JOB PLANNING FOR YOUR FIRST CONSULTANT POST

Guidance from the Scottish Consultants Committee

February 2014
Introduction
This guide aims to answer common questions about the consultant contract in the form of FAQs, to help you to be better prepared for the discussions you will have about your duties when you take on your first consultant post.

We would draw your attention to the section in this guidance on how clinical (DCC – direct clinical care) and non-clinical (SPA – Supporting Professional Activities) work, and their importance when you are applying for a consultant post. This guidance gives advice on what to do if an employer wishes to appoint a full-time consultant on fewer than 2.5 SPAs

The full terms and conditions of the contract are available at http://bma.org.uk/practical-support-at-work/contracts/consultant-contracts/consultants-scotland

Job planning is an integral part of the consultant contract and it is essential that all consultants understand the process and how to get the best from it for themselves and their patients.

What information should I have before I apply for a post?
When applying for your first consultant post, you should make sure you have a job description for the post, a proposed job plan, a job specification and as much detail about the post and the location/employer as possible. Whilst visiting, you should ask for further details of the proposed job plan, proposed objectives and very importantly, the supporting resources available to allow you to carry out the work. You should get further opportunity to explore this at interview and prior to full acceptance of the post.

The contract is based on “PAs”: what are they?
PAs are “Programmed Activities”. A PA is 4 hours of work if done within the normal working week (Monday to Friday). A PA done outwith this normal working week is 3 hours of work.

All of the activities in your job must be detailed in a job plan. You should seek to ensure that you have agreed the content of this job plan before you take up post. Any advertised post should include a proposed job plan in the application pack. If one is not included in that pack, you should ask to see one.

How many PAs should my contract be for?
The standard full-time contract is for 10 PAs i.e. 40 hours of work per week (if that work is within the normal working week) and as a new full-time consultant you cannot be required to contract for more than 10 PAs. Posts that are less than full time will be for fewer than 10 PAs.

However, employers may advertise a post for more than 10 PAs, generally 11 or 12 (as greater than 12 would necessitate the consultant opting out of the European Working Time Directive limit of 48 hours). Both Consultant and employer should be aware however that any PAs in excess of 10 can be terminated at any time by either party giving 3 months notice, even if agreed on appointment, and a new Consultant cannot be required to work in excess of 10 PAs (see below).

The contract does not in itself impose a limit on PAs of 12 and if, after appointment, you find that you are being asked to work more than 12 PAs, and you agree to do so, you should expect to be paid for such work, subject to your agreement to opt out of the Working Time Directive limit of 48 hours.
Can my employer demand that I work more than 10 PAs?
No, they cannot. Consultants are not obliged (or entitled) to undertake any more than 10 PAs per week. As a new full-time consultant, you should be offered a 10 PA contract, and your job plan should quite clearly state the work to be undertaken in each PA. Where, however, it is not possible for the department to maintain the necessary service then you may, at the discretion of the employer, be offered more than 10 PAs (and the post may have been advertised as such – see above).

In reality many consultants may wish to work an 11th or 12th PA. The contract works both ways: your employer cannot demand more than 10 PAs of you in a full-time post, and you cannot demand greater than 10 either. However, if you are contracted for 10 but believe in reality you are working more, you should keep a careful job diary and request a job plan review. One of the aims of the 2004 contract was to give consultants a mechanism for limiting their hours of work, and this is one of the most powerful tools for that purpose.

Are PAs over 10 “special” in any way?
PAs over 10 (i.e. an 11th or 12th) are called EPAs (extra programmed activities). They are generally allocated for clinical duties. Consultants and employers alike are entitled to give 3 months’ notice of cessation of any contracted EPAs at any time i.e. you can stop doing work over 10 PAs with 3 months’ notice and the employer equally can stop you doing this work (and receiving the associated pay). EPAs must be contracted for separately to your standard contract and the duties within an 11th or 12th PA should be clearly specified.

I would like to work less than full-time but the post is advertised as full-time with 10 PAs. Am I entitled to contract on a less than full-time basis?
You are entitled to request a contract on the basis of less than full-time working but agreement to this is at the discretion of the employer.

The job advert does not specify the balance between DCC and SPA – how do I find out what this will be?
The 2004 Scottish consultant contract states:

“Unless otherwise agreed, a full time consultant will devote 7.5 PAs per week to direct clinical care and 2.5 PAs to supporting professional activities”.

Employers in Scotland have agreed not to advertise consultant posts specifying a balance between clinical and non-clinical duties, with the balance being the subject of discussion and agreement between the employer and the successful applicant. However, the actual job description in the application pack is likely to contain a breakdown of duties which will indicate the SPA allocation: this may well be less than 2.5 SPAs.

We strongly believe that an appropriate balance of duties between clinical and non-clinical work is essential for all consultants and that newly appointed consultants should not be disadvantaged compared to their colleagues. Some employers contend that “new” consultants need fewer SPAs. We do not agree with that position, as we strongly believe that consultants at the start of their career have just as much to offer in teaching, training and managerial roles and have just as much, if not more, need for professional development.

For these reasons, offering new consultants fewer SPAs is not justified, in our view. Consultants with 2 or fewer SPAs would find it extremely difficult to take any active role in teaching, training or management. Over time, the absence of such duties would also potentially prejudice that consultant being able to make a wider contribution to the development of the service as well as their own career development. In addition, all consultants need to ensure that the proposed SPA time is sufficient for them to meet the requirements for appraisal and revalidation.


**What should I do if I am applying for a job that includes fewer than 2.5 SPAs?**

There are a number of things you can do. First and foremost the wording in the terms and conditions about varying the number of SPAs is “unless otherwise agreed”. If you don’t agree, potentially the employer has to offer 2.5 SPAs in your job plan. Applicants for consultant posts have a right to see a job plan for the post, which should specify the number of SPAs. If the indicative job plan issued to applicants has fewer than 2.5 SPAs, candidates should ask why this is the case and also ask which SPA activities are explicitly not to be performed.

Before any interview, candidates should seek advice from the BMA website or from BMA advisers on 0300 123 1233 and the relevant BMA Local Negotiating Committee

However, we recognise that for some applying for their first consultant post, particularly if there is competition for posts, acceptance of fewer SPAs may make some candidates feel they are more likely to get the job.

Our advice if accepting a job with fewer than 2.5 SPAs is firstly to ensure your job plan specifies what duties you are to do, and what you are **not** to do, within your SPAs. Second, you must keep an hours diary of all your work once you take up post [see model diary at](http://bmaj.org.uk/practical-support-at-work/contracts/job-planning)

You should:

- remember to include the time spent dealing with email correspondence not related to direct patient care, most of which comes from management in the form of policies, procedures, guidelines, service delivery issues, etc. Management clearly expects you to read and be familiar with this information and it is SPA activity.
- record requests for SPA activity, particularly those from managers, which you have turned down because you do not have enough SPA time in your contract.
- record SPA activity that you have undertaken which is in excess of your SPA allocation. Where this is not undertaken at management’s request, communicate the fact of this work and the need for it to your Lead Clinician/Clinical Director.

You can request a review of your job plan after 3 months in post, if at this time you feel you are doing hours and duties beyond or different from what you are contracted to do. **Your employer is obliged to undertake a job plan review** if you request it, and there is a process of mediation and appeal if it does not result in a mutually agreed resolution.

**I’ve been offered a post, what do I do next?**

Once offered the post, you should arrange an early meeting with your clinical manager, ideally before starting, so that you can finalise the job plan. As well as a timetable of activities, the job plan should also include agreed objectives and the supporting resources you will need to do the job. Make sure the job plan includes all the relevant aspects) and in particular a realistic assessment of the PAs required to deliver the work. Wherever possible you should refer to colleagues in your new department and also check whether there are any collective agreements between the employer and the local negotiating committee (LNC). BMA advisors, your Royal College and/or specialty association will also be able to provide advice on whether the job plan you have been offered is reasonable.

One of the more difficult areas with a new post is making sure the assessment of on-call work is fair. If there has been a previous post holder, this should usually give an indication of what the assessment should be, as should the allocation for other colleagues in the same specialty and department. Each job, however, should be tailored to the needs of the employer, the consultant and, of course, patients.
Over the first few months of the job you should keep a work diary (http://bma.org.uk/practical-support-at-work/contracts/job-planning) to ensure that your job plan accurately reflects the duties and workload of your post. Where there is a significant disparity then an interim job plan review can be requested. This is even more important for new posts where there is little or no precedent to predict workload.

You should also bear in mind that it may be possible to negotiate changes to the proposed job plan before you formally accept the post. Once you have been offered the post you should explore with the employer the possibility of amending elements of the job plan that you dislike. Ultimately, if there are parts of the job plan that you cannot accept, you may choose not to take up the post.

DID YOU KNOW?
The BMA offers its members a free contract checking service. Get your contract checked by our employment law experts before you sign it. Call our advisers on 0300 123 1233 for more information

What is job planning and what is its purpose?
Job planning is a prospective process that needs to be based on a partnership approach to enable consultants and employers to:

• effectively prioritise work and avoid excessive consultant workload;
• agree how a consultant or consultant team can most effectively support the wider objectives of the service and meet the needs of patients;
• agree how the NHS employer can best support a consultant in delivering these responsibilities;
• provide the consultant with evidence for appraisal and revalidation;
• comply with the Working Time Regulations; and
• agree activity above the standard commitment via prospectively agreed extra programmed activities (EPAs).

Who does the job planning?
Job planning is a process for individuals. That does not prevent consultant teams agreeing in principle how they deliver work, but the job planning meeting itself is between an individual consultant and their Clinical Director (or appointed deputy). There may be circumstances where generic issues relating to the job plan can be resolved at departmental or specialty level and there is scope for collective agreement on this with the employer via the local negotiating committee (LNC).

The terms and conditions are clear that the job plan is agreed between the consultant and the employer. This is the Medical Director/Director of Public Health or the Clinical Director, or other lead clinician nominated by the Medical Director/DPH. It is entirely inappropriate for the process to be led by a non-medical manager. Other managerial staff may be present at the job planning meeting only with the agreement of the individual consultant.
What should be in the job plan?
The job plan details your commitment to the NHS and sets out:

- All professional commitments
- Time and service commitments
- Accountability and management arrangements
- Objectives
- Resources
- Any agreed extra programmed activities.

What is the difference between DCC and SPA activities and why does it matter?
The full time commitment is for 10 programmed activities (PAs) of 4 hours each (3 hours in premium time). The number of PAs is assessed by determining the average number of hours spent on each activity per week, under each category of direct clinical care, supporting professional activities, additional responsibilities and other external duties, adding these hours together, and then converting the total number of hours into PAs, rounding up to the nearest half-unit.

Direct clinical care (DCC): DCC PAs form the core of the contract.

Examples of DCC activity include:
- emergency duties (including emergency work carried out during or arising from on-call)
- operating sessions and pre and post operative care
- ward rounds,
- outpatient clinics
- clinical diagnostic work
- other patient treatment
- public health duties
- multi-disciplinary meetings about direct patient care
- administration directly related to patient care (e.g. referrals, notes, complaints, correspondence with other practitioners)
- on-site medical cover
- any other work linked to the direct clinical care of NHS patients and travelling time associated with any of these duties

Please note particularly that administration relating to direct clinical care is included here, as is travelling time relating to direct clinical care. It is not appropriate for employers to set ‘tariffs’ for the administration element of direct clinical care as a proportion of the overall amount. The allocation of these PAs in your job plan should be based upon an assessment of what is required for you to do your work.
Supporting professional activities (SPA)

SPAs are required to underpin high quality patient care. The activities included within them are also key elements for achieving revalidation, hence their importance to all consultants. Ten hours per week for SPAs, in our view, will be required by almost all full-time consultants and should not be negotiated away. You should make sure your SPA commitment includes an appropriate amount of time for keeping up to date with relevant medical journals and literature.

The value and number of SPAs is sometimes being questioned, despite increasing demands on consultant time in the areas of teaching and training, appraisal, clinical governance and managerial duties. For the majority of consultants, accurate completion of a job diary will comfortably demonstrate 10 hours of SPA activity.

