Framework agreement for reform to the terms and conditions of service for doctors and dentists in training in Wales

September 2022
Foreword

This framework agreement describes an agreement reached between representatives of NHS Wales Employers and the British Medical Association's Welsh junior doctor committee on reform to the terms and conditions of service for doctors and dentists in training in Wales.

This package of reform is judged by both parties to fulfil the mandate provided by the Minister for Health and Social Services for a costed, mutually agreed proposal that addresses the areas detailed in the ministerial mandate.

This agreement summarises the outcome of discussions held through social partnership and through negotiation. It sets out a one-year agreement for contract reform from August 2023 to July 2024, alongside preparatory work prior to these dates and review stages following implementation.

It sets out changes to the pay scale and terms and conditions of service for doctors and dentists in training that employers, the British Medical Association (BMA) Cymru Wales, and the Welsh Government are agreeing to implement over the period of the agreement and going forward.

The framework is adopted following the confirmation of relevant funding received from the Minister for Health and Social Services. The investment supports reform to pay scales and terms and conditions of service over the course of the one-year agreement.

Richard Tompkins  
Director, NHS Wales Employers

Evan Sun  
Chair, BMA Welsh junior doctor committee
1. Introduction

1.1 Basis of agreement

In August 2019, the Minister for Health and Social Services proposed that Welsh Government, NHS Wales employers, and BMA Cymru Wales commence exploratory talks on reform to the terms and conditions of service (TCS) for doctors and dentists in training in Wales. In October 2019, the BMA Welsh junior doctors committee agreed to enter talks on a no prejudice basis. In March 2020 these talks began; however, they were paused during the first wave of the coronavirus pandemic in April 2020.

The agreed aim of the process was to explore options for improving the lives of doctors and dentists in training through contractual reform. The desired outcomes were to improve recruitment and retention of doctors in Wales, recognise and maximise the value of junior doctors and dentists in the NHS workforce and further improve patient care and the health service in Wales.

The initial phase of talks considered the current contractual landscape in the UK, the availability of necessary information for further contract reform discussions, and lessons learned from past contract reform processes. This phase concluded in January 2021 and identified that the existing TCS in Wales were no longer fit for purpose. Therefore, all parties agreed to further talks to explore contractual reform.

The second phase of talks reviewed the Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016 (“the 2016 contract”) in detail, considering which elements would be suitable for Wales and which may require alteration. This established the grounds for negotiation on the eventual contract agreement.

With a deal now agreed, the intention is to put this to a referendum of BMA junior doctor members in Wales. Members will be asked to consider whether they accept the new contract. If members vote to accept the new contract it will come into force for the August 2023 intake and rotation. The existing contract will be closed to new entrants employed on or after 1 August 2023 and existing employees will be transferred to the new terms and conditions at appropriate stages in training and in accordance with an implementation timetable that will be devised in partnership. It is anticipated that there will be specific circumstances whereby some trainees, who expect to complete their training soon, may not have to transfer to the new contract. Likewise, depending on the stage of training, a pragmatic approach will also be adopted with regards to trainees who defer their training during the transitional phase.

If BMA members accept the new contract, and the Minister for Health and Social Services subsequently approves its introduction, the implementation process will begin. This will be staged to ensure the continuity and smooth running of the health service and the best experience for trainees upon transfer. More information is provided in the relevant section of this document.

1.2 Scope and status

This framework document represents the outcomes of negotiations and a summary of the new terms and conditions of service (“the new contract”). NHS Wales Employers has agreed these changes on behalf of HEIW, health boards and trusts in Wales. BMA Welsh junior doctors committee will now put this agreement to their membership.

Both parties are committed to partnership working to ensure the new contract supports the delivery of strategic health objectives in Wales through the recruitment and retention of doctors and dentists in training.

This agreement covers all NHS employers in Wales that employ or host doctors and dentists in training. It will be adopted subject to the confirmation of relevant funding received from the Minister for Health and Social Services and the approval of all negotiating parties.
This agreement does not summarise every detail of the new TCS, which will be issued separately if the contract deal is agreed. The final TCS will need to undergo a legal review by the relevant parties.

