

## SAS contract FAQs

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## Negotiations

### 1. What is the background to these negotiations?

Initially, we approached the Secretary of State for Health & Social Care (DHSC) in 2019 to propose the reopening of the closed 2008 Associate Specialist grade. After a few months of discussions, NHS Employers (NHSE) indicated that they would be interested in negotiating a new senior SAS grade contract provided our discussions addressed the Specialty Doctor (SD) contract as well.

This proposal was brought back to the BMA's UK SAS Committee (SASC) – a representative body made up of elected SAS doctors from around the country – who decided that it was content for to also negotiate a new SD contract, as it believed there were a number of areas in which the existing contract could be modernised and improved, particularly in terms of pay and safeguards.

DHSC then produced their remit letter, inviting the BMA, NHSE and other stakeholders to enter into negotiations, before producing their formal mandate. Since that time, Wales and Northern Ireland also declared their interest in being involved in contract reform, and representatives have joined both staff and management side negotiating teams.

As a precursor to these negotiations, we also conducted an extensive survey in 2019 to seek our members' views on what they would want to see from a new contract. The results of this survey were used to develop our mandate for negotiations. It was based on this mandate, and through further discussion and deliberation amongst the SAS committees, that the Heads of Terms for these negotiations were approved.

### 2. Who negotiates on our behalf?

Representatives of SASC UK, Welsh SASC and Northern Ireland SASC form a small negotiating team (five from SASC UK, one from WSASC and one from NISASC), selected and trained by the BMA's Pay & Contracts staff. This group is selected based on skills and aptitude for specific roles.

The team works from the mandate that has been set by the committee and is overseen by the strategic reference group. If the team needs to move away from the mandate, they take it away, present back to the committee and amend their position based on its decisions. This allows the mandate to develop responsively and flexibly as discussions progress.

### 3. How have negotiations proceeded?

Despite the constraints created by the pandemic, we have managed to continue negotiating throughout this very difficult year. We had one or two meetings in person before, very suddenly, everything was conducted through virtual meetings. These have broadly been taking place twice a month, as we have progressed through all of the issues and contractual schedules, starting with the easier ones, where very few changes are being proposed, to the more complex and contested ones around safeguards, pay and work patterns.

In December, we finalised the best offer that could be achieved by negotiation. This is for a package of two contracts – the first is a new 2021 Specialty Doctor contract and the second is a new 2021 Specialist grade contract.

#### **4. Was any funding offered as part of these contract negotiations?**

For these negotiations, in order to support contract reform, we have secured from DHSC and Treasury a multiple year pay deal, set at 3% investment per Full Time Equivalent doctor per year over three years. This incorporates an additional 1% that was recommended to support contract reform by the DDRB and accepted by the Government in its pay award for 2019.

Due to the requirements of the Comprehensive Spending Review and annual budgeting arrangements, the Welsh Government and Northern Ireland Department of Finance are only able to confirm the first of the three years of funding for their respective contracts.

However, both nations are committed to prioritising the continued funding of the second and third years to ensure that contract reform can be completed. We do not have significant concerns that this funding will not be secured.

In the context of the current economic climate, this 3% investment per year over three years is likely to be well above the rate of inflation and is likely to be more generous than might otherwise be awarded as an annual uplift.

We have had to carefully consider how best to use the funding available for these negotiations. This has not just been directed towards basic pay but has also been used to fund other changes to the contract that incur a cost.

#### **5. Were any other unions involved in the negotiations?**

The BMA is the sole nationally recognised negotiating body for SAS doctors. Our staff are trained and experienced in negotiations, and they provide support to our committees of elected representatives to ensure they in turn have the training and resources necessary to undertake negotiations on behalf of all doctors.

### **The referendum process and the contracts**

#### **6. Who will be directly affected by the new contracts?**

What we have negotiated here are *new* contracts. That means that for existing SAS doctors on either the 2008 Specialty Doctor contract, or the closed national 2008 Associate Specialist contract, no changes are going to be automatically made to your contract, your pay, or your working arrangements as a result of these negotiations.

What we have insisted on throughout this process is *individual choice*. That means that if, at the referendum, a majority of our members vote to approve the new contracts, you will still have a choice – based on your own personal circumstances – about whether or not you want to move to these new contracts.

What this means is that, when the time comes for the referendum, you do not need to make a decision solely on your personal circumstances – if you decide that the new contracts do not work for you, you can choose to remain on your existing contract.

