Guidance note on transferring between NHS and university employment during training

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This note refers to transferring between NHS and university employment in universities either as part of academic training or outwith an approved training programme. When a trainee doctor undertakes Out of Programme Research (OOPR), or undertakes research between core and higher training while not in possession of a NTN, they typically transfer from NHS to University employment for the duration of the research. Trainees will also transfer to university employment when they obtain a clinical lecturer post as part of the integrated academic training pathway or other academic training programmes. This transfer involves potential changes in pay, pension, maternity leave and other terms and conditions of service and it is important to be aware of the issues. There are subtle differences depending on an individual’s specific situation and the employing university, and you should raise any queries with your prospective university employer.

Trainees are advised to refer to the BMA’s general advice on accepting jobs which can be found on the BMA website:

https://bma.org.uk/practical-support-at-work/contracts/juniors-contracts/accepting-jobs/general-advice

If you need further advice then contact the BMA on 0300 123 123 3 or email support@bma.org.uk

Key messages:

• If you are considering OOPR, discuss your ideas with your educational supervisor and consider whether you wish to seek prospective GMC approval for your OOPR. Prospective approval is required if either research time or clinical practice during OOPR is to count towards your CCT but is not otherwise mandatory.
• In almost all cases you will want to have an honorary contract with the NHS during your OOPR. This will ensure that you can continue to work in the NHS, and that when you return to NHS employment, your break in NHS service will be disregarded. You will be treated as if you had been in continuous NHS employment, though the time spent as a university employee will not itself count as NHS service. Please note that a Research Passport is not a suitable alternative to an honorary NHS contract.
• Discuss your request for OOPR with your clinical supervisor and identify what NHS clinical duties you may still wish, and be able, to carry out whilst working for the university employer.
• Ensure that you are clear prior to taking up the post which organisation is offering you your contract and whether you will receive an honorary NHS contract or whether you will need to make your own arrangements.
• If there are any changes to your plans inform your supervisors and the postgraduate dean as soon as possible.
• You should be clear about the rate of pay you will receive, any incremental points and whether you need to include it in your grant application. There is a pay-scale for clinical academic trainees employed by universities agreed between the BMA and the university employers.
• If you will continue to do NHS work as part of your job, be absolutely clear about the proportion of academic time you will have, and the impact of any on-call rotas.
**Educational approval**

If you want to count some of your time Out of Programme towards your CCT then it **must** be prospectively approved by the GMC. However, if you do not wish to count the time towards your CCT then GMC approval is not required for OOPR, just approval from the postgraduate dean. The usual process for obtaining OOPR is as follows:

- Discuss with your educational supervisor that you are considering going out of programme (OOP) to undertake research.
- Decide on what area you want to study and speak to senior academics in that field in the university where you want to study to work out a formal research proposal and how it will be funded. This may involve making an application to an external body, or the university department may already have funding in place. Application for external funding can take several months.
- Once this is done you need to get formal approval from your educational supervisor, training programme director and then your postgraduate dean or equivalents in the devolved nations. This can take several months. Each deanery has had particular paperwork for this approval process and in England this may change further with the establishment of Local Education and Training Boards (LETBs) under which postgraduate deans now come.
- You then need to forward the postgraduate dean’s approval to the relevant College/Specialty Advisory Committee for their approval.
- If you do not wish to count the time in OOPR towards your CCT then you have completed the educational approval process. If you do want it to count towards your CCT then you need to send the College/SAC approval back to the Dean for them to forward all the paperwork on to the GMC for approval. Be warned this process can take a number of months to complete, so the earlier you send off the paperwork the better! Section 6 of the Gold Guide contains further information about this process:


**Pay**

Basic pay parity for doctors in training employed in the higher education sector is agreed in principle between the BMA, university employers and the NHS as part of the agreement on clinical academic pay. You should stay on a pay scale equivalent to the SpR/StR pay scale and should move across to the same pay point you were on in the NHS. The relevant university pay scales can be found here on the BMA website:

http://bma.org.uk/practical-support-at-work/pay-fees-allowances

Although you should stay on an NHS equivalent pay scale, your incremental date may change so you should check before you agree to the contract that you will not be disadvantaged by this. Any disadvantage suffered may be redressed on your return to the NHS, but if you believe that won’t be the case you could request to be put on the next point on the pay-scale.
If you are employed on a grant or fellowship, however, these require that the appropriate costs for your salary are allowed for in the grant or fellowship. You should check whether this is the case and for how much before accepting the post or when preparing the grant or fellowship funding application. It may be helpful to refer to the pay-scale noted above. If you can, don’t forget to build in the incremental points on the scale.