Guidance will be issued as required to express and clarify the shared intention behind contractual provisions and the intended use and implementation of the new contract.

Welsh Ministers have an equality duty under s.149 of the Equality Act 2010 to consider the impact of any changes in relation to the protected characteristics. The parties have developed this agreement in full awareness that a comprehensive equals impact assessment on the new contract will need to be commissioned to support this agreement.

1.3 Investment

If BMA Cymru Wales and NHS Wales Employers approve the new contract via their respective consultative processes, the Minister for Health and Social Services will make available funding to invest in the cost of the proposed reforms. This equates to an investment of 3% of the value of the current trainee workforce costs as of 2022/23.

The contractual reforms contained in this agreement have been robustly costed as best possible using available data. NHS Wales employers have agreed to apportion a reasonable sum of potential loss of hours worked by trainees as a result of the introduction of new rota safety limits to the investment envelope. Should any further costs arising from the implementation of the contract be experienced by employers, these will be outside of the envelope provided and managed by employers.

As investment provided for transitional arrangements (for example, transitional pay protection) tapers off, it is agreed that this will be reviewed in partnership and any funding unlocked by the tapering off of these arrangements will be considered for further investment in the new contract.

1.4 Outstanding areas for discussion

The contract reform proposed in this document is very wide-ranging and will require support of a range of non-contractual changes to working practices, partnership arrangements and resourcing. It is recognised that it was not feasible to discuss all changes required for full implementation of the new contract in the context of negotiation.

Therefore, all parties have committed to a programme of work, some as part of implementation plans, to take forward to priorities established in the new contract and ensure they are put into practice as best as possible. The following principles for implementation and future work are agreed by all parties:

– The new contract will be accompanied by a fully functional exception reporting system, including the required digital functionality for end users from the point of implementation.
– Exception reporting functionality will include provision for all contractual stipulations, including indicating other affected individuals in exception reports, from implementation if possible and in any case as soon as possible.
– An implementation working group will examine how best to implement the contract successfully for practice-based GP trainees, including reviewing exception reporting arrangements.
– An academic training implementation working group will examine the specific needs of trainees and employers around academic training programmes and the new contract.
– The Code of Practice: Provision of Information for Postgraduate Medical Training will be reviewed in partnership and an equivalent document agreed for Wales to reflect its contractual status.
– A single lead employer implementation working group will examine the relationship between contract implementation and the single lead employer arrangements for trainees in Wales to ensure clear, mutually agreed division of contractual responsibilities between the lead and host employers.
– Work in partnership will take place between Welsh Government, NHS Wales Employers, BMA Cymru Wales, HEIW and NWSSP to develop detailed proposals for the workforce priority area pay premium.
2. A new contract for Wales

2.1 The old contract

The *National Health Service Hospital Medical and Dental Staff and Doctors in Public Health Medicine and the Community Health Service (England and Wales) Terms and Conditions of Service*, also known in its application to doctors and dentists in training as the “2002 contract” or “New deal contract”, was introduced over twenty years ago.

In the first stage of discussions on contract reform, it was agreed that the contract was no longer functioning as intended and had lost the confidence of both trainees and employers. Rota monitoring exercise response rates were low, reflecting a lack of faith in the system, and it was agreed that the TCS required modernisation.

2.2 The 2016 contract

The BMA referendum in 2019 on changes to the 2016 contract resulted in an acceptance of the amended contract and the BMA consequently ending its dispute with the Department of Health and Social Care (DHSC) over the contract’s application in England.

Through partnership working, including hearing directly from doctors and representatives of trusts affected by the 2016 contract, all parties recognised that there were lessons that could be learned from the contract reform process in England that would benefit contract reform in Wales, both in terms of alterations to TCS and approaches to implementation. This learning was taken into account in the design of the new contract for Wales.

The 2016 contract forms the basis of the new contract in Wales. It was agreed from the outset that any provision in the new contract should be no less favourable to trainees than the equivalent provision in the English contract unless agreed otherwise. Where the new contract varies from the 2016 contract, therefore, this has been done in order to better suit the contract to the health service in Wales or to provide provisions which all parties perceived to build upon those contained in the English contract.