#### **7. If there is individual choice, what are we voting on, and what will happen if there is a**

**yes vote?**

You will be asked whether you accept the introduction of the new contract package – both the new **2021 Specialty Doctor** and the **2021 Specialist grade contracts**. Because you have individual choice, you need to decide whether these contracts represent a positive package that will modernise these grades and offer future SAS doctors the opportunity to be recognised and rewarded for their work.

If the contract package is approved at referendum by a simple majority, it will mean that:

- New starters appointed as Specialty Doctors from 1 April 2021 onwards will be placed onto the 2021 Specialty Doctor contract.
- Employers will also have the option to start making Specialist posts and contracts available from 1 April 2021 onwards.
- For those on the 2008 Specialty Doctor contract, you will have a 6-month window of opportunity from 1 April 2021, to inform your employer whether you want to move onto the new 2021 Specialty Doctor contract. If you are on another closed national grade contract, such as the old Staff Grade contract, you will also be offered the choice of whether or not to move to the new 2021 contract.
- For those on the 2008 closed national Associate Specialist contract, you will have a 6-month window to decide whether or not you would like to move to the new Specialist grade contract.

**8. Are there any SAS doctors that will not get a choice to move to the new contracts?**

Any doctor who has been appointed to an Associate Specialist post since the grade closed in 2008 will not be on the national contract and therefore will not be guaranteed a choice about whether or not to move to the new Specialist grade contract. However, we think that many employers will see the benefits of the new contract and allow these AS doctors on local contracts the option to move over as well. We know that some of these local contracts contain specific provisions which state that the employer will treat them exactly the same as any colleagues on the national AS contracts.

Trust Grade doctors will unfortunately not be offered a choice in these negotiations. From the outset, DHSC have been clear that their mandate and the funding for contract reform does not cover this group of doctors. All we can do, and what we hope we have done, is create a contract that is attractive for both employers and these doctors so that local agreement can be reached for them to be placed on these contracts.

In Wales, guidance will be issued on providing suitable locally employed doctors with the opportunity to access the new specialty doctor contract.

**9. What happens in the event of a no vote?**

We are putting this contract package to a referendum of members because we believe it is the best offer than can be reached through negotiations. If members decide at the referendum that they do not believe the package represents a positive offer for current and future SAS doctors, then the process will come to an end. Employers may still choose to recommend the new contracts to employers for their use, as they are always entitled to do, but the contracts will not be subject to collective bargaining arrangements.

In any case, this may not be possible, as the respective nations' departments of health and treasuries have stated that funding made available for contract reform will not be carried over into another year without there being an agreement. This would mean that the multiple year pay deal of 3% per year over three years would be lost, including the 1% recommended by the DDRB to support contract reform. Instead, SAS doctors would continue to be subject to the usual DDRB processes.

**10. Is there a minimum voter turn-out in order for the referendum result to be recognised? Is there a percentage for validity?**

Because all existing SAS doctors employed on national contracts will have an individual choice of whether or not to move to the new contracts, this will be a simple majority vote with no minimum turnout. This vote is not legally required but a choice taken by the BMA to allow democratic decision making, so there are no legal rules to comply with regarding turnout.

**11. When will we hear the result of the referendum?**

The result of the referendum will be announced as soon as possible following the close of voting on 1 March in Wales and 15 March in England.

## The contract package

**12. Where can I read about the contract package?**

The Framework Agreements for the negotiations can be found [here](#). This joint document sets out the detail of the changes that have been agreed as part of the contract negotiations.

**13. What are the benefits of the package?**

**A multiple-year pay deal** of 3% per year over three years to introduce contract reform – given the current financial climate, we believe that for most doctors the effect this will have on their pay journey over the next three years is likely to be higher than any uplifts awarded by the Governments

- **The introduction of a new senior SAS grade** – something that hasn't been available at a national level since the closure of the Associate Specialist grade in 2008, creating a clear career framework for SAS doctors to develop through. This Specialist grade will enable these senior doctors to receive the recognition they deserve.
- **A new flatter pay scale** that is better under a career average pension scheme, that is progressed through more quickly, and that we think will better reward SAS doctors over the course of their careers. We also believe it has a positive effect on reducing the gender pay gap.
- A number of **new safeguards** to protect SAS doctors working the most onerous unsocial hours working patterns and to preserve a reasonable work life balance
- **Increased on-call availability supplements**, in line with those received by consultants
- **An additional day of annual leave** after seven years in the grade (for England and NI), reaching equivalent leave provision as currently available in Wales.