The BMA offers a contract checking service that we recommend you take advantage of when you receive your contract. Contact the BMA on 0300 123 123 3 or email support@bma.org.uk to use this service.

Some doctors in training decide to take a complete break from clinical training programmes and move to the university sector without taking OOPR. In this situation the question of which pay scale applies is more complex. Whilst individual universities may offer, and individual doctors are able to negotiate, pay rates equivalent to those in the NHS, you may be offered a lower rate of pay than on the clinical scales. This is more likely to be the case if you do no clinical work in the NHS. Nonetheless, non-clinical pay scales are longer and so you may be able to move without detriment. You should always get a clear statement of what your pay will be and the incremental scale and date before accepting a post.

**Employment rights – leave and expenses entitlements**

As a university employee you will be employed under the terms and conditions of that university. Unlike the NHS, each university has its own terms and conditions and national terms and conditions of service do not exist. Whilst terms and conditions of service in universities can be comparable to those in the NHS, there may be differences. Unlike when you move jobs within the NHS, a university will often count you as a new employee for the purposes of entitlement to employment-related benefits such as sick leave and pay and maternity/paternity leave and pay.

The entries on the BMA’s guide to university employers will indicate whether a university recognises previous NHS service:


The BMA acknowledges that differences in the terms and conditions of service between universities and NHS may be to the financial detriment of a number of academic trainees and has sought to obtain agreement with university employers on continuation of benefits between the employers. Unfortunately, the representatives of the universities have been unwilling to make such an agreement because of the precedent they believe it might set.

Therefore the terms and conditions of service at some universities may mean that, on starting as a university employee, you may have to rebuild your entitlement to benefits such as maternity, paternity and sick leave and pay, or that your entitlement to such benefits may be different from that in the NHS. Whether or not this is the case varies from university to university and you should ask about the specific employment policies of the institution where you are planning to work.
These policies are usually easily available on the internet or from the HR Department of the university.

Annual leave is often determined locally in the higher education sector and can even be down to individual departments. At minimum there should be the same entitlement as that offered in the NHS for an equivalent post.

There is no national policy for the provision of removal expenses for clinical academics by university employers. However, many universities do provide some reimbursement for removal expenses. You are advised to check what is available before agreeing to take up an appointment. As a principle, the BMA believes that the arrangements should be no less favourable for academic trainees than they are for NHS junior doctors.

Some questions you should consider asking your prospective employer on these and other issues are provided in the Medical Academics Survival Guide:

http://bma.org.uk/practical-support-at-work/contracts/academics-contracts/survival-guide

**Pension Choices**

If you are intending only to be working in a university for a short period of time you should not need to consider a change to your pension scheme. You should, however, be aware of the statement issued by the BMA Pensions Department on this issue, the key points of which are:

1) If you are employed by a University, you may be able to maintain NHS pension scheme membership under a Direction arrangement. The University can pay pension contributions under the direction arrangements to the NHS pension scheme.

2) If the period is part of your training programme and you still have an NHS contract of employment and are paid by the NHS then you can remain a member of the NHS pension scheme.

The BMA guidance note “Pension advice for doctors moving between NHS and university appointments” (http://bma.org.uk/practical-support-at-work/pensions/faq-from-nhs-to-university-employment) provides full details on the two schemes and on direction arrangements. If you have any difficulties agreeing a direction arrangement contact the BMA Pensions Department directly on pensions@bma.org.uk

It came to the BMA’s attention in 2012 that guidance on some Postgraduate Deanery websites suggested that doctors may have to pay both their own and their employer’s pension contributions in all circumstances whilst undertaking research out of programme. As noted above, this is not the case because of the ‘direction’ arrangements to which those undertaking OOPR are entitled. We understand that the guidance has since been amended.
If you are moving to a university for an extended period or for your entire future career, you will need to decide whether you wish to remain in the NHS pension scheme or transfer to the Universities Superannuation Scheme (USS). Although it is possible to build up service in both schemes it makes more sense to try and build up the service in one scheme. The main determining factor in your decision will be whether you intend to have a long-term career in the university sector. Nonetheless, outside Scotland you can remain in the NHS Pension Scheme for your whole career. In Scotland you must move to the USS scheme after 8 years in the university sector.

The BMA pensions department is very helpful at providing information and support in this area – see [http://www.bma.org.uk/pensions](http://www.bma.org.uk/pensions) for more information.

We recommended that you seek independent financial advice to help you if you are in any way uncertain about these choices.

**Appraisal**

If you are employed as an academic trainee in a specialty training programme (such as an Academic Clinical Fellow in England or Clinical Lecturer in England and Scotland) then you should have a RITA/ARCP with an academic component. The form that the academic component should take has not been agreed formally, but there is guidance from the Academy of Medical Sciences and the Conference of Postgraduate Medical Education Deans to which employers and supervisors may refer.