2.3 Social partnership

The new contract has been developed in social partnership. Through building an understanding of each other’s perspectives, establishing shared priorities and working on joint solutions, the parties have ensured that the new contract has the confidence of all parties and all elements are mutually supported and considered sustainable, suitable and implementable.
3. Pay structure

3.1 Nodal pay scale

The pay structure for the new contract is made up of five nodal pay points. Each pay point is awarded at a particular grade of training. Trainees will need to progress to the relevant stage of training to gain access to each nodal pay point. The nodal pay point determines the basic pay level for a nominal 40-hour working week.

<table>
<thead>
<tr>
<th>Nodal pay point</th>
<th>Stage of training</th>
<th>Annual basic pay value (representative values)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>F1</td>
<td>£30,788</td>
</tr>
<tr>
<td>2</td>
<td>F2</td>
<td>£35,637</td>
</tr>
<tr>
<td>3</td>
<td>ST/CT1</td>
<td>£42,180</td>
</tr>
<tr>
<td>4</td>
<td>ST/CT3</td>
<td>£53,455</td>
</tr>
<tr>
<td>5</td>
<td>ST6</td>
<td>£61,188</td>
</tr>
</tbody>
</table>

The nodal pay structure means that pay remains static in some years of training. However, the gaps between pay points is wider than on the old contract, providing higher levels of progression at each step of the nodal scale.

The basic pay values have been derived from applying historic DDRB recommendations to the 2018/19 pay values of the 2016 TCS. As a consequence, each pay point is approximately 4.8% higher than the equivalent point on the 2022/23 pay scale in England.

The implementation of the new contract is not be subject to a multi-year pay deal and the annual basic pay values included in this Framework Agreement have been set in respect of the 2022/23 budget. The pay scales published in this agreement will be considered in the usual manner by the Welsh Government for an uplift alongside all other medical pay scales following the publication of recommendations by the Review Body on Doctors’ and Dentists’ Renumeration (DDRB) in the 2023/24 pay year (i.e. prior to implementation).

3.2 Frontloading

The nodal pay structure frontloads pay earlier in the pay scale than the old contract’s pay scale. This means that early-career trainees receive a higher level of basic pay. It also redistributes the balance of pay further into basic pay, which enhances contributions to the NHS pension scheme.

3.3 Pay progression

The new pay progression system removes the automaticity of pay progression seen in the old contract. Instead, in order to progress to the next nodal point, the trainee must attain the relevant training grade through the mechanism determined by their training programme. This is taken to evidence the necessary development of skills, experience and competencies required to be paid at a higher level, as well as the gradual increase in responsibility in clinical roles. Trainees who train less than full time will therefore progress along the pay scale at a rate proportionate to their training percentage.
Looking at the current medical training grades, pay progression is as follows:

<table>
<thead>
<tr>
<th>Stage of training</th>
<th>Nodal pay point</th>
<th>Basic pay value (representative values)</th>
</tr>
</thead>
<tbody>
<tr>
<td>F1</td>
<td>1</td>
<td>£30,788</td>
</tr>
<tr>
<td>F2</td>
<td>2</td>
<td>£35,637</td>
</tr>
<tr>
<td>ST/CT1</td>
<td>3</td>
<td>£42,180</td>
</tr>
<tr>
<td>ST/CT2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ST/CT3</td>
<td>4</td>
<td>£53,455</td>
</tr>
<tr>
<td>ST4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ST5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ST6</td>
<td>5</td>
<td>£61,188</td>
</tr>
<tr>
<td>ST7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ST8</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Looking at the current dental training grades, pay progression is as follows:

<table>
<thead>
<tr>
<th>Stage of training</th>
<th>Nodal pay point</th>
<th>Basic pay value (representative values)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DF1</td>
<td>1</td>
<td>£30,788</td>
</tr>
<tr>
<td>DF2</td>
<td>2</td>
<td>£35,637</td>
</tr>
<tr>
<td>DCT1</td>
<td>3</td>
<td>£42,180</td>
</tr>
<tr>
<td>DCT2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DCT3</td>
<td>4</td>
<td>£53,455</td>
</tr>
<tr>
<td>DST1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DST2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DST3</td>
<td></td>
<td></td>
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<tr>
<td>DST4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DST5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DST6</td>
<td>5</td>
<td>£61,188</td>
</tr>
<tr>
<td>DST7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DST8</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4. Pay elements