Examples of SPA activity include:
continuing professional development, teaching and training, management of doctors in training, audit, research, job planning, appraisal, revalidation, research, contribution to service management and planning (including departmental management meetings), clinical governance activities, dealing with non-clinical emails, and travelling time associated with these duties. You should remember the need to keep up to date with relevant medical journals and literature.

N.B. Study leave is in addition to this and there are no grounds for reducing SPAs to take into account study leave.

Some specific points to bear in mind about SPAs:-
• Remember to include the time spent dealing with email correspondence not related to direct patient care, most of which comes from management in the form of policies, procedures, guidelines, service delivery issues, etc. Management clearly expects you to read and be familiar with this information and it is SPA activity.
• Record requests for SPA activity, particularly those from managers, which you have turned down because you do not have enough SPA time in your contract.
• Record SPA activity that you have undertaken which is in excess of your SPA allocation. Where this is not undertaken at management's request, communicate the fact of this work and the need for it to your Lead Clinician/Clinical Director.
• Remember that if you are a Training Programme Director, educational or clinical supervisor, NHS Education for Scotland expects that you should have adequate time in your job plan for this work which is SPA activity.
• Seek a job plan review as soon as possible if your diary demonstrates a continuing requirement for more SPA time than allowed for in your job plan.
I will be working less than full time. How many SPAs should I have?
Part-time consultants require proportionately more time for supporting professional activities and this is recognised in the terms and conditions of service by the following table:

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<thead>
<tr>
<th>Total Number of programmed activities</th>
<th>Number of SPAs</th>
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<tbody>
<tr>
<td>2 or less</td>
<td>0.5</td>
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<tr>
<td>2.5 – 3.5</td>
<td>1</td>
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<tr>
<td>4 – 5.5</td>
<td>1.5</td>
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<tr>
<td>6 – 7.5</td>
<td>2</td>
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<tr>
<td>8 or more</td>
<td>2.5</td>
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How do I count travelling time in my job plan?
Travelling time to and from the usual place of work is not included. However travel between sites and for on-call duties is included within the PA for which the travel is necessary. Travelling time for emergencies is also included.

How are lunch breaks counted?
A proper balance of work and rest is vital to maintaining a healthy workforce. BMA Scotland thus recommends that consultants should ensure adequate breaks from clinical work during the day. However the nature of many consultants’ work means that it is rarely possible for them to absent themselves from clinical duties and have a total break. This necessarily professional attitude to patient care means that during a day of clinical activity it is unlikely that many consultants will be able to free themselves from potential interruption so as to allow an unpaid lunch break. The professional nature of consultants will allow breaks to be taken where possible, but their continuous availability during this time is a benefit to patients. Consultants normally exercise their judgment in taking breaks flexibly, at times chosen to minimise disruption to patient care and to promote the safety of patients.

How do I calculate cover for colleagues (prospective cover)?
Your workload may be much higher when your colleagues are on leave. Remember this when you are assessing the amount of time you spend on some activities. This is particularly important when you are assessing your work done whilst on-call. The on call availability supplement is calculated on the frequency of the rota commitment (as set out in paragraph 4.10.10 of the TCS). Also remember that your agreement is required in advance through the job planning process regarding the circumstances in which you will provide cover for colleagues on leave.

Do PAs have to be calculated in whole units?
Work done does not have to equal a “whole” PA (as some activities don’t need 4 hours of work per week): it is possible to schedule work as 0.5 PAs, average it more sensibly over a period of some weeks, or group a number of activities together added up to equal 1 PA.

Attaching a timed value to PAs is intended to provide greater transparency. However, you and your clinical manager can agree flexible arrangements. For example, you may average duties over a period of time to allow for variable childcare commitments. Such agreements should be documented in the job plan. BMA Scotland supports this approach which is in keeping with such initiatives as the PIN Policy on Supporting the Work-Life Balance. http://www.msg.scot.nhs.uk/wp-content/uploads/Circulars/PIN%20Guidelines/Supporting%20the%20WorkLife%20Balance.pdf
Do I have to specify where the PAs will take place?
The contract will state your principal place of work. You will generally be expected to undertake your programmed activities at the location agreed in the job plan. Arrangements to work off-site or at home at specified times may be agreed in relation to specified duties and should be set out in the job plan, while some supporting professional activity time can be scheduled flexibly and undertaken off-site. The nature of public health medicine work means that it is unlikely to be feasible to define specific times and locations in the job schedule. You may wish to discuss and agree flexible locations with your employer during job planning.

A rigid approach may not be feasible where, for example, office space or resources are limited. BMA Scotland recommends a flexible approach as beneficial to both consultants and employers.

To maximise the benefit to patients, consultants and employers, SPAs should be scheduled where appropriate, but by their nature are often best delivered flexibly in time and location. Many consultants have better IT, reading and other facilities at home than in their workplaces. Furthermore, SPAs undertaken at home are less likely to suffer interruption and could therefore be much more productive. It is thus not realistic to insist that all SPAs are undertaken on site. A flexible approach to SPAs reflects a better attitude to work life balance and is being agreed by many employers.

It is, however, important that you abide by employer guidance on confidential or patient-identifiable data. You will also need to be able to account for your SPA time at your next job plan review. Many Royal Colleges and specialty associations give advice on necessary requirements in this area.

Can my employer demand that I work some of my PAs outside the normal working week?
Your employer cannot require you to undertake scheduled work outside 8.00am to 8.00pm, Monday to Friday and 9.00am to 1.00pm on Saturdays, or on public holidays. Any programmed activity undertaken outside of the hours 8am to 8pm, Monday to Friday, is regarded as taking place in ‘premium time’. This means that a programmed activity at these times lasts only 3 hours instead of 4 hours. The contract states that no more than 3 PAs per week should be out of hours other than in exceptional circumstances. Remember that significant out of hours work will “use up” your DCC PA allocation more quickly.

The definition of premium time does not mean that, Monday to Friday, has been designated as the ‘normal working week’. It simply sets a higher rate of pay for work outside of these hours. The normal working week for a full time consultant is 10 PAs.

However, this is a matter for you and your employer to negotiate prior to taking up post. We recognise that there are acute specialties where some “out of hours” work by consultants is necessary, so prospective appointees do need to be realistic about this possibility. If you accept a post with scheduled work out of hours included in the agreed job plan (for example, on-site working overnight for three nights each month), then you need to be aware that you then cannot unilaterally withdraw from undertaking this work since this would breach the contract.

You can, as an alternative, agree to be paid an enhanced rate of pay equivalent to time and a third for such premium time work rather than reducing the length of the PA (see paragraphs 4.82 and 14.5.2 of the terms and conditions). Where scheduled provision is made for out of hours work, recompense in the form of premia, may be paid only by mutual agreement between you and your employer.

Non-emergency work for these purposes includes the regular, programmed work of consultants whose specialty by its nature involves dealing routinely with emergency cases, e.g. A&E consultants.
How are On-call duties calculated?

Your on-call commitment should be clearly set out in the job plan.

The contract has the following provisions for on call and working outside the normal working week in the contract:

**Resident on call:** Resident on call by consultants is an extremely wasteful way of providing cover and the contract clearly states that consultants will not, save in exceptional circumstances, undertake resident on call. However we recognise that in some rare circumstances this may be necessary. In each Health Board area, LNCS (Local Negotiating Committees – BMA supported committees in the area who negotiate with Health Boards on matters not wholly covered in national contracts) will have reached a local agreement with the employer on the arrangements that will apply to consultant resident on call, including definitions, remuneration, accommodation and catering.

**Working out of hours:** In distinction from resident on-call, we recognise that in some specialties (e.g. anaesthetics, surgery, obstetrics), scheduled out of hours PA s, where a consultant is mostly “hands on” working, may be necessary, and some rotas are now based on this working pattern. The terms and conditions of the contract permit employers to seek to job plan these duties by out of hours scheduled DCC PAs, where each PA has a duration of 3 hours rather than 4 (or, by mutual agreement, a premium rate of pay of time and a third can be applied). The job plan must be structured to ensure adequate rest is provided before and after the out of hours period. Remember that the number of PAs undertaken during the out of hours period should not exceed 3 per week other than in exceptional circumstances.

**On call rota:** Participating in an on call rota is recognised through the payment of an availability supplement representing a percentage of basic salary which reflects the frequency and level of availability. This supplement is separate from the actual work undertaken when you are on call, which is recognised and paid through the PA allocation.

Under the 2004 contract on-call duties are recognised in three ways:

(i) **Availability supplement**

You will receive a supplement to recognise the inconvenience of being on-call. The supplement will depend on the rota frequency and the category of your on-call as follows:

- **Level 1** will apply to a consultant who needs to attend a place of work immediately when called, or to undertake analogous interventions (e.g. telemedicine or complex telephone consultations).

- **Level 2** will apply to a consultant who can attend a place of work later or respond by non-complex telephone consultations later.
### Frequency of Commitment

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<th>Frequency of Commitment</th>
<th>Value of supplement as a percentage of full time basic salary</th>
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<tr>
<td></td>
<td>Level 1</td>
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<td>High Frequency:</td>
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<td>1 in 1 to 1 in 4</td>
<td>8.0%</td>
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<tr>
<td>Medium Frequency:</td>
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<tr>
<td>1 in 5 to 1 in 8</td>
<td>5.0%</td>
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<tr>
<td>Low Frequency:</td>
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<tr>
<td>1 in 9 or less frequent</td>
<td>3.0%</td>
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In calculating the frequency of the rota, it is important to take into account prospective cover rather than taking the frequency to be equivalent to the number of people taking part in the rota. Prospective cover will result in a change in the frequency of your rota commitment and therefore of the frequency band. For example a 1 in 10 or 1 in 9 rota with prospective cover will be pushed into the medium frequency band, becoming at least a 1 in 8 rota, and a 1 in 5 rota will be in the high frequency band, becoming a 1 in 4 rota. This is based on the formula: rota after including prospective cover is 1 in (number on rota x 42/52).

This is an area where a collective agreement for all consultants in a department might apply or where the local negotiating committee may have reached an agreement with the employer.

**(ii) PA allocation for predictable work**:

Taking place at a regular and predictable time, often as a consequence of a period of on-call work. An obvious example is post-take ward rounds. This should be programmed into the week as scheduled direct clinical care PAs. This predictable work should be relatively easy to assess as by its nature, it will happen fairly regularly. **There is no limit to the amount of this type of work you can put in your job plan.** However, no more than 3 PAs per week should be undertaken during the out of hours period other than in exceptional circumstances (para 4.8.5 of the 2004 Scottish consultant contract).

**(iii) PA allocation for unpredictable emergency work**:

Work done on-call which is directly associated with on-call duties, e.g. recall to the hospital for an emergency operation, public health management of a case of meningococcal disease. This work will be much harder to assess and you will simply need to keep a record of what you do over an on-call period and then average that out as a weekly amount. For example, if you have a 1 in 4 rota, do a full week of on-call at a time and during that week, there are 4 PAs worth of unpredictable emergency work, then that would be 1 PA allocated in your weekly job plan. **There is a limit of 2 PAs per week for unpredictable work. If you are working more than 2, then you can still get recognition for this work by pay or time off.** If this work is sufficiently regular, it should be programmed as predictable work.

If you cover your colleagues’ on-call duties when they are away on study leave, annual leave and public holidays, make sure you bear this prospective cover in mind when assessing your workload for both types of emergency work. With 6 weeks’ annual leave, on average 2 weeks’ study leave and public holidays, you are likely to be covering 10 weeks of each colleague’s duties. This may mean your average out of hours workload is greater than that measured when nobody is on leave. This is another issue on which the local negotiating committee may have reached an agreement with the employer.

Remember there is **no obligation** for a consultant to be resident on-call at night. Where you agree to be resident at night, the rate payable is for local agreement between the employer and the local negotiating committee. BMA Scotland believes that this should be substantially higher than standard or premium time rates.
My job plan has more than 2.5 SPAs and I have additional responsibilities. The total of PAs is therefore more than 10 – how will this be paid?

For full-time consultants, the contract says that your job plan will include 7.5 PAs of direct clinical care and 2.5 PAs of supporting professional activities (SPAs) per week, unless otherwise agreed. However, if your job requires more supporting professional activities or includes additional responsibilities or other external duties, this must be reflected in your job plan by reducing your direct clinical care, paying extra PAs (if you agree) or both.

**REMEMBER!**
All consultants should keep detailed diaries of their SPA activities, including evidence of output, eg audit results, CPD activities, feedback from teaching and training etc. You have an obligation to fill the time agreed with appropriate activity within the definitions of SPA activity.

What are Additional Responsibilities and Other External Duties?

**Additional responsibilities:** are duties of a professional nature carried out for or on behalf of the employer or the Scottish Government which are beyond the range of the supporting professional activities normally to be expected of a consultant.

Examples of Additional Responsibilities are: Caldicott guardians, clinical audit leads, clinical governance leads, undergraduate and postgraduate deans, clinical tutors, regional education advisers, formal medical management responsibilities, other additional responsibilities agreed between a consultant and his/her employer which cannot reasonably be absorbed within the time available for supporting professional activities and travelling time associated with these duties. This is not an exhaustive list.

In addition to direct clinical care and supporting professional activities, you may have extra responsibilities to undertake, such as being a clinical governance lead or working from time to time for your Royal College. Where the work is regular, it should be set out and scheduled. Where it is irregular you can still agree an allocation of PAs for this activity or, by agreement, you can substitute it for other activities (although it should not be assumed that this work will automatically replace time for SPAs). Being a clinical governance or audit lead is an additional responsibility requiring dedicated PAs, but you should remember that this work is in addition to the amount of time needed to be spent doing the clinical governance and audit work required of all consultants.

An alternative way of recognising management and other additional duties is through additional remuneration, such as a responsibility payment, as provided for under paragraph 4.2.6 of the TCS. This type of payment is pensionable, whereas extra PAs above the full time commitment are not.

It is Scottish Government policy to encourage NHS employers, as part of a corporate commitment to NHS Scotland, to release consultants wherever possible for such work that is not directly for the NHS employer but is relevant to and in the interest of the wider NHS and which may involve consultants being away from their employment base (see PMT letter 7.1 from 2004 which was reinforced by a letter from the Chief Medical Officers to employers in January 2012). Where agreement cannot be reached, you may need to go through the mediation or appeals process to achieve what you believe is necessary and best for your patients and those in the wider NHS.
**Other external duties:** These are duties not included in the definitions of DCC, SPA or Additional Responsibilities and not included within the definition of fee paying work or private practice, but undertaken as part of the job plan by agreement between the consultant and the employer.

They comprise work not directly for the NHS employer, but relevant to and in the interests of the NHS. Examples include trade union and professional association duties, acting as an external member of an advisory appointments committee, undertaking assessments for NHS Education for Scotland, NHS Healthcare Improvement for Scotland or equivalent bodies, work for the Royal Colleges, work for the General Medical Council or other national bodies concerned with professional regulation, NHS disciplinary procedures, NHS appeals procedures and travelling time associated with these duties. This list of activities is not exhaustive.

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**I plan to undertake some private work. How do I account for this in my job plan?**

The job plan should include details of any private practice you do. You should identify any regular private practice commitments that you have. The information you need to provide includes the planned location, timing and the broad type of work you are doing. You do not need to go into specific detail of the work you are undertaking and the employer has no right to ask for financial details relating to your private practice. You should refer to the Code of Conduct for Private Practice: Recommended Standards for NHS Consultants (see appendix 8 of the terms and conditions of service).

*Remember that the private practice you undertake in a self-employed capacity does not count towards the 48 hour limit for the purposes of the Working Time Directive.*

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**As I have private practice in my job plan, I have been asked to work an extra PA by my employer? Do I have to do this?**

There is no obligation to work beyond the basic working week of 10 PAs for a full time consultant or your contracted number of PAs if you are a part time consultant. However, if you undertake private work and wish to remain eligible for pay progression, you may be requested by your employer to work up to one extra, paid PA.

If you agree to work extra PAs, these should be paid at 10% of basic salary plus any discretionary points that you hold (this is capped at 8 discretionary points if you hold a distinction award). The agreement should be written into your job plan and you should have a separate contract with the employer in respect of this extra work. This should set out what work is to be done in the extra PAs; this will mean that if you or your employer agree to terminate the separate contract, it will be clear what work is to be dropped.

Extra PAs should be separately contracted for, with a clear indication of which duties are included.
**Extra programmed activities and private practice**

There is no requirement under the 2004 contract for you to work more than 10 PAs if you want to do private practice as a full-timer. However, one of the criteria for remaining eligible for pay progression is that you accept up to one extra paid programmed activity, *if offered*, before doing private practice. But you should remember that:

- If you are already doing 11 PAs as a full timer, you do not have to do any more;
- 11 PAs could easily be less than 44 hours if you work in premium time;
- You can decline any offer and do your private practice, but this will risk your pay progression;
- Extra PAs must be offered equitably to all consultants in your specialty.

Part-time consultants have to accept up to one EPA, *if offered*, to remain eligible for pay progression.

You and your colleagues might like to agree amongst yourselves an arrangement for accepting any extra PAs the employer offers. For example, if one extra PA is offered amongst four consultants, you could take it in turn to undertake the extra paid work. The employer would have to agree to this approach. Remember that if you are offered an extra PA and decide to take it up, you have the right to notice of 6 months if you have to re-arrange other external commitments (3 months if you do not).

In this area, there is some scope for reaching a collective agreement with the employer, via the local negotiating committee.

**Does the job plan include objectives?**

The job plan will include objectives and you will need to make every reasonable effort to meet these objectives in order to achieve pay progression. The terms and conditions of service are clear that the objectives need to be appropriate and identified and, most importantly, agreed between consultant and employer. They might flow from discussions and agreement during your annual appraisal.

Objectives could relate to activity and efficiency, clinical outcomes, clinical standards, local service objectives, or management of resources. They can include numerical outcomes and outputs and will vary according to specialty or field of clinical practice. It is not reasonable to set objectives where there are significant influencing factors outside the control of the consultant. Whatever objectives are set, the most important thing is that they are agreed with the consultant. You have no obligation to sign up to any objectives that you think are unreasonable. The terms and conditions of service are clear that objectives should be based on reasonable expectation and recognise that circumstances outside of the consultant’s control may impact upon delivery or that an objective can become unrealistic. If you are unable to agree objectives, you will have recourse to the mediation and appeals processes.

It is important that you think about your own objectives, and those of your department and are in a position to suggest and justify them when it comes to the job planning meeting. This is a significant opportunity for consultants to set the agenda and put forward the needs of their patients.

SCC would strongly advise consultants not to agree to objectives which are potentially dependent on other members of the team (medical and non-medical), or resources which may be insufficient. Objectives, as per the general principle of job planning, should remain individual to the consultant.
How do I ensure I have the right supporting resources?

The job plan should identify and agree the resources that you need to do your job properly. This gives you the opportunity to make sure that your employer is formally aware of what supporting resources you require, for example secretarial support, medical staff support, office space, equipment and information technology.

A lack of appropriate supporting resources could have an impact upon you meeting your objectives. It is therefore even more important for you to identify the required resources when you agree your job plan. Remember, pay progression cannot be withheld if you have not met objectives for reasons beyond your control.

I’m still not sure about the contract and job plan I am being offered: what should I do?

The key thing in this situation is to get advice.

1. If you are a BMA member you can phone the BMA for employment advice and information on 0300 123 1233 or email: support@bma.org.uk. The service is available Mondays to Fridays between and except on UK-wide bank holidays.

2. As well as this guide, there is lots of valuable information on the BMA website: http://bma.org.uk/practical-support-at-work/contracts/consultant-contracts

3. You can get in touch with the LNC covering the Health Board where the post is located for their advice (phone 0300 123 1233 or email the BMA Scotland office at BMAScotland@bma.org.uk for contact details).

In summary

• Get informed: use all the guidance about the consultant contract in Scotland.

• Ask for a job plan before you attend the interview: if it has fewer than 2.5 SPAs, ask why, and ask for 2.5 SPAs in most circumstances.

• Get detailed advice from the BMA if you are a member.

If you do accept a <2.5 SPA post, monitor your hours and ask for a job plan review if your duties don’t match your job plan.