If you are on OOPR you should have a RITA/ARCP equivalent. This could also include an academic component. However, most medical schools require an annual review/report for MD/PhD students and this may well suffice.

Section 7 of the Gold Guide states: “The trainee must submit an OOPR return to the panel, along with a report from their research supervisor.” That is, you need to continue to submit an annual Form R for StRs at an ARCP or a Form F for SpRs at a RITA while you are out of programme, albeit a very simplified one that just confirms that you are out of programme, checks that you are progressing satisfactorily with your research and asks you to reconfirm your planned return date.

If you are not taking time out of programme and intend to return to that programme later (e.g. you are in your research post after completing Core Training but before applying for Specialty Training), the deanery (or LETB in England) will not appraise your time in research. Appraisal is still important and most universities (and funding bodies) require an annual review/report for MD/PhD students and may also include you in their annual appraisal process for research staff.

**Working for the NHS**

Trainees employed by a university and undertaking research may wish to continue to work for the NHS or it may be part of their academic training programme. This could be to inform or assist with the research, for the clinical experience and/or in order to maintain their previous level of income.
In order to be able to work in the NHS you must have an honorary NHS contract. If an honorary NHS contract does not come with the contract package provided by the university you may need to arrange it yourself. If you gain a place on a rota the NHS should normally pay you (either directly or via your university employer) the appropriate banding supplement for this to be added to your monthly pay. There should also be opportunities to carry out locum shifts as well. You should be clear with your employers what proportion of your time will be devoted to clinical work. A number of academic trainees have found that clinical work especially out of hours rotas can impinge on their academic time.

Under paragraph 81 of the NHS terms and Conditions of Service, you are still entitled to reimbursement of travel and telephone expenses when working under an honorary NHS contract:


We are aware that some NHS organisations have offered trainees employed by universities Research Passports rather than an honorary contract. These are not appropriate as they are linked to a specific research project and do not confer the wider benefits of an honorary contract.

**Medical Negligence Cover**

NHS indemnity applies to all those working in the NHS under honorary or paid contracts alike. Nonetheless, you should contact your medical defence organisation to ensure that you are appropriately covered for any clinical work you undertake whilst out of programme.

**European Working Time Directive**

University employers have refused to implement the terms of the European Working Time Directive in respect of clinical academics as they regard them as being in control of their own hours. This position is very much informed by the employers’ experience of managing consultant clinical academic staff. The BMA has raised concerns with the university employers about whether this is an appropriate position to take for trainees. Hence your university employer is very unlikely to be monitoring your hours.

We have argued that, for those currently employed by universities, NHS managers may become increasingly keen to have some confirmation that trainee doctors employed by universities are not too tired to undertake their NHS clinical duties.

For those clinical academics employed by the NHS, they will be expected to comply with the working time regulations as are all other doctors in training. This could lead to a more formal record of hours worked in the academic part of the job than is currently the case.

Regardless of whether your employer regards you as being covered by the European Working Time
Directive, you should bear in mind the GMC’s ‘duties of a doctor’ when taking on extra work and ensure that you are rested enough to look after patients safely.

Return to the NHS

It is important to ensure your postgraduate deanery/LETB (usually the training programme director, depending on the specific deanery arrangements) is kept up-to-date on your expected date of return to programme. If you wish to amend your return date inform your postgraduate dean as soon as possible. It is important to be aware that, although training programmes will generally be as flexible and accommodating as possible, an individual on OOPR will need to negotiate the appropriate timing of re-entry to the clinical programme and does not have a right to return whenever they choose. Again, the BMA can provide advice if an individual member is experiencing difficulties in negotiating their return.

As long as you have held an honorary contract with an NHS employer during OOPR, you will simply move back to the NHS on the pay scale point equivalent to the one that you were paid at when employed by the university with an incremental rise as appropriate.

If you had an honorary contract with the NHS whilst employed in the academic sector your time at the university, whilst not counted as NHS service, is not regarded as a break in service. Hence, upon returning to NHS employment, you will regain the maternity and paternity leave and pay, sick pay and redundancy rights you had prior to leaving.\(^1\)

If you did not have an honorary NHS contract whilst employed in the academic sector then it is still worth speaking to the HR department of your new NHS employer to ask them to consider the skills and experience you have gained in your research post under paragraph 125 of the NHS Terms and Conditions of Service, and treat you as if you had had an honorary NHS contract.

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1 Paragraph 61 of Temporary Appendix VI – Maternity Leave and Pay in the TCS says “61. The following breaks in service will also be disregarded (though not count as service):- (i) employment under the terms of an honorary contract;"