- Guidance to support the introduction of a **new SAS Advocate role**, which will promote and improve support for SAS doctor's health and wellbeing
- In England, **ringfenced funding in the first and third year of the contracts dedicated to SAS development**, to be distributed at Trust level disbursed in consultation with the LNC and SAS Advocate, and in line with guidance produced by the BMA and NHSE.
- In Wales, dedicated one-off funding provided by Welsh Government to improve SAS doctors' working lives during implementation.
- Enhanced pay and provisions for **shared parental leave and child bereavement leave**.
- Perhaps most importantly, the opportunity for existing SAS doctors on national contracts to have an **individual choice** of whether or not they want to move to the new contracts

#### 14. What are the negatives of the contract offer?

Any contract negotiation involves trade-offs but we think the negatives of the contract are limited to three issues:

- The **extension of plain time to 7am – 9pm on weekdays** (compared to 7am – 7pm on weekdays currently). This would mean that work between 7pm and 9pm would be paid at standard rates. While this doesn't mean that a standard day will necessarily become longer – doing so would still involve agreement at job planning – it will become less expensive for employers to schedule work at that time.
- There is **no equivalent right to decline to undertake elective work in premium time** to the one currently contained in the Associate Specialist. However, it is worth noting that if an AS doctor decides that this provision is important to them, they will in any case retain the right to remain on their existing contract and keep that provision.
- Alignment with NHS Staff Terms and Conditions in some areas. While these are mostly beneficial to SAS doctors, this does include **moving to less favourable redundancy arrangements in England**.

#### 15. Is the BMA recommending the contract package?

On balance, **it is our recommendation that you vote in favour** of this contract package.

While we have not been able to secure everything that we hoped for, we believe the new contracts will offer an attractive career framework for future SAS doctors, and better reward existing ones, offering them improved pay and recognition for the work that they do.

As we have managed to secure an individual choice for all existing SAS doctors on national contracts, we do not think there is a good reason for anyone to vote against this contract. If it doesn't work for you, you are under no obligation to move on to it.

If it doesn't work for you, we would urge you to think about other SAS doctors – your friends and colleagues – who might want to choose to move to these contracts – whether for the safeguards, the pay or the career prospects. The only way for them to have that option is for you to vote in favour of the contract package.

## The Specialist grade

### **16. Are there any benefits for Associate Specialists at the top of the pay scale transferring to Specialist grade?**

The focus of these negotiations has been to ensure that future SAS doctors can benefit from a career framework that offers recognition and reward and to open a Senior SAS grade role.

Individuals who are on the existing Associate Specialist contract will need to carefully consider whether they wish to move to the new Specialist contract. This is a personal choice and depends entirely on your own priorities.

In terms of basic pay, you will see from Annex A of the Framework Agreements, for those at or near the top of the Associate Specialist scale, over the short-term there may not be a financial benefit to moving to the new contract, although those that choose to move across will have their pay protected on a mark-time basis.

However, if you chose not to transfer to the new Specialist contract, that would mean that you would not benefit from other aspects of the contract, such as the new safeguards or the increased on-call availability supplements. You will have to consider these features carefully and make the right decision for you.

### **17. Are years' experience, for the purposes of eligibility for the Specialist grade, based on full-time service?**

Less than full time doctors move along the pay scales the same way their full-time colleagues do. The pay explainers on our [website](#) provide some examples on how the deal would affect a doctor working LTFT.

### **18. I'm an experienced Specialty Doctor. Do I have a right to be moved on to the Specialist grade?**

It is important to note that the Specialist grade is a new contract, and applicants must meet a set of criteria to be eligible for this grade and meet [the generic capabilities criteria](#). All Specialist posts in the future will be created at the discretion of the employer, where they have identified a specific workforce need. This means that Specialty Doctors will not have any automatic right to progress from their current grade into the new Specialist grade. Instead, they will have to apply for such a role when it becomes available, much as one would have to apply for a newly created consultant post or any other post.

However, we have been clear with employers that what we cannot have is a situation, which we already see currently, where a dedicated Specialty Doctor is working at a senior level of responsibility and competence, and there is little incentive for their employer to offer them the opportunity to progress to a higher grade. We have sought to address this by making clear the distinction in roles and responsibilities between a Specialty Doctor and a Specialist.

The BMA will be producing guidance to support members in having conversations with employers to ensure that they are being remunerated at a level appropriate to their work and to remove the financial incentive for employers not to make a Specialist post available because they already have a Specialty Doctor delivering that work at a lower cost.



### **19. What is the incentive for employers to create a Specialist grade post?**

A survey conducted by NHS Employers during the negotiations showed that a majority of the Trusts in England intend to open up Specialist grade roles. It is worth bearing in mind that these negotiations first began as a result of us highlighting the significant number of trusts that were already making local Associate Specialist posts available. As such, we think the incentive is already there.

As we have already noted, the other part of this is removing the financial incentive to have experienced, dedicated Specialty Doctors delivering care at a senior level without recognition or pay.

In any case, we think that this is better than the status quo, where there isn't even a national senior grade that Specialty Doctors are able to progress to. Indeed, the closure of the Associate Specialist grade in 2008/09, and the lack of clarity about responsibilities and roles, is arguably one of the biggest reasons that we currently have the situation where dedicated, experienced Specialty Doctors are delivering a senior level of care without appropriate recognition and remuneration. We hope this is a first step towards addressing that.

## **Pay**

### **20. Does this mean I will get 3% annual uplifts to my pay?**

Not necessarily. The funding represents the level of investment being offered for contract reform as a whole, some of which has been focused on making changes to the existing pay scale. This happens gradually over three years, through the use of temporary transitional pay scales. In order to reduce from eleven pay points down to five in the Specialty Doctor scale, and down to three in the Specialist scale, it is necessary to apply that overall level of funding differently to different points on the scale. Some pay points therefore receive more than 3% - in some places significantly more, particularly at the bottom of the scale - and others receive less.

The full detail of how those differential uplifts are applied to the pay journey of Specialty Doctors during the deal period is set out in our pay explainers. This takes into account changes to the pay scale and incremental progression. The pay scales for each year of the deal for both Specialty Doctor and Specialist grade contracts are provided in Annex A of the Framework Agreements, which can also be found [here](#).

### **21. Will my incremental date change?**

No, everyone will retain their existing incremental date, but in the new contract this will be called the pay progression date. For new entrants to the NHS, their pay progression date will be the date that they commenced employment in the grade.

The point of the new pay scale that you transfer to will be based on your basic pay as at 31 March 2021. Transferring may result in an increase in pay from 1 April 2021. We have produced pay explainer documents for Specialty Doctors, which will help you understand what the pay increases could mean for you in transition. If you are an existing Associate

Specialist seeking to transfer to the Specialist scale, your pay journey is set out in Annex A of the relevant Framework Agreement.

**22. In the pay explainer, why has the comparator basic pay journey over the deal period provided for the old contract assumed that there will only be a 1% pay uplift awarded each year? What would happen if the Government awards are higher than 1%?**

The purpose of providing a counterfactual of 1% pay uplift is purely illustrative. We cannot know what pay uplifts the Government will award. However given the current economic climate we believe that it is likely that the pay uplifts experienced by doctors that chose to move to the new contract will be more beneficial than what will be awarded by the Government, but there is no way to guarantee that. You are encouraged to consider how this, and the other changes introduced by the contract will affect your individual circumstances and whether it is beneficial for you to move to the new contract or not.

## Terms and conditions

**23. Why has plain time been extended to 9pm on weekdays?**

This was a red line for employers, and any contract that they were willing to offer required a change to the definition of plain time. We decided that ultimately the funding and the contractual improvements achieved elsewhere, such as the new safeguards, went some way towards mitigating the impact of this change, especially in light of individual choice.

While these changes make it less expensive for an employer to schedule SAS doctors to work between 7pm and 9pm on a weekday, it does not necessarily mean you will be working between 7pm and 9pm, in the same way that there are no restrictions at the moment to you being asked to work in those hours. Any changes will, as ever, remain subject to agreement through the job planning process.

Any savings generated by the changes to plain time definitions were factored into the overall pay modelling, so the funding for the contract package still represents a net increase.

**24. Are there any changes to SPA allowance under the new contracts?**

We know from members that it can be a struggle securing appropriate levels of SPA time through their job planning processes. In particular, we know that some employers try to offer only the contractual minimum of 1 PA of SPA time (in some cases even less) and try to include all manner of additional activities into that single PA.

In order to address this, we have agreed with management side that the contract will explicitly state that the minimum of 1 PA/session of SPA time required by the contract is to be used for job planning, appraisal and revalidation only. This will be accompanied by joint guidance which encourages employers to have regular conversations about additional SPA time to allow for other vital activities, such as teaching, training and research.

This provision sets a minimum. It will not have any bearing if you are already allocated a greater number of SPAs in your job plan.

In Wales, there is explicit reference in the contract to the recommendations in the SAS Charter and Wales Good Practice Guide regarding SPA time. We will be working with employers to update the Good Practice Guide to strengthen and update it. This will ensure SAS doctors are able to access additional SPA time to allow for other vital activities, such as teaching, training and research.

**25. If my trust has given SAS doctors 2 days extra annual leave for long service, will this be reduced to the 1 day in the new contract?**

The Framework Agreements note that the new contractual entitlement of one additional day after seven years' service 'will not replace any locally agreed arrangements relating to annual leave entitlements'.

SAS doctors in Wales will continue to receive the same amount of leave as they have previously: 5 weeks and 3 days rising to 6 weeks and 3 days after 2 years, in line with all other staff groups in the NHS in Wales.

**26. What parts of the contract will be under NHS Staff Terms and Conditions of Service and how will these be negotiated?**

The parties have agreed to remove referenced to the old General Whitley Council Conditions and the temporary schedules and instead align with other NHS staff groups by adopting the common terms outlined in the NHS Terms and Conditions of Service Handbook. The specific terms adopted include:

- Section 7 Payment of annual salaries
- Section 15 Leave and pay for new parents
- Section 16 Redundancy pay
- Section 22 Injury allowance
- Section 23 Child bereavement leave
- Section 25 Time off and facilities for trade union representatives
- Section 26 Joint consultation machinery
- Section 30 General equality and diversity statement
- Section 32 Dignity at work
- Section 33 Balancing work and personal life
- Section 34 Employment break scheme

In the vast majority of cases, the provisions in the NHS Staff Terms and Conditions in these areas are either exactly the same or better than those in the current SAS contracts. The only exception is in relation to redundancy arrangements (see below).

Ultimately, it was felt that in the majority of these areas, the BMA's position is likely to be strengthened by aligning with other NHS staff groups. The BMA has three seats on the NHS Staff Council and will continue to use its influence when negotiating on our members' behalf.

The BMA will continue to have sole negotiating rights over the vast majority of the SAS contracts, including all critical areas such as pay, job planning, leave, safeguards, and termination of employment.

**27. What effect will aligning with NHS redundancy provisions have for doctors?**

The NHS Staff TCS set a maximum of £160,000 redundancy payment in England, calculated based on one month's basic pay for every year worked, up to a maximum of 24 months, and based on a maximum annual earnings of £80,000.

This is compared to the current TCS which is calculated based on one month's basic pay for every year worked, up to a maximum of 24 months, but with no cap on the maximum annual earnings this can be based on. For Associate Specialists at the top of the scale, for example, they can receive a maximum of £189,976 based on their current salary if they have 24 years of service.

In practice, this provision only really affects existing Associate Specialist doctors above Threshold 1 of the scale (i.e. those with a salary in excess of £80,000). Having reviewed the data on redundancies, we believe that the numbers of doctors in general, including SAS doctors, who are made redundant are very small.

**28. For the safeguard of a maximum of 13 weekends per year, what constitutes a weekend?**

The definition of a weekend solely for the purposes of determining the 13 weekends safeguard is 00:01 of Saturday to 23:59 of Sunday. If any time within that period on a given weekend is worked, it will constitute one of your 13 weekends.

## Other issues

**29. What is the role of the SAS Advocate, and how does it differ from the SAS Tutor?**

The parties acknowledged that SAS doctors continue to report experiences of bullying and harassment. This is a new role to promote and improve support for SAS doctor's health and wellbeing. It will be an additional role for an existing employee, and it is not intended to replace existing support for SAS doctors (such as SAS tutors). This role is distinct to the SAS Tutor role which is there to support and offer advice and guidance on career related issues, education and development and the use of SAS funding at a local level.

**30. Will we have an equivalent of the CEAs scheme in the new contract?**

While the parties discussed the possibility of introducing a system of awards or performance related pay, ultimately we decided that this would not represent the best use of funding. It's worth bearing in mind that the funding for consultant CEAs originally came from the consultant pay bill. If we were to introduce a similar scheme, that would mean less money that we were able to use to increase basic pay scales. In 2008, we decided to absorb the value of discretionary points into basic pay so that everyone could benefit from the funding. It's also worth noting that CEAs are a very contentious element of consultant pay, with around about half of consultants disliking the system and feeling that it fails to reward them equitably. Furthermore, they have been identified as a key driver of the gender pay gap. For all those reasons, we felt that it was more important to prioritise increases to basic pay that benefit all.

**31. Will the pay and terms and conditions of those on closed contracts still be subject to review while there are people still employed on them?**

The pay of doctors on the closed contracts will be subject to the usual pay review process, i.e. DDRB recommendations and Government's decision on what the pay uplift will be each year. The BMA will continue to submit evidence to the DDRB for these doctors. In other respects, the contracts will close and will not be refreshed or negotiated further.

**32. Will the Associate Specialist contract be negotiated further?**

The national Associate Specialist contract has been closed since 2008/09, which means that this is not negotiated or refreshed further. The focus of these negotiations has been to create a new senior SAS grade to fill that gap.