days during the normal working week (i.e., Monday-Friday). This would be equally applicable to both part-time and full-time SMOs.

The DHBs fought hard against this but eventually at the 11th hour accepted ASMS’s claim. This is not a financial gain to members or cost to the DHBs but does remove a significant irritant to members.
Enhanced remuneration for after-hours call rosters and shifts

ASMS claimed to increase the enhanced T1.5 rate for average hours work on after-hours rosters and actual after-hours shifts to T2. We argued hard for this and it became the final financial issue that the parties could not eventually agree on.

Although the monetary value of the current rates for these hours will increase because of the flow-on effect of the three salary increases and additional salary steps, unfortunately T1.5 will not increase this time.

However, we agreed to establish a joint working group to work on remuneration for (a) average hours worked after-hours call rosters and shifts and (b) the availability allowance in order to “inform” the next MECA negotiations. This wording includes the legally important words “good faith”. While we did not succeed in improving the enhancement formula (T1.5 to T2), we have kept the issue alive.

We also tried to address the inequity in clause 19.2 where shift workers do not get T1.5 until after 1900 hours. The DHBs would not agree even to a proposal for the extra payment from 1800 hours. This was a deeply disappointing outcome.

Safety of shift rostering practices

There is a new clause requiring that ASMS and each of the 20 DHBs review the “safety of shift rostering practices.” Further, these reviews are to be completed by 31 March 2020 when the new MECA would expire. ASMS industrial officers will be supporting members working shifts in progressing this process. The main application of this new clause will be emergency departments.

Triggering the provision of locums

Clause 47.1 of the current MECA provides an obligation for DHBs in certain circumstances to provide a locum when there is an SMO vacancy on the after-hours call rosters. SMOs have often asked why RMO vacancies were not included. We have negotiated to widen this trigger to RMO vacancies as well. The clause also now requires this to be done by DHBs in a “timely” fashion.

Patient centred care

In line with our ongoing campaign to protect patient care, we have agreed on a new clause under the heading ‘Patient Centred Care’ which states that SMO participation in DHG strategic planning is integral in determining all aspects of the requirements of services. It also lists factors that regard should be given to in this process.

SMO well-being

In another significant new clause, it is agreed that SMO well-being is important and identifies areas where lack of well-being can have a negative impact – delivery of services, patient treatment outcomes, patient safety, ability to meet accepted professional standards of care, and clinical practices. This is followed by an express commitment to take “reasonable steps” to protect SMOs against harm to their health, safety and welfare.

Professional development review

Currently DHBs have a right to review the performance of SMOs (sometimes called an appraisal) providing the process is fair. But this is not expressly stated in the MECA. The DHBs proposed a new clause which was too blunt from ASMS’ perspective. This led to constructive discussion in which a new clause emerged which ASMS is comfortable with, and believes is more appropriately focused and safer for members.

The main features are:

• It will involve the individual SMO and their applicable clinical director.
• The review should consider:
  • Development opportunities for SMOs, including those related to their agreed duties and responsibilities.
  • Any professional compliance matters (e.g., College or Medical/Dental Council requirements).
  • Plans for professional development (e.g. CME and sabbatical).
  • Work schedules including the balance between clinical and non-clinical time and the outcomes expected of both.

Investigations of clinical practice

Clause 42 of the MECA provides a process for addressing performance concerns relating to clinical practice and its impact on patient safety arising out of a complaint or concern about an SMO (where on the face of it might reflect poorly on the SMO’s clinical competency). It was first negotiated as an alternative to the previous process of suspension.

The clause has generally worked well but has been slightly amended, learning from experiences over time, to improve the process. These are only minor amendments; the intent and substance of the clause remain unchanged.

Protection of new appointees after expiry date

We had claimed a provision to ensure that DHBs continued to offer the MECA provisions to any new employees if a new MECA had not been concluded 12 months after its expiry (this has happened quite regularly as negotiations have dragged on). The DHBs resisted the claim but have agreed to a letter as part of the terms of settlement which commits the DHBs to employing new employees on the MECA if negotiations are continuing beyond the 12-month protection offered under the Employment Relations Act.

Bargaining fee for non-members

The DHBs have also agreed to the continuation of the bargaining fee. This is a fee equivalent to the ASMS membership fee paid by senior doctors and dentists who are not members of the Association. The Association has claimed such a provision in all MECA negotiations since 2006 after the ASMS Annual Conference in 2005 resolved that to do so would address the problem of non-members getting the provisions of the MECA without bearing any of the costs of negotiation.

The Employment Relations Act allows unions and employers to agree in a collective agreement to the payment of such a fee. Once the employer has agreed to have such a provision and the agreement has been ratified by ASMS then a bargaining fee ballot takes place. All senior doctors and dentist potentially covered by the MECA can vote. We will be urging all members to vote in favour of having a bargaining fee. This ballot cannot take place until the ASMS has ratified the agreement.

What happens now?

Your National Executive has resolved to recommend the settlement of the MECA as outlined above and is now conducting an indicative ballot of members. The ballot closes on Friday 11 August 2017. The National Executive will meet on 14 August to consider the results of the ballot.

You will have received a ballot form either electronically or (if we have no email address for you) by mail. Your National Executive recommends you vote in favour of ASMS ratifying the proposed MECA. A draft of the proposed new MECA is also available on the ASMS website https://www.asms.org.nz/employment-advice/2017-dhb-meca-ballot/

If the MECA is ratified, then the new provisions (including the new salaries) will be implemented as soon as the DHBs can manage it. There will be some back-pay dating back to 3 July 2017.