Junior doctors’ contract FAQs, May 2016

We will be updating these FAQs on a regular basis so please keep reviewing them for further detail on the proposed new contract.

We are currently expecting the final terms and conditions to be published before the end of May.

General

Will I get to have my say on this contract?
All junior doctor BMA members in England will be able to have their say on the new contract offer, as will final and penultimate year medical students in England who are members of the BMA. Once the final terms and conditions are published and members have had time to consider these, a referendum of members will be held between 17 June and 1 July.

The final terms and conditions of service are currently being finalised and we expect these to be published before the end of May. These will be based on the agreement reached in negotiations between the BMA, NHS Employers and the Department of Health as per the joint statement released by Acas on 18 May.

This agreement is supported by the BMA’s junior doctor executive subcommittee. The junior doctors committee will meet at the beginning of June (once the final terms and conditions are available) and details of the member referendum will be published once it has done so.

What changes have been made to address concerns raised about equalities?
The agreement introduces several new measures to improve equality of opportunity, including:

– An accelerated training support programme to help those who take time out for reasons such as maternity or caring responsibilities to catch up with colleagues. This support will include mentorships, tailored teaching, and extra funding for study leave.
– Pay protection for those who choose to re-train in a different specialty as a result of a disability or caring responsibilities.
– Safe working guardians to oversee employers’ performance on diversity and inclusion. The BMA, Health Education England (HEE), and NHS Employers will also put in place equalities monitoring mechanisms for all protected groups.
– A review, led by HEE, of processes which allow transfer between regions, joint applications between couples who are married or in a civil partnership, and training placements for those with caring responsibilities within defined travel times.

As part of the agreement, the BMA and NHS Employers will also draft new guidance about doctors with caring responsibilities, flexible working arrangements, and balancing work and personal leave. These measures will help to address a number of challenges that junior doctors – particularly those with caring responsibilities – often face during their training. The Department of Health has confirmed that a new equalities impact assessment of the proposed new contract will be published with the final terms and conditions.
**What new safeguards have you negotiated?**
Throughout the negotiations process, the BMA has been clear that any new contract must prioritise the safety of doctors and their patients. We believe this contract has made significant improvements on what had previously been offered, including clear contractual limits on working hours, the taking of safe breaks during shifts, and protected rest periods.

In particular, we have strengthened the requirements and powers surrounding the ‘guardian of safe working’ role. This will help significantly to ensure that junior doctors are working safe, sensibly-designed rotas, which will benefit both patients and doctors. The guardian of safe working must be a senior appointment with no other role in the management structure at the trust, and must be appointed by a panel that includes junior doctor representatives. The guardian will be advised by an elected junior doctors forum who will scrutinise the use of guardian fine money in the trust. Any disputes relating to the guardian's decision can be escalated to a final stage panel which must include junior doctor representatives from the BMA. Where there are concerns regarding the performance of the guardian, the BMA can raise those concerns with the Trust Medical Director.

In addition, the contract now explicitly enshrines the protection of junior doctors who raise concerns in line with whistleblowing legislation. It is vital that doctors feel empowered to speak out against unsafe working practices and this contractual safeguard is critical both to patients and the health service.

**Will the BMA now abandon its judicial review scheduled for the beginning of June?**
No, the BMA is not abandoning the judicial review launched in February. The proceedings have been suspended with the agreement of the court while the final terms and conditions are considered and the referendum of members is held.

**Pay**

**How is pay calculated?**
Under the new contract, you will be paid for all work done with an average increase in basic pay of between 10 and 11% (depending on the final modelling), pay for additional hours worked, enhanced rates for unsocial hours including a weekend allowance for those who work more than six weekends per year, on-call availability allowance and pay for hours worked while on-call, and (where appropriate) flexible pay premia and London weighting.

**What will my basic salary be?**
You will be paid a basic salary at a nodal pay point linked to your grade/level of responsibility (rather than time served). There are four points on the nodal pay scale (FY1, FY2, ST1-2/CT1-2, CT3/ST3-8). The values of these nodal pay points will be confirmed as soon as possible.

**Why is there no longer a fifth point on the nodal pay scale?**
In order to ensure that pay is distributed more fairly, the uplift from the fifth nodal pay point has been redistributed across all junior doctors. This means that funds can be redistributed into allowances for nights, weekends and on-call, as well as enabling the introduction of a senior decision makers’ allowance - that will be available from October 2019 – to compensate those who take on these responsibilities.

**What will I be paid for additional rostered hours?**
Basic pay will be for a 40-hour week, including paid breaks. Additional rostered hours, up to maximum of 8 hours, can be contracted additionally and reflected in the work schedule. Such additional hours will be paid at the basic hourly rate (with appropriate enhancements payable for nights and weekends above a certain frequency). Additional rostered hours are not pensionable.

**What will I be paid for evenings and nights?**
You will be paid an enhancement of 37% of the hourly basic pay rate on any hours worked between 9pm and 7am, on any day of the week. In addition to this, if you work a shift which begins no earlier than 8pm and no later than midnight, and is at least 8 hours in duration, you will be paid an enhancement of 37% of the hourly basic pay rate on all hours worked up to 10am on any day of the week.
The principle is that doctors working what is, self-evidently, a night shift, (ie a full shift which starts late and goes on through the night), will be paid at the enhanced rate (+37%) for the whole shift. So, if your shift is at least 8 hours long and it starts between 8pm and midnight and finishes by 10am, you get the enhanced rate for the whole shift.

If you work a late shift that overlaps by several hours into the night shift period, you will be paid the enhanced rate for those hours that run late rather than the whole shift: any hours worked between 9pm and 7am get the enhanced rate. So, if you work from 12 noon to midnight, you would get basic pay from noon until 9pm but the hours worked between 9pm - midnight would be at the enhanced rate.

What will I be paid for weekends?
Where your work schedule involves rostered work at the weekend (defined as one or more shifts/duty periods beginning on a Saturday or a Sunday), at a minimum frequency of 1 in 8 across the length of the rota cycle, you will be paid a weekend allowance. This means that the vast majority of junior doctors will receive a weekend allowance. This will be set as a percentage of your basic salary and will increase as the number of weekends worked increases, starting at 3% and rising to 10% as per the table below:

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>1 weekend in 2</td>
<td>10%</td>
</tr>
<tr>
<td>&lt;1 weekend in 2 – 1 weekend in 4</td>
<td>7.5%</td>
</tr>
<tr>
<td>&lt;1 weekend in 4 – 1 weekend in 5</td>
<td>6%</td>
</tr>
<tr>
<td>&lt;1 weekend in 5 – 1 weekend in 4</td>
<td>4%</td>
</tr>
<tr>
<td>&lt;1 weekend in 7 – 1 weekend in 4</td>
<td>3%</td>
</tr>
<tr>
<td>&lt;1 weekend in 8</td>
<td>No weekend allowance</td>
</tr>
</tbody>
</table>

What will I be paid for on-call?
For work done on-call, there are three separate elements of pay: an on-call availability allowance, pay for work undertaken while on-call and any applicable hours enhancements (as detailed above).

If you are on an on-call rota – that is, required by your employer to be available to return to work or to give advice by telephone – you will be paid an on-call availability allowance of 8% of basic pay, regardless of frequency. For doctors training LTFT, the value of the availability allowance will be paid pro-rata.

How will I be paid for work undertaken while on call?
You will be paid for your average hours of work undertaken while on call. Such work includes any actual clinical or non-clinical work undertaken either on or off site (such as writing public health reports at home), including telephone calls and travel time arising from any such calls.

The hours paid will be calculated prospectively across the rota cycle and the estimated average hours at each rate of pay will be set out in your work schedule.

Provisions to pay you for additional hours worked over and above the hours set out in your work schedule are extended to apply to additional hours of work done above the prospective average estimate on call. This means you will be paid for all work done and not just the average hours in the work schedule.

Does the rate for non-resident on-call (NROC) reflect the best deal that could have been achieved?
The 8% allowance agreed is within the margin of what the BMA deemed to be acceptable during negotiations. Under the March contract proposal, junior doctors could have been paid an availability allowance as low as 5%. Under the new arrangements, everyone is guaranteed 8%. You will also be paid for all hours of work done while on-call, including work off site and travel time between home and work.
Flexible pay premia (FPP) (if applicable)
FPP may be added to your basic pay in some circumstances:
– You must have a national training number (NTN) or dean’s reference number (DRN) as appropriate to receive FPP
– You can receive more than one FPP where the eligibility criteria is met
– FPP will be fixed at the rate payable when first awarded and will continue to be applied to pay at that rate throughout the rest of training
– FPP will be paid to less than full time (LTFT) trainees pro-rata to their agreed proportion of full time (FT) work
– FPP are not pensionable

FPP are calculated at £20,000 for the duration of your training programme if you are training in psychiatry, emergency medicine or oral and maxillofacial surgery. This amount is divided by the length of the training programme, meaning that if you are on a 5-year programme, you will receive £4,000 per year. In addition, those who extend training for any reason will also continue to receive the average yearly premia for those additional years.

As per the March contract proposal, the premia for general practice and academia are still set at £8,200 per annum and £4,000 per annum respectively.

The Acas statement of 18 May does not contain any reference to academics. Are there any changes in the conditions for academics?
The BMA has continued to argue that a new contract must support academic activity. As part of the latest negotiations, we ensured that the supportive provisions reflected in the March contract offer were maintained, including the existing pay premium of £4,000 per annum.

Will London weighting still be paid?
London weighting hasn’t changed in the new contract. It will continue to be offered at the same rate as before, subject to change from time to time as set out in NHS pay circulars.

It remains a fixed sum that is not taken into account when calculating any other allowances or enhancements. As currently, it will be paid pro rata to doctors working less than full time.

Across the NHS, London weighting is pensionable so will continue to be so for junior doctors.

Will I still be able to undertake locum work?
Yes, you will still be able to undertake paid locum work in addition to the hours set out in your work schedule. However, initially, you will have to offer these additional hours exclusively to the service of the NHS via an NHS staff bank – but only at the grade you are currently working at. Under the proposed March offer, you would have had to give your primary employer first refusal on these hours. You will be paid a 22% premium for any such locum work, above the prevailing hourly rate.

You are entitled to carry out additional activity over and above the standard commitment set out in your work schedule – up to a maximum average of 48 hours per week for up to 56 hours per week if you have opted out of the Working Time Regulations.

Will my pay be protected if I switch specialty?
Pay protection has been retained for those switching to re-train in a shortage specialty and the qualifying period to receive pay protection has been reduced from 13 months in the proposed March contract to just 6 – so after 6 months at a certain pay point, your pay is guaranteed to be protected if you re-train in a hard to fill specialty within 12 months of exiting your previous programme.

Your basic pay is also protected if you switch to any specialty for reasons related to a disability or caring responsibilities. There is now no qualifying period for this, it applies immediately.
Transition

How will my pay be protected when I transition to the new contract?

The new contractual arrangements include an initial period of pay protection for some existing doctors. This is a complex area, which will have a dedicated schedule in the final terms and conditions and we would encourage you to read this in detail when they are published.

The principle is that junior doctors employed on the current contract will have their pay protected to ensure they do not see any drop in pay as a result of the introduction of the new contract. Given that transition to the new contract will now take place in October instead of August, this will now include new F1s, who will start on the 2002 TCS in August before moving to the new one once it starts being used in October.

There are two categories for pay protection – one covering doctors in Foundation, core, GP and the initial stages of run-through training programmes, the other covering those already in higher training programmes and the later stages of run-though training (ST3 and above). The first category will have their pay protected against a ‘cash floor’, based on the basic salary the doctor was earning on the day before they transitioned to the new contract and the banding that they received at 31 October 2015.

The second category, doctors already at ST3 or above on a run-through training programme on 2 August 2016 above, will have their pay protected by continuing to be paid under the old pay system, including increments and banding (but not band 3). For the purposes of their pay only, the old definitions of ‘plain’ and ‘premium’ time will apply. There will be detailed instructions in the final terms and conditions as to how the old pay system will work with the new contractual terms, including how these doctors can make use of the new exception reporting system under the guardian of safe working.

Pay will be protected either until the doctor exits the training programme, or until four years of continuous employment have elapsed (pro rata for those LTFT or taking time out) or until August 2022, whichever is sooner.

There are various provisions to ensure fairness in the calculation of the cash floor and the length of protection. Those taking time out of training for maternity leave, for example, will have this time out disregarded for the purposes of their four years of continuous employment. LTFT trainees will also have their coverage extended pro rata – so someone working on a 80% basis would have their four-year period extended by a year. Doctors who are out of training for maternity leave, for example, or on an approved out of programme (OOP), at the time they would transition to the new contract, will have their pay protected at the incremental pay point that they might otherwise have reached had they not been absent. There are also provisions to ensure fairness for trainees in specialties that would have seen them move from an unbanded post to a banded post after the period of transition.

What is the timeline for transition?

The following timeline was published in the ACAS statement of 18 May following the conclusion of negotiations:

<table>
<thead>
<tr>
<th>Date</th>
<th>Events</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2016</td>
<td>All guardians appointed</td>
</tr>
<tr>
<td>26 July 2016</td>
<td>Guardian conference</td>
</tr>
<tr>
<td>3 August 2016</td>
<td>New contract ‘effective date’</td>
</tr>
<tr>
<td>October 2016</td>
<td>Transition to the new terms and conditions of service for:</td>
</tr>
<tr>
<td></td>
<td>– F1s (all specialties)</td>
</tr>
<tr>
<td></td>
<td>– F2 (when sharing a rota with F1s)</td>
</tr>
<tr>
<td></td>
<td>– ST3/4 in general practice</td>
</tr>
<tr>
<td></td>
<td>– ST3+ in obstetrics and gynaecology training programmes</td>
</tr>
<tr>
<td>February – April 2017</td>
<td>All grades in:</td>
</tr>
<tr>
<td></td>
<td>– Psychiatry</td>
</tr>
<tr>
<td></td>
<td>– Public health</td>
</tr>
<tr>
<td></td>
<td>– All pathology and lab-based specialties</td>
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<tr>
<td></td>
<td>– Paediatrics</td>
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<tr>
<td></td>
<td>– All dental training programmes (excluding orthodontics)</td>
</tr>
<tr>
<td></td>
<td>– Any F2 and GP trainees who share a rota with trainees above in this category</td>
</tr>
<tr>
<td>April 2017</td>
<td>– All grades in all surgical specialties (including orthodontics)</td>
</tr>
<tr>
<td></td>
<td>– Any F2 and GP trainees who share a rota with trainees above in this category</td>
</tr>
<tr>
<td>August 2017</td>
<td>– All remaining existing trainees</td>
</tr>
<tr>
<td></td>
<td>All new entrants</td>
</tr>
</tbody>
</table>
What is the situation for current medical students due to start as F1 in August 2016?
While the new contract will be effective from 3 August 2016, transition to the new terms only starts from October, so incoming F1s will start on the existing terms and conditions before moving over on to the new ones in October. This means that they will qualify for pay protection under the terms described above.

Who will be included in the referendum on the new contract?
The following will be included in the referendum:
– All junior doctors in England who are members of the BMA and who will be employed under the national terms and conditions for doctors and dentists in training
– All medical students in England in their final and penultimate years who are members of the BMA

At its meeting on 3 June, the junior doctors committee will consider whether other groups should be included in the referendum of members on the new contract offer. Their decision will be confirmed before the referendum opens.

Will the result of the referendum be final? Will a simple majority decide whether the BMA endorses/accepts the new contract offer?
The junior doctors committee will be considering the detail of the referendum at its meeting in early June, following which we’ll be able to provide much more detail on this.