

BMA

How we offer support to members



British Medical Association
bma.org.uk

How to contact us to get help and support at work

Whatever your employment or pensions-related enquiry, we're here to help. If you have an enquiry, please contact our team of advisers on 0300 123 1233 between 8.30am and 6pm, Monday to Friday.* Alternatively, you can email or web chat** with an adviser through the BMA's website at [bma.org.uk/support](https://www.bma.org.uk/support)

We will try to deal with the matter either during your call or via a reply email if at all possible. If your enquiry is more involved, or requires local support, we'll pass it to a local adviser covering your employer or the pensions department. Our advisers here combine a detailed knowledge of employment law, industrial relations, contractual and pension matters, with a clear understanding of local issues so are well placed to help resolve your queries.

The following section outlines where support and assistance will be considered and the nature of the support that may be available. There are certain areas in which we do not give support or assistance and we advise that you check first to avoid disappointment or misunderstandings.

Support and assistance is offered to you on a discretionary basis. Therefore, you do not have an automatic right to such help but you will have your request fairly considered in appropriate circumstances. If support is granted it can be withdrawn at any time on reasonable notice. All support must in any event be and remain proportionate to the claim involved.

We reserve the right to amend, vary or withdraw the discretionary support and assistance available to members, including, without limitation, the terms upon which it may be offered, at any time.

Summary of help and support offered

For members who are employees

We offer advice and representation on a wide range of employment related issues, including terms and conditions of service and pension matters arising from an employment contract. We also offer advice and representation at grievance hearings and representation at disciplinary hearings and externally before employment tribunals and the civil courts.

For members who are employers

We offer advice† on people management and the drawing up of contracts of employment for staff employed in entities providing medical services (excluding medical businesses such as nursing homes and locum agencies). This includes advice on terms and conditions of service, pension matters and advice and representation on matters arising from day-to-day employment relationships with staff. We also provide support and advice on how to conduct grievance and disciplinary hearings.

* All calls made to or from the BMA may be recorded for training purposes to help us ensure we deliver the highest standards of service

** Between 8.30am and 6pm, Monday to Friday

† In England through the BMA Employer Advisory Service

We also offer representation externally before employment tribunals.

£50,000 discretionary contribution towards employment tribunal compensation awards and approved settlements

At no additional cost to you, we may provide a discretionary contribution towards Employment Tribunal compensation awards and approved settlements of up to £50,000 for Employer Members who use and follow the advice provided by the BMA Employer Advisory Service or equivalent service in Northern Ireland, Scotland and Wales, subject to the qualifying criteria set out below.

Where an Employer Member is subject to an employment tribunal's compensation award made against his/her business and once all appeal processes have been exhausted or where he/she has agreed a settlement which has been approved in advance by the BMA we may provide a contribution to him/her in respect of such award or settlement. Since this is a

discretionary benefit, the BMA may impose such additional conditions on the payment of the contribution as it decides are appropriate or restrict the contribution or decline to grant a contribution altogether.

To be eligible for this discretionary benefit the Employer Member must comply with the conditions set out in the section headed 'Your eligibility for services' on page 4.

It is also a pre-condition of this discretionary benefit that if you are contemplating taking any disciplinary action or any action which could lead to a claim against you by or in respect of one or more of your staff, you **must** contact us to discuss the matter **before** taking any action and you **must** follow the advice given.

For employer issues and details on the BMA Employer Advisory Service please call 0300 123 1233.

Qualifying criteria relating to payment of the discretionary contribution

The contribution is available to BMA members who are employers providing medical services (excluding medical businesses such as nursing homes and locum agencies) whether as a partner or as a sole practitioner ('Employer Members'). It does not cover Employer Members who are also employees in respect of their own contracts of employment (or those of their families) and issues arising in relation to them.

An Employer Member may make a claim for a contribution following an Employment Tribunal Award of compensation or an approved settlement subject to: (i) the Annual Cap and Claim Cap set out below; (ii) a £5,000 excess; The contribution does not cover the payment of legal costs which are dealt with under the section headed 'Recovery of legal costs' set out on page 6.

The amount of contribution which the BMA will pay to an Employer Member is subject to an annual cap of £50,000 in each year (1 October to 30 September) in respect of all and any claims for a contribution(s) which arise and are made by the Employer Member in that Year ('Annual Cap').

The Annual Cap of £50,000 is further restricted by a cap of £50,000 on claims arising out of the same or connected circumstances irrespective of whether the claim is made in more than one contribution Year ('Claim Cap').

Once a contribution has been made to one Employer Member, any further claim from the same or a different member for a contribution arising out of the same or connected circumstances will be refused.

In respect of each claim for a contribution, the Employer Member is liable for the first £5,000 of any award of compensation or approved settlement.

A contribution will not be made where the claim relates to a circumstance which occurred, or a series of circumstances the first of which occurred, prior to 1 October 2010, and/or the date the Employer Member became a member of the BMA, whichever is later.

A contribution will not be made in respect of any award of compensation or damages or settlement arising out of any of the following claims:

- a claim under the Equal Pay Act 1970 (or any subsequent or comparable statutory measure)
- High Court or County Court claims
- claims by or in relation to individuals who are not current or former employees of the Employer Member such as independent contractors, consultants and locums
- claims for which the Employer Member is contractually liable
- claims arising on death or personal injury or any alleged injury to any employee
- claims relating to or arising out of any deliberate or reckless actions of the Employer Member, its representatives, agents or employees
- any consequential or indirect loss

- claims falling within the areas listed under the heading 'Areas excluded from representation or support' on page 7.

For members who are independent contractors or self employed

For members who are independent contractors or self-employed we offer advice in relation to contracts for the provision of medical services (excluding medical businesses such as nursing homes and locum agencies). We also offer advice on GMS and PMS contracts (or Scottish equivalent Section 17c contracts), including related regulations and directions, Statement of Financial Entitlements (SFE) advice, representation on matters arising out of the day-to-day operation of the contracts above, and advice and representation on pension matters.

For members who are in medical partnership

We are able to provide initial advice on the drawing up of and amendments to partnership deeds/agreements, including limited advice on premises issues and advice on matters arising out of the day-to-day operation of partnership deeds/agreements. We can provide interpersonal mediation in partnership disputes in order to help the partners to improve their working relationship, provided this role is acceptable to all parties to the dispute. Where the partners decide to end the relationship with one or more of their number and cannot agree on the terms on which they will part, our legal service provider, BMA Law, offers a commercial mediation service on a fixed fee basis at discounted rates for BMA members. For this service contact BMA Law on 0300 123 2014 or email info@bmalaw.co.uk.

Partnership drafting

Our legal service provider, BMA Law, offers a high quality, bespoke and sector-specific partnership agreement drafting service for general medical practices. The partnership agreement is a formal legal document that is essential in governing all aspects of inter-partner relations by setting out, amongst other things, the split of profit and losses, the obligations on the partners, the circumstances that could give rise to the expulsion and suspension of partners and retirement (including 24 hour retirement). The service is provided at an 'all in' discounted price* for BMA members which includes the final agreement.

For this service contact BMA Law on 0300 123 2014 or email info@bmalaw.co.uk.

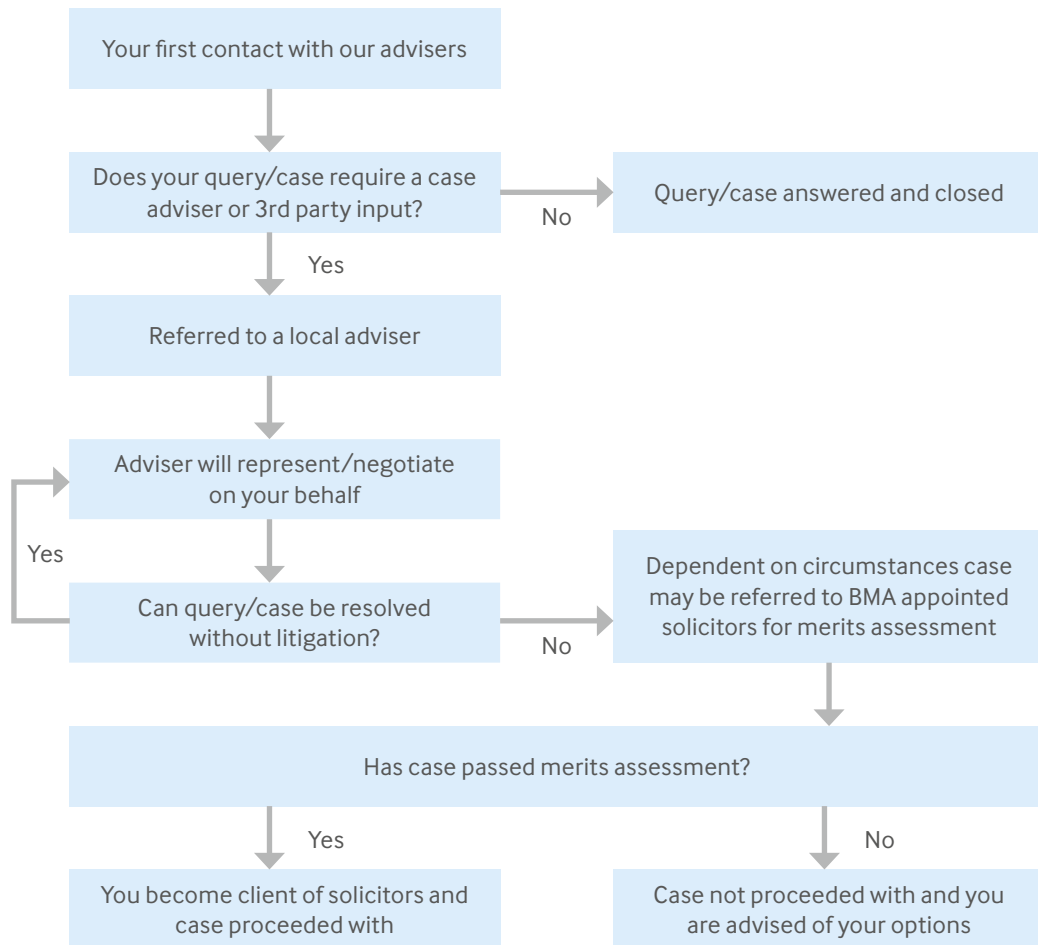
* The price excludes dealing with complex property matters.

Online help on the BMA website

Access information at bma.org.uk/advice/employment. Here, you will be able to access a wide range of frequently requested information and have your questions answered.

Member relations query/case handling

This flowchart shows a simplified view of the decision-making process.



Your eligibility for services

You must notify us as soon as possible of any potential issue as failure to do this could adversely affect the outcome of any case and therefore the support we can give you. This particularly applies to cases of discrimination or matters that may go forward to an employment tribunal where there are specific statutory time periods in which applications and responses to applications must be made. In most cases, an appropriate adviser will be appointed to provide you with direct and ongoing assistance. Requests for support will be fairly considered in appropriate cases in line with the following conditions:

- you must be, and continue to be, a fully paid-up member of the BMA
- your problem or issue must not pre-date the date you joined or rejoined the BMA
- you must fully cooperate at all times with your adviser
- you must provide full and accurate facts relevant to your case at all times
- you must not instruct or have instructed, directly or indirectly, any other representative(s) or organisation(s) to advise or to act for you
- you must not have issued or responded to any court or tribunal proceedings without our prior agreement. The BMA will not take over cases where you have chosen to proceed independently
- you must have a substantial interest in the business to which any claim for a discretionary contribution relates, eg if it is a partnership, you must be a partner in the practice
- you must supply to us at your own expense copies of all supporting documents requested either by us or our nominated representatives
- you must return a signed copy of our nominated representatives terms of engagement. Unless and until you do so, no support can be provided to you

- you must provide instructions personally and in a timely fashion. Only in very exceptional circumstances will instructions be accepted via a friend, relative or other third party.

Case handling

We want to ensure that your case is handled as efficiently as possible and we have set out certain rights for you and us as follows:

Your rights:

- jointly agreeing with your BMA adviser the objectives in pursuing your case
- timely handling of your case
- to be kept regularly advised of the progress of your case
- to have any complaint about your case dealt with as quickly as possible.

Our rights:

- to determine how your case will be progressed
- to determine who will be your BMA adviser
- to enter into discussions and correspondence with other parties we consider appropriate to explore the possibility of resolving your case including by way of settlement
- to withdraw support if you reject an offer of settlement which we believe is reasonable or if you will not agree to the making of a reasonable offer of settlement
- to withdraw support if you reject the advice given to you
- to withdraw support if you do not fully cooperate with your BMA adviser or any appointed advisers.
- to withdraw support if you behave inappropriately towards any member of BMA's staff or any external advisers appointed on your behalf.

Members in the Channel Islands and the Isle of Man

For members in the Channel Islands and the Isle of Man, employment advice and support is given by our advisers but it excludes legal advice and representation because our legal advisers are not conversant with the local legal systems.

Members outside the UK

Members outside the UK should note that while you have access to many membership benefits, some of our services are not available to you. For example, we are not able to offer employment advice or representation.

For other advice and information please contact our advisers on 0300 123 1233.

Tribunal or court proceedings

In certain circumstances – and at our sole discretion – external lawyers may be appointed to represent you. We have a duty to exercise sound stewardship of the BMA's assets and to ensure that money is spent appropriately. As a result, external legal support will only be considered if, in our external lawyer's professional judgement, you have a 'good case'. This means that your case must have a better than 50 per cent chance of success and that the estimated financial expenditure on your case is proportionate to any award of compensation potentially recoverable. You will be provided with a copy of any merits assessment of your case. If your case is assessed not to have a better than 50 per cent chance of success, or does not meet the expenditure proportionality requirement, or if we consider that your best interests will not be served by pursuing or continuing with your case, external legal support will not be made available to you.

The professional opinion of our external lawyers as to whether you have a 'good case' is final.

In the event that external legal support is made available to you the external lawyers are required to report to us on a regular basis or when requested about the progress of your case and any developments which affect your case. Your case will be kept under constant review and we reserve the right to withdraw legal support at any time in our absolute discretion should your case cease to qualify for external legal support.

To complement the employment support services we provide, we have appointed a specialist law firm who, if we support you in tribunal or court proceedings, will normally be instructed to act as your external legal representative.

Employment tribunal and employment appeal tribunal fees

At our discretion, a Tribunal or Court fee, including, an application and/or a hearing fee, will be paid by us where necessary. In certain circumstances, for example, where you notify us of a potential claim close to a relevant deadline for issuing legal proceedings and/or the merits assessment cannot be carried out in time, you will be required to pay any relevant fee(s) and, in exceptional circumstances, and subject to our prior written approval, you may be required to issue or defend proceedings. In such circumstances, if your case is subsequently, accepted by us, we will reimburse the relevant fee(s) at our discretion and the BMA's external representatives will be appointed.

Where the BMA pays a fee or makes a reimbursement to you this will be treated as an advance from the BMA to you.

If the claim settles the BMA or the appointed external legal advisers will seek to recover the fee from the other side. If the claim wins in the Employment Tribunal or Court the appointed external legal advisers will seek to recover the fee from the other side.

Where fees are recovered from the other side in addition to any settlement sum or are ordered to be paid in addition to compensation awarded by a Tribunal or Court, you agree to reimburse the fees to the BMA. Where the fees are not ordered by the Tribunal or Court to be paid in addition to any compensation awarded, the BMA may at its absolute discretion waive its right to deduct the fee advance from any compensation that you receive.

If your claim loses at the Tribunal or Court the BMA will write off the fees paid in advance on your behalf and will not seek to recover the money advanced to you provided that you have complied with the conditions for legal support.

General conditions relating to the provision of employment services

Recovery of legal costs

In any case where we have agreed to appoint an external legal representative, you will be responsible for meeting your legal costs. However, subject to you complying with the conditions applying to our support, we will indemnify you against these costs. In the event that any order for costs is made in your favour and sums are recovered in settlement of that order, you will pay (and agree to instruct the external representatives to pay) these amounts to us. We will not be responsible for any legal fees incurred without our prior written approval. If we have agreed to pursue your case and you subsequently have costs awarded against you then, providing you have complied with our conditions, we will be responsible for payment of these costs.

Resolving concerns

We want your case to progress to completion to your entire satisfaction and we are pleased to say that this happens in the vast majority of cases. However, if you are unhappy in any way with how your case is handled, you can make us aware of this through our feedback procedure if your informal attempts to resolve the matter are not successful. A copy of this is available by calling 0300 123 1233, emailing hrs@bma.org.uk or from our website.

Dealings with our staff

We have a duty and legal obligation to ensure the wellbeing of our staff, including protecting them from harassment, bullying and discrimination. We take this responsibility very seriously and while we fully understand that members may be under stress while pursuing cases, all our staff are here to help you and we expect them to be treated with courtesy at all times.

Harassment can include unwanted conduct, which has the purpose or effect of violating another person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment. It should be noted that it is the impact on the individual rather than

the perpetrator's intention, which determines whether harassment or bullying has occurred. We believe that all forms of harassment, bullying and discrimination are totally unacceptable.

All allegations will be investigated in a fair, effective and confidential manner. If a member is found to have harassed, bullied or discriminated against any of our employees, staff, directors, officers or any persons engaged by the BMA then appropriate action will be taken. This may include the issuing of a warning, suspension of membership/membership benefits or expulsion.

Medical protection/defence organisations

Other than supporting junior doctors in the ARCP process, we do not support members in matters concerned with clinical performance or conduct. You are therefore strongly advised to join one of the medical protection or defence organisations who are expert in these matters, in addition to the BMA.

Areas excluded from representation or support

The following areas are specifically excluded from our representation and support:

- criminal matters (the BMA assists and supports with employer disciplinary cases but where a trial of criminal charges is held, the BMA cannot defend you)
- issues arising from commercial contracts or arrangements except in circumstances set out elsewhere above
- defamation (libel or slander) issues
- representation before the professional conduct committee, health committee or any committee on professional performance of the General Medical Council
- matters concerned with clinical or professional performance including professional conduct (for clinical cases such as medical negligence or at the GMC, representation is through your employer's NHS Indemnity or through medical defence organisations such as the MPS, MDU, MDDUS. You are advised to retain medical indemnity arrangements independently of NHS Indemnity, making sure that the cover obtained is adequate for the clinical work that you do)
- any case where you have instructed your own external representatives
- any case where you have already issued legal proceedings
- any Employment Tribunal or Court case in respect of which you have separate insurance (including where you may have exhausted your cover arrangements with such insurance)
- any claim which arises outside England, Northern Ireland, Scotland or Wales.

We reserve the right, at our discretion and without notice, to amend the areas included or excluded from representation or support.

BMA medical students committee

We're here to ensure your voice is heard. Every medical school elects a representative to the national MSC (medical students committee) and an intraschool committee chair and with the backing of the rest of the BMA we:

- represent the views of BMA medical student members, as well as the wider interests of all medical students, on Government Reviews and with the General Medical Council, Medical Schools Council and UKFPO amongst others
- meet regularly to discuss policy and formulate campaigns on important issues affecting you, including student debt and tuition fees, standards in undergraduate education, discrimination and equality, the Foundation Programme, and widening access to medicine.

There are also committees for medical students studying in Northern Ireland, Scotland and Wales that discuss local issues and contribute to the work of the national MSC. You'll find more information about our national work at [bma.org.uk/about-us/how-we-work](https://www.bma.org.uk/about-us/how-we-work)

How we can help you at medical school

Your reps will also work with our employment advisers who are here to guide you through your time at medical school. They are a valuable source of information and advice. Examples of the issues on which we may advise you include:

- exam failure

- personal conduct issues, eg conflicts with others
- matters relating to completing studies, eg due to ill health
- contracts or banding.

The level of assistance we can give will depend on the nature of your query. Our advisers assess each case individually and can be contacted on 0300 123 1233.

Talks and events

Your rep and the employment adviser for your school work together to help organise special events for students, including:

- freshers events
- debates on topical professional and medico-political issues
- careers fairs
- electives evenings.

There are also a number of events to help you prepare for life after medical school on topics, including:

- preparing for work
- contracts of employment
- contract clinics – these give detailed advice on contractual terms for junior doctors, including shift working arrangements, rotas and the banding system
- the role and responsibilities of the GMC (General Medical Council)
- various medico-legal issues
- work shadowing.

National Offices and BMA Centres also organise lectures and seminars on professional matters, and advisory talks, including:

- Modernising Medical Careers
- the NHS
- careers in medicine
- working abroad
- the BMA
- ethical issues
- other topics at the request of students.

BMA equal opportunities statement

We are committed to equality in the provision of services to our members and stakeholders. This ensures that all members, those applying for membership, and other service users will receive the highest possible standards of service from us, irrespective of race, ethnicity, gender, sexual orientation, marital status, civil partnership status, age, disability, chronic illness, religion or belief.

Our equality and inclusion policy has been developed to ensure that members and staff are fully aware of our commitment to provide equality of opportunity in all of our functions and support the inclusion of our members. We will monitor the implementation and application of our equality and inclusion policy and ensure that it reflects and meets the requirements of the increasingly diverse membership which we seek to serve.

We continually monitor legislation and good practice relating to equal opportunities, anti-discrimination, equality and inclusion and periodically update our resources for members to reflect current knowledge. Our work on equality and inclusion is coordinated by the Equality and Inclusion Unit. It works to promote equality of opportunity for the medical workforce, and break down barriers to career progression.

We will:

- look at ways to enhance the accessibility of our information and services
- further develop our resources which provide information on managing equality and inclusion of our members
- continue to work with BMA committee secretariats to ensure that the representational structures of the BMA are representative of the BMA membership.

British Medical Association

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