4.1 Principles

The principle of the new pay system is that trainees will be paid for the actual hours that they work. Instead of the old contract’s banding system, the new contract pays for individual hours of work that are contained in the personalised work schedule, as well as additional hours worked that are reported through exception reporting (see below). There are additional rates for work scheduled in unsocial hours and a pay supplement for frequency of weekend work.

Where a trainee works for fractions of an hour, pay will be for each quarter hour, rounded to the nearest quarter hour.

4.2 Basic pay and additional hours

Basic pay is awarded at the relevant nodal point value for an average 40-hour of work per week. For less than full time trainees, this is paid pro-rata for the proportion of full-time work that has been agreed.

Additional hours are detailed in the trainee’s work schedule and are paid at the value of 1/40th of the weekly whole-time equivalent of the basic pay rate for each additional hour worked between 7am and 9pm, with some exceptions.

4.3 Enhanced hours

Enhanced rates are paid for work performed between 9pm and 7am on any day of the week, at a rate of 37% above the hourly rate. Where a shift begins after 8pm and before midnight, all hours in that shift up until 10am the following day will be paid at the enhanced rate. Where a shift ends after midnight and before 4.01am, the entirety of the shift will be paid at the enhanced rate, even if it began before 9pm.

4.4 Weekend frequency allowance

Where a trainee is rostered to work at a weekend (any shift which takes place wholly or partially on a Saturday or Sunday) at a frequency of 1 in 8 weekends or higher, an allowance will be paid to recognise the weekend working. NROC duty periods that commence on a Friday and end on a Saturday are not included for purposes of this calculation, although other NROC duty periods that commence on Saturdays or Sundays are. The allowance rates are as follows:

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 weekend in 2</td>
<td>15%</td>
</tr>
<tr>
<td>Less frequently than 1 weekend in 2 and greater than or equal to 1 weekend in 3</td>
<td>10%</td>
</tr>
<tr>
<td>Less frequently than 1 weekend in 3 and greater than or equal to 1 weekend in 4</td>
<td>7.5%</td>
</tr>
<tr>
<td>Less frequently than 1 weekend in 4 and greater than or equal to 1 weekend in 5</td>
<td>6%</td>
</tr>
<tr>
<td>Less frequently than 1 weekend in 5 and greater than or equal to 1 weekend in 6</td>
<td>5%</td>
</tr>
<tr>
<td>Less frequently than 1 weekend in 6 and greater than or equal to 1 weekend in 7</td>
<td>4%</td>
</tr>
<tr>
<td>Less frequently than 1 weekend in 7 and greater than or equal to 1 weekend in 8</td>
<td>3%</td>
</tr>
<tr>
<td>Less frequently than 1 weekend in 8</td>
<td>No allowance</td>
</tr>
</tbody>
</table>
### 4.5 Non-resident on-call work

An on-call availability allowance at a value of 8% of basic pay will be paid to trainees who are non-resident on-call (NROC). NROC will apply where trainees are rostered for on-call work and who are required by their employer to return to work or provide telephone advice, but who are not expected to be on site for the whole duty period.

Further to this allowance, the trainee will be paid for the hours of actual work performed during their on-call duty periods. This will be estimated prospectively for the length of the rota and paid as an average on a monthly basis as part of salary.

Where, across the rota cycle, the trainee works a greater number of hours than contained in the prospective estimate, they will be required to exception report these hours and will be paid accordingly. Hours paid will be at the relevant additional or enhanced rate depending upon the hours of work.

### 4.6 LTFT allowance

Trainees who train less than full time (LTFT) will be paid an LTFT allowance at a rate of 2% of the nodal point 4 value in order to recognise the fixed, annual costs trainees incur which an LTFT trainee will pay in full regardless of their whole-time equivalent. This allowance will not be paid pