# Downing Scalpels and Stethoscopes: The 2003 South Canterbury Senior Doctors' Strike and the Challenges facing their Union

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## Abstract

South Canterbury senior doctors conducted unprecedented strike actions during 2003. The negotiations and strike actions provide important insights to the employment relations climate in the health sector and illustrate various union strategies to gain member and public support for the doctors' position. The strike actions were part of a decentralised, single employer collective bargaining pattern which localised employment conditions and collective action. This bargaining pattern has subsequently been abandoned for a national collective employment agreement.

## Introduction

During February 2003, senior doctors, mainly specialists but also medical officers of special scale (MOSSs),[1] employed by the South Canterbury District Health Board (DHB) took four separate strikes over a four week period in response to an impasse over their collective agreement negotiations with the DHB. A fifth strike scheduled for the 7th of March was called off following a new proposal from the DHB that was sufficiently attractive to lead to a resumption of mediation and, subsequently, to a settlement. The strikes were all of six hours duration commencing at 9am each day and involved the withdrawal of labour for elective (non-emergency) services, largely operating lists and outpatient clinics; emergency and inpatient cover continued to be provided.

Although junior doctors (resident medical officers) had on a number of occasions previously taken strike action in New Zealand, this was unprecedented for senior doctors and posed strategic and tactical challenges for their union, the Association of Salaried Medical Specialists (ASMS), including the role of and relationship with the media, the reaction from the public, the effectiveness of the strikes, and potential political responses. Leading up to the commencement of the negotiations, 26 senior doctors out of an estimated potential of 29 were union members (the figures do not cover locums – temporary appointments).

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A fuller narrative account of this dispute was presented to the Australian Medical Association's Industrial Coordination Meeting and is available on www.nzjournal.org.

## The Negotiations

Since 1993, the core terms and conditions of employment of senior doctors by DHBs and their predecessors had been determined by single employer collective bargaining (see Powell 1995). Although the union had succeeded in achieving discernible benefits for its members, inevitably senior doctors in some DHBs benefited less compared with those in other DHBs. This was the case in South Canterbury. On the 1st of July 2002, the South Canterbury specialist mean full-time equivalent (40-hour week only) base salary was the lowest out of the 21 DHBs, $7,386 behind the highest and $4,375 behind the national mean of $125,289 (based on annual salary surveys conducted by ASMS which were based on data provided by DHBs and their predecessors – (see www.asms.org.nz). Further, by the expiry of the former collective agreement on the 30th of June 2002, the South Canterbury specialist salary scale was also well behind specialist scales in the other 20 DHBs. Its lowest step was 20th and its ultimate step was 21st. In addition, another seven DHBs also had at this time collective agreement negotiations underway, all of which were to be settled without recourse to industrial action.

A major issue of frustration facing South Canterbury senior doctors was the effect of having to work without registrars (doctors in usually five-year specialist training programmes following their first two years as house surgeons). South Canterbury lacked the critical volumes to ensure sufficient work to meet the training needs of locally based registrars compared with larger DHBs. Registrars make a critical difference in the workload and work pressures of senior doctors when on onerous and potentially risky rostered after-hours acute care duties, compounded by high frequency rosters (usually between 1:2 and 1:4).

Part of the remuneration for working these rosters was an availability allowance, usually calculated as a percentage of the base salary, as a retainer for being on rostered after-hours' call duties. These allowances varied considerably between DHBs, due to the great variability between rosters and, therefore, comparisons between them are difficult to make. The South Canterbury availability allowance had three main components - frequency of roster; response and attendance requirements; and 'no registrar cover'. The third component had a value of 1% which was to become a central issue in the direction and settlement of the dispute.

Negotiations commenced on the 24th of June 2002 and continued through until the 20th of March 2003. They included six days of mediation which commenced on the 14th of August in response to an impasse. The ASMS lodged an ambitious claim seeking several fiscal enhancements while the DHB had its own ambitious counter-claims which would have removed or eroded existing terms and conditions.

The impasse between the parties remained after the third day of mediation on the 27th

of November. But, by then, the issues of dispute had narrowed considerably. Two key union claims had largely been addressed—a $3,000 salary increase to existing salary steps (the DHB's original position was $1,000) and extending the virtual automatic annual salary step advancement to the top of both scales, consistent with most other DHBs. The DHB had also withdrawn all its claw-back claims.

By the time union members voted to proceed with strike action, the disputed issues were the strategically selected 'no registrar' component of the availability allowance (no employer offer), backdating of the $3,000 salary increase, and the length of the term.[2] The union conducted a secret postal ballot of all its members, during the 2nd to the 19th of December, over its recommendation for the five six-hour strikes over elective services. The ballot result was clear but not overwhelming. With a response rate of 84%, 68% voted to support the strike proposal while 32% voted against it.

***Challenges for the Union***

The ASMS was conscious that undertaking strike action was unprecedented for senior doctors in New Zealand and raised serious challenges for it to overcome. Consequently, its focus shifted once it became evident strike action was likely. Based on the belief that public support and media empathy would be more achievable, the main emphasis was on after-hours emergency cover rosters. It also adopted a form of industrial action that was intended to cause inconvenience rather than harm to patients, affect the politically sensitive issue of elective volumes, and be more consistent with the ethical values of medical practitioners. Further, it continued to call upon the DHB to agree to independent arbitration as an alternative to the strikes.

***Membership Support***

Membership support and identification with the direction of the ASMS's strategy was critical. In fact, negotiations commenced with a high degree of membership ownership. The draft claim forwarded to union members did not seek any change to the availability allowance. However, the responses led to the finalised claim seeking to increase the 'no registrar cover' component from 1% to 6%. Then, in reaction to further membership feedback, the claim was again modified on the eve of negotiations to 15%.

Regular well-attended union meetings were features of the dispute, often scheduled in conjunction with negotiation rounds. These meetings made decisions over whether to accept or reject specific DHB proposals, invoke mediation, and hold stopwork meetings. Two well-attended two-hour stopwork meetings were held, during which all elective services were cancelled. The first, on the 11th of November, provided the union's negotiating team with the authority to develop a strike action strategy for consideration in a secret postal ballot. The second, on 11 March, determined the ASMS's approach after the cancellation of the fifth strike. Further, the decision to undertake strike action

was based on an affirmative secret postal ballot. Only four doctors did not participate in the strike 'more because they were philosophically opposed rather than against what the doctors stood for.' (Timaru Herald, 20 Feb. 2003).

The main sign of membership discord over the union's handling of the dispute came later in 2003 when, while being prepared to renew union membership, one member wrote to the union advising that a number of members 'feel we have been the victims of the agendas of others gathering power to themselves, with the senior medical staff in the final result being cast aside with little to show for all the anguish the recent events have caused, as the sideshow moves on.' (ASMS member, 16 Sept. 2003). Nevertheless, despite the criticism, union membership increased from 26 to 29 during the strikes.

***Effectiveness of Strikes***

In the context of raising the profile of the dispute and putting pressure on the DHB to improve its bargaining position, the form of the strike actions had a two-fold objective: to target the sensitive political issue of elective volumes and to confine the impact on patients to inconvenience only. The first strike, on the 3rd of February, proceeded without incident with all scheduled surgical lists and outpatient clinics cancelled. Nearly 70 hospital appointments were cancelled (Timaru Herald, 4 Feb 2003). The second strike led to the cancellation of all four scheduled surgical operating lists involving approximately 14 patients, two endoscopy sessions involving 10 patients, and outpatient clinics affecting another 66 patients. The DHB acknowledged that there had been no major problems but also that there were 'lost opportunities' of missed elective surgery (ibid, 12 Feb. 2003).

By the time of the third strike the DHB had, of necessity, adopted a modified approach to the cancellation of elective procedures. Only five patients had operations cancelled for the day with another nine out-patient consultations also cancelled. The cancellations were low because patients had deliberately not been booked for clinics and operating lists in advance (ibid, 20 Feb. 2003).

***Media Strategy***

In contrast with the DHB's reluctant and low key approach, the ASMS adopted a proactive strategy seeking to influence and shape the direction of media coverage, including formal statements and organised interviews. This contributed to and was helped by empathic newspaper headlines, particularly through the locally influential *Timaru Herald*. The first report was the ASMS's claim that South Canterbury senior doctors' conditions 'compare very unfavourably with the rest of the country….The sticking point was management's refusal to increase the allowance for being on-call to reflect the lack of registrar cover.' (Press, 30 Oct. 2002). In a reference to a four-day radiographers strike that had just commenced at the Auckland DHB, the Press had also speculated that South Canterbury

senior doctors were 'poised to join in a wave of industrial action hitting the health sector' (ibid, 29 Oct. 2002). The sympathetic media account immediately after the stopwork meeting resolutions focused on the pressure of the after-hours rosters, comparability of conditions with those in other DHBs, and recruitment and retention. Dr Matthew Hills, a geriatrician and member of the union's negotiating team, commented that he had come to Timaru five years ago for lifestyle choices but it was hard recruiting doctors for those reasons now because their conditions were falling behind (Timaru Herald, 12 Nov. 2002).

In addition to further coverage by the *Timaru Herald*, the ASMS's strike ballot result achieved national coverage when the union was interviewed on Radio New Zealand's Checkpoint programme on the 19th of November emphasising the after-hours rosters and recruitment difficulties. The ASMS's focus on after-hours rosters continued to be reported during December and January in both the local and national media leading up to the first strike on 3 February.

On the eve of the first strike, in an attempt to turn the media and the public against the senior doctors, the DHB made one of its few media statements arguing with much detail that its offer was generous. While this achieved prominent coverage, so did the ASMS's response which described it as inaccurate, and deliberately misleading (Timaru Herald, 1 and 5 Feb. 2003).

The absence of negative media coverage continued throughout the strikes. The ASMS's reiterated call for independent arbitration received national radio coverage (eg. Mid-Day Report, Radio NZ, 11 Feb. 2003). The Press gave extensive coverage following the third strike with a feature article titled 'Specialists face tough call'. Although the DHB's views were reported the tone of the article was sympathetic towards the senior doctors (Press, 20 Feb. 2003).

The ASMS's National President Dr Peter Roberts achieved national coverage when reporting 'strong national support' for the striking doctors and accusing management of being prepared to 'die in a ditch' over the dispute. He blamed the DHB's management style which had 'forced the doctors to act.' (8am News, Radio NZ, 22 Feb. 2003). Dr Roberts' visit to Timaru in support of his union members on the day of the fourth strike, the 27th of February, attracted further media interest.

***Doctors Speaking Out and Resignations***

In some instances, in recognition of the status of doctors within smaller cities, senior doctors participating in the ASMS's negotiating team spoke on behalf of the union. A related feature was doctors themselves speaking out. Between the first and second strikes, the *Timaru Herald* ran a sympathetic feature article based on an interview with orthopaedic surgeon John Rietveld, one of the DHB's most recently employed senior

doctors, who highlighted the pressures of the after-hours rosters on patient safety and family life, decried the lack of trust in management, noted the disparity in key employment conditions with other DHBs, and questioned why 'would anyone want to come here?' (Timaru Herald, 8 Feb 2003).

This was followed by a more significant collective action, an open letter, which achieved front page prominence in the *Timaru Herald*, from 25 senior doctors, including all the clinical directors and the minority opposed to strike action, calling for board members to become more involved in the dispute, and accusing management of misleading them and wrongly portraying the senior doctors' position. In reference to the 'unprecedented' strike action, they affirmed that:

> Such actions are not taken lightly and when this action involves the most long-serving and dedicated senior medical staff at Timaru Hospital, all with a proven commitment to the South Canterbury dispute, it begs the question why? (ibid, 21 Feb. 2003).[3]

This was quickly followed by extensive publicity associated with another event, the sudden resignation from the DHB of Dr John Doran, a physician who had worked at Timaru Hospital for 31 years, believing that he could no longer safely work there. Under the banner heading ''Distressed' doctor quits' and a sub-heading 'I won't be the only one', Dr Doran reluctantly attacked the management style with the observation that 'I have never criticised Timaru Hospital or its managers before and it distresses me to do it now.' (ibid, 22 Feb. 2003).[4]

Then, after the ASMS's decision to cancel the fifth strike and return to mediation, an experienced general surgeon, Neil Harding-Roberts, announced his resignation leading Chief Executive Craig Climo to acknowledge that he 'was a very good surgeon and he [Climo] was sorry that he had decided to resign….negotiations were debilitating for all staff and was obviously affecting public confidence in the hospital….it is a timely reminder to both parties of the need to reach a speedy settlement.' (Timaru Herald, 20 March 2003).[5]

***Public Response***

More so than the senior doctors anticipated, there was already at the commencement of the strikes much public goodwill towards them. Immediately after the first strike the *Timaru Herald* called on the 4th of February 2003, under the heading 'Have a say', for its readers to ring a specified telephone number on how the strike affected them and what should happen next. The following day, the newspaper reported that 'South Canterbury people yesterday came out in support of the striking senior doctors' with all but one caller 'was right behind the doctors and encouraged them to stick to their guns.' Subsequently, the DHB's chief executive acknowledged that the senior doctors' after-hours on-call

roster was 'onerous' and did not 'begrudge the doctors one cent of the money they earn.' (Timaru Herald, 13 Feb. 2003).

Inevitably the pressure of public sympathy for the striking senior doctors was to take its toll on the DHB. Internal divisions emerged among the DHB's board members over whether they should also participate in the negotiations along with management representatives. The cumulative pressure of these developments led to signs of internal dissension on the board over the DHB's direction. Under a front page heading of 'Fears grow other doctors may resign', board member Terry Kennedy called for a special meeting reporting that he had been 'inundated with calls from the public' following Dr Doran's resignation.[6] 'My phone started ringing at 8am on Saturday morning and did not stop until Sunday evening.' (Timaru Herald, 26 Feb. 2003). The callers were worried that more doctors might resign. Next, the Mayor of Timaru spoke out criticising the DHB's approach, in particular the refusal of the board to intervene in the dispute and the effect on community and hospital morale (ibid and Morning Report, Radio NZ, 27 Feb. 2003).

In addition to many letters supporting the senior doctors in the *Timaru Herald* and the criticism of the DHB by the Mayor, the most significant initiative was taken by Grey Power who convened a public meeting on the 5th of March which was attended by a reported 450 people. The strong sympathy of the meeting for the senior doctors was evident with several of them speaking, along with the DHB chair and deputy chairperson (Timaru Herald, 20 Dec. 2002).

***Political Responses***

Although it had a bias in favour of the DHB, the government did not publicly side with either party. Despite being approached following the ASMS's announcement of the outcome of its strike ballot, Minister of Health Annette King declined to comment.

Ironically, given their underlying negative attitude towards unions, while not endorsing the strikes, the opposition National and ACT parties expressed empathy towards the position of the senior doctors. National's health spokesperson Dr Lynda Scott commented that the planned strikes of senior doctors 'shows their absolute frustration' who were 'feeling the strain because of understaffing' (Timaru Herald, 24 Dec. 2002). Dr Scott linked this situation to under-funding and criticised the Health Minister for inaction.[7] Both parties' health spokespeople also pointed the finger at the government following the first strike on the 3rd of February (ibid, 4 Feb. 2003).

On the day of the third strike, the Health Minister was drawn into the dispute with an oral parliamentary question from Dr Scott. The Minister declined to become involved. The tenor of her response, however, reflected a bias towards the DHB as she quoted uncritically its assertion of the fiscal benefits of its offer, despite the veracity being disputed by the ASMS. When invited to comment on the resignation of an experienced

general surgeon, she said that 'she was continuing to follow the issue with interest but was unable to intervene in an industrial dispute.'(Timaru Herald, 20 March 2003).

Nevertheless, the Minister was conscious of the level of public support for the senior doctors and sensitive to the need for a resolution. In late February, she sent her Principal Medical Adviser to Timaru for extensive discussions with senior doctors and management, although he was not involved in discussions over possible settlement proposals.
Lessons of the Dispute

## Conclusions

It is possible to identify tangible benefits arising out of the decision to take strike action. Several issues in the negotiations had already been resolved before the ASMS gave its informal notice of the strikes on the 19th of December 2002. As a result of the strike actions the fiscal benefit to senior doctors was further enhanced in the following four areas:

1. The 'no registrar cover' component of the availability allowance increased from 1% to 3% effective on the 1st of October 2002 and then to 5% on the 1st of June 2003.
2. The term of the new collective agreement was reduced from 18 to 13 months after the expiry of the previous collective agreement.
3. The effective date of the $3,000 salary increase for specialists became the 1st of July 2002 (expiry of the previous collective agreement) instead of the date of ratification. The practical effect of this change was to extend backdating by at least six months.
4. The $3,000 salary increase for medical officers of special scale (MOSSs) was increased to $4,000 with the backdating similarly increased by at least six months to the 1st of July 2002. Further, these salaries were further increased by another $1,000 effective on 1 January 2003.

Despite being unprecedented, the South Canterbury strikes confirm that under certain circumstances a professional workforce can be prepared to undertake industrial action and can achieve tangible benefits as a result. The prerequisite was an already dissatisfied workforce frustrated by unfavourable employment terms relative to many of their counterparts in other DHBs, onerous working conditions (after-hours' rosters) and an unresponsive management.

A focused strategy to address the anticipated challenges was also required in order to neutralise possible negative political responses (and which achieved unusual opposition party empathy) and win public support. This strategy was based on a high level of membership involvement in union decision-making, adopting a form of strike action designed to maximise political sensitivity for the employer and government but reduced impact for the public (including advocating arbitration as an alternative), focusing

the dispute on the issue considered most likely to achieve public empathy while still being directly relevant to working conditions and remuneration, utilising sympathetic public predisposition towards the senior doctors, an active media strategy, and doctors individually and collectively being prepared to speak out.

The context of the strike – particularly the growing disparity in employment conditions across the health sector – and the strike itself illustrate how disruptive and personally difficult localised employment bargaining can be. The recent return to national collective bargaining has overcome some of these difficulties and it has also prompted an overhaul of employment conditions for senior doctors with a new national DHB collective agreement including some of the key issues originally sought in the early stages of the South Canterbury negotiation.[8] The strike also indicates that some managers may have to take a hard look at their management styles and consider how they can best interact and communicate with staff in order to facilitate staff commitment and better quality health services.

## References

Powell, I. 1995. 'The Experience of Collective Bargaining for Salaried Senior Doctors under the Employment Contracts Act', *New Zealand Journal of Industrial Relations*. 20(2): 195-210.

## Footnotes

1 In contrast to its similarly titled predecessor 1968 legislation, under the Medical Practitioners Act 1995 'specialist' is a term of convenience rather than a statutory term. There are two main forms of registration for medical practitioners: vocational which covers the secondary care specialties and general practice and general which requires some form of oversight and includes MOSSs.

2 The union wanted the salary increase backdated to the expiry of the previous collective agreement (1 July 2002) whereas the DHB wanted it to be effective from the date of settlement. The union was seeking a 12 month term from the expiry of the previous collective agreement whereas the DHB wanted it to be 12 months after the date of settlement (ie, at least 18 months).

3 The article also reported the Board's chairperson rejecting the call for its intervention and for arbitration while the chief executive also defended the DHB's position.

4 This front page article included a resolution of the ASMS National Executive in support of the striking senior doctors and was accompanied by a separate interview with Dr Doran and reply by the DHB (Timaru Herald, 22 Feb. 2003). Radio New Zealand also reported the resignation on the 22nd of February in its hourly new bulletins. Finally, Dr Doran's resignation led to several letters of support from the public.

5 The ASMS was also interviewed by Radio New Zealand over Harding-Roberts' resignation (Mid-day Report, 20 March 2003). As with John Doran's earlier resignation, this also led to letters of support from the public to the Timaru Herald (e.g., 22 March).

6 Board chair Joe Butterfield rejected Kennedy's call for a special meeting on the grounds that there were enough meetings scheduled anyway.

7 Dr Scott is a medical practitioner who had been employed by the Nelson Marlborough Hospital and Health Service (predecessor of the DHB) in geriatric care.

8 New Zealand District Health Boards Senior Medical and Dental Officers Collective Agreement (1 July 2003-30 June 2006). The national settlement included time-and-a-half for average hours worked on rostered after-hours call duties, six weeks annual leave, further enhanced salary scales (including widened margins between steps and extending the length of the scales), and enhanced employer subsidised superannuation.