

# Contractual guidance for medical managers





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Managerial roles increasingly form part of many medical careers. Medical managers function in a range of capacities and their job titles can vary significantly based on the setting they are operating in. It is impossible to provide an exhaustive typology of everyone who is classified as a medical manager, but an indicative list is included in Appendix A. Medical management roles can be very rewarding as they give doctors the opportunity to make a difference not only by enhancing care on an individual basis, but also by contributing to improvements in healthcare at a wider scale. There is a wide variation in the type of contracts of employment and methods of remuneration for medical managers, which reflects the varying roles and responsibilities of individual medical managers in different organisations.

Even though there is not a nationally agreed standard that covers all medical managers, except for Board Medical Directors in NHS Scotland, it is important for doctors engaging in these roles to be aware of their rights and check that the employment offer and working arrangements are fit for purpose. With this guidance, the BMA attempts to ensure that all medical managers receive appropriate terms and conditions regardless of their employer and to highlight the expert and confidential advice on individual employment issues that medical managers can obtain from the BMA.

This is available as part of BMA membership by [contacting the BMA](#) or using the [medical managers advisory service](#) that is offered.

## List of issues to check before signing a contract

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### Type of work and specifics of the role

It is important to establish from the beginning the scope of your employment, the duties you will be required to undertake and the organisational structure in which you are working, including who you are responsible to. Management roles are often not clearly defined and as a result doctors can end up having to deal with a heavier workload than anticipated.

### Determine your employment status

Medical managers can be employed, self-employed, or classed as 'office holders'. Each of these arrangements are distinct not only in terms of the contractual offer, but also regarding the rights and responsibilities between the medical managers and their employing organisations. It is important that medical managers and their employers give serious consideration to this to ensure it is correct under the current legislation.

Case law relating to tax and employment status provides a number of key characteristics which can assist in determining an individual's employment status as employed or self-employed, as neither the length of a particular engagement nor the absence of a contract of service can determine the employment status on its own. It is important to note that an individual's employment status can change over time as the engagement might progress or change. A general guide as to whether your work is likely to be classified as employment or self-employment can be accessed at [HMRC's guidance](#) and the [Employment Status Indicator](#).

Indicators that an individual is an employee include whether:

- The appointing body has the right to tell the individual when, where and how to do the work
- If the individual is expected to complete the task themselves
- The individual is contracted to work a set number of hours or paid a regular salary
- Entitlement to holiday, sick or maternity pay.

Indicators that an individual might be self-employed include:

- The individual can control when, where and how the work is done
- There is a commercial risk to the individual for the activity
  - The individual can hire someone else to do the work for them.

A person who has been appointed to a position by a company or organisation, but doesn't have a contract or receive regular payment may be an office holder. Office holders are neither employees nor workers. However, it is possible for someone to be an office holder and an employee if they have an employment contract with the same company or organisation that meets the criteria for employees. Someone is likely to be an office holder if most of these statements apply to them:

- There is no contract or service agreement relating to their appointment
- Their duties are minimal
- They don't get a salary or any other form of regular payment for their services
- The only payment they get is a voluntary payment (honorarium)
- Tax and National Insurance are deducted by the appointing body
- They are effectively working as an independent officer and are not under the close supervision or control of the appointing body.

The above indicators are not exhaustive and medical managers are advised to consult on this matter [with the BMA](#) and accountants.

### The importance of the employment contract

The contract of employment is a vital document as it regulates the terms and conditions of employment between the employer and the employee. However, we often see employers and employees neglecting to enter into written contracts of employment or entering contracts that are poorly drafted and inadequate.

Even though a written contract of employment is not a prerequisite for a valid employed relationship, it is certainly beneficial to get the terms and conditions of employment in writing. It can provide clarity in order to avoid disputes or it can be used as a point of reference in any disputes that might arise in the future. Finally, it provides a sense of stability and security for employees and a degree of structure for employers.

The BMA offers a [contract checking service](#) which we strongly advise members to make use of before signing any contracts.

### Salary and benefits

Agree your salary and ensure this is written into your contract of employment. You should know how and when you will be paid. This section can include additional incentives like bonuses and travel expense reimbursements. Your salary should be uplifted annually, to at least reflect cost of living increases and in line with the recommendation by the DDRB (Review Body on Doctors' and Dentists' Remuneration). The mechanism to be used for determining an annual uplift should be set out in your written contract of employment. The BMA can assist you in considering and negotiating the factors that affect your salary.

### Start/end date, notice period and cause of termination

Your contract must include the start (and end date if it is a fixed term arrangement) date of your appointment, an adequate notice period and clear terms of termination.

### Annual, sick, maternity, paternity, adoption leave and pay

Most workers are entitled to statutory holiday, sick, maternity/paternity/adoption leave and pay, however you should negotiate to receive improved provisions that are written in your contract. The BMA can assist you in negotiating improved terms in your contract. To be eligible for maternity/paternity etc. leave and pay under the NHS scheme you must fulfil certain criteria that relate to your NHS continuous service. It is therefore important to establish and agree with your employer when signing your contract when your NHS continuous employment commenced.

### Hours of work

There is a statutory 48-hour limit for an average working week that all employees can take advantage of. If you wish to work above the limit of 48-hours per week, then you can opt out by signing a waiver form and forwarding this to your employer. However, the employer cannot force you to opt out of the 48-hour maximum. It is advisable to agree how any overtime will be rewarded and to set this out clearly in the written contract of employment.

#### Example

A Clinical Director in Scotland was asked to continue to perform their duties after their fixed term contract ended and their pay decreased accordingly.

The member contacted the BMA and our expert advisors informed the member that even though there are no nationally agreed contracts for these roles and the terms and conditions are agreed at a local level, the member is not obliged to continue performing their duties without being remunerated accordingly and without formalised contractual arrangements. The BMA assisted the member in negotiating an appropriate contract of employment with their employer and satisfactory level of pay.

#### BMA offer

- Employment advice
- Assistance in negotiations with employers outside nationally agreed frameworks
- Securing appropriate TCS and pay
- Contract drafting

## Things to look out for

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#### Zero-hour and key-time contracts

Zero-hour contracts do not specify the number of hours an employee will be required to work. It is advised to avoid the use of such contracts as they offer no security in terms of tenure or rights to kinds of leave.

#### Unauthorised deductions from wages

Any salary deductions must be legally authorised, e.g. tax and national insurance, and put into your contract with a written explanation or agreed in writing before they are made. There are some exceptions, for example, if you have been overpaid by mistake (still this needs to be agreed along with a repayment plan that does not cause financial detriment) or have not worked because you have taken part in industrial action. You are advised to [contact the BMA](#) as soon as an overpayment is identified.

#### Changes to contracts

The employer is required to provide you with written notification of whenever a change is made to the written statement of particulars at the earliest opportunity or, at the latest, within one month of the change occurring. This notification must contain explicit details of the change. Any changes to your contract must have been negotiated and agreed between you and the employer. If it is suggested that the terms of your contract will be changed or that an agreement is not possible, then you are advised to [contact the BMA](#) immediately for individual expert advice.

#### Example

The Clinical Chair of a CCG received a letter from the Head of HR to inform them of upcoming changes to certain terms of their contract, including pay rates. The new terms were less favourable than the existing ones and it was suggested that they would be introduced without consultation or agreement.

The member contacted the BMA and our expert advisor immediately informed them of their rights and suggested next steps. As an existing contract of employment can only be varied with the agreement of both parties, the BMA assisted the member with drafting a letter of response, which outlined the obligation of the employer to fully consult with the employee and explain the reasons for the change. Subsequently, a meeting was arranged between the member and their employer. With the help of the BMA the member managed to secure their rights and negotiated improvements to the terms that were important to them.

#### BMA offer:

- Contract checking
- Expert advice on employment law
- Assistance with preparing for meetings with employer
- Access to legal resources
- Negotiating expertise

#### Re-employment on new terms and conditions

If changes to a contract cannot be agreed, an employer might attempt to end a contract and re-employ someone on new terms and conditions. Employers must follow the legally required redundancy procedures in England, Wales and Scotland, and the statutory minimum dismissal in Northern Ireland. If someone is dismissed and re-employed, they may be able to take a case to a tribunal and claim breach of contract or unfair dismissal. If you are made aware of a redundancy situation please [contact the BMA](#) for expert assistance.

## Further issues

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#### Pensions implications

The decision to undertake a medical manager role can have an impact on the overall remuneration package and it is always sensible to consider tax implications that could result from changes to pay. In particular, it is worth paying close attention to the Lifetime and Annual Allowances. The BMA offers contractual and pensions advice and it may be worth seeking expert advice from the BMA and accountants to understand more.

It should be clear in the contract if the sessions are pensionable and to which pension scheme the employment belongs, i.e. an academic working as a manager in the NHS may find that he/she is contributing to more than one pension scheme.

#### Maintaining professional registration

Medical managers who maintain their professional registration will have obligation to the GMC and their clinical roles as well as their management role and they may need to ensure they are meeting all of these requirements. Therefore it is important that their job plan reflects this. In some cases, this may involve undertaking clinical work in another 'patch' as a supernumerary to preserve a separation of responsibilities and to ensure no conflict of interest.

#### Additional support offered in the role

Medical manager roles are often very demanding and straining. Before taking up a new role you should have a discussion about what support will be available to you to help you perform your duties, for example employers often provide personal assistants or support officers.

#### Returning to full time clinical practice

Returning to full time clinical practice can be challenging and it might be decided that extra training or supervision is required before full responsibilities can be resumed, so it is important to agree beforehand how and when your progress will be measured and formally assessed. The BMA has produced guidance for doctors in secondary care returning to clinical practice which can be accessed [here](#).

There are different routes available for GPs looking to return to work in general practice after a period away. More information on the schemes available across the UK are available on chapter 23 of the [BMA's salaried GP handbook](#).

#### The role of clinical directors in PCNs (primary care networks)

The BMA and NHS England have agreed, through the national contract negotiations, for the development and rollout of PCNs. PCNs are groups of GP practices working more closely together, with other primary and community care staff and health and care organisations, providing integrated services to their local populations.

Each network has a named accountable clinical director and a network agreement setting out the collaboration between its members. PCN clinical directors provide strategic and clinical leadership to help support change across primary and community health services. They help ensure the full engagement of primary care in developing and implementing local system plans to implement the NHS Long Term Plan.

The role of the clinical lead will vary according to the particular characteristics of the network. The clinical director will usually be a GP from one of the practices within the network, but any appropriate clinically qualified individual may be appointed. There are no set contractual arrangements as to how a PCN will engage with a clinical director. It is up to each individual PCN to reach an agreement with the clinical director on the employment and contractual relationship. Further information on the process of appointing or electing a PCN clinical director is available on the [BMA's PCNs Handbook](#).

### The role of clinical directors in secondary care

It is important that the work undertaken by a clinical director is remunerated appropriately and that the additional duties attached to the role are governed by a separate contract in addition to the individual's existing contract. The nature of the contract will vary depending on the time commitment and extent of responsibility the role requires. There are four possible contractual options that can be considered when negotiating with employers locally:

- Clinical director duties to replace clinical commitments on the job plan without an overall increase in the number of PAs (programmed activities) worked. In this case there would be no overall effect on salary, superannuation or taxation.
- Clinical director duties to be incorporated into the job plan, substituting for clinical PAs and for the employing organisation to make use of its freedom to offer an increased salary to reflect the greater level of responsibility (in Scotland, additional remuneration can be agreed locally under paragraph 4.2.6 of the contract).
- Clinical director duties to be remunerated by a responsibility allowance in addition to the existing consultant contract. This would require a separate contract as it is not encompassed within the national model consultant contract. The additional contract would usually be a short document that refers to roles and responsibilities rather than a new set of terms and conditions.
- Clinical director duties to be recognised through additional programmed activities. The advantage of this arrangement is that clinical director duties are remunerated at the same rate as the main contract. The contract should state whether these sessions are permanent and whether these can be altered in job planning or by a separate mechanism of review.
- In all cases the pensionable status of the sessions should be verified.



## Appendix A

## Appendix A

The following provides a list of managerial posts that are either advertised on NHS jobs or internally and are appointed by a variety of mechanisms. This is by no means an exhaustive list of everyone who is classified as a medical manager.

### **Operational posts**

- Clinical director
- Clinical lead
- Associate or Assistant Medical Director
- Medical Director
- Executive Deputy Medical Director
- Executive Medical Director
- Board Level Executive or Associate Board Member
- Non Executive Director
- Chief Executive

### **Educational Posts with management responsibilities**

- Post Graduate Dean
- Director of Medical Education
- Educational Lead

### **Research and Audit Posts with Management Responsibilities**

- Director of Research
- Director of Audit

### **Academic Posts with Academic Management Duties**

- Vice Chancellor
- Pro Vice Chancellor
- Head of College
- Head of School
- Head of Department
- Director of ...

Academic posts may have management duties in the NHS. In these cases careful study of both the academic contract and NHS honorary contract may be required so you are advised to contact the BMA.

## Appendix B

## Appendix B

Description of roles/core responsibilities of PCN clinical directors as outlined at the [GP contract agreement](#):

- Providing strategic and clinical leadership to the network, developing and implementing strategic plans, leading and supporting quality improvement and performance across member practices (including professional leadership of the Quality and Outcomes Framework Quality Improvement activity across the network).
- Influencing, leading and supporting the development of excellent relationships across the network to enable collaboration for better patient outcomes.
- Providing strategic leadership for workforce development, through assessment of clinical skill-mix and development of network workforce strategy.
- Supporting network implementation of agreed service changes and pathways, working closely with member practices, the wider PCN and the commissioner to develop, support and deliver local improvement programmes aligned to national and local priorities.
- Developing relationships and working closely with other network clinical directors, clinical leaders of other health and social care providers, local commissioners and LMCs (local medical committees).
- Facilitating practices within the network to take part in research studies and will act as a link between the network and local primary care research networks and research institutions.
- Representing the network at CCG-level clinical meetings and the ICS/STP, contributing to the strategy and wider work of the ICS.

## Appendix C: Checklist for medical managers

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There are a few key questions that you need to clarify before agreeing to take on additional management duties on top of your clinical role or signing any medical management contract:

- Are the management sessions within or outside the core sessions of your contract?
- Is there a separate contract?
- Is the term of office permanent/renewable/renegotiable?
- Are your medical manager duties subject to job planning change or are they permanent?
- What is the appeal mechanism?
- Is there salary protection?
- Are your medical management sessions pensionable? Will this have an impact on your taxation and overall remuneration?
- Is there a separate contract? Is it individually negotiated?
- What resources are available to support your continuing professional development and education?
- How will you be indemnified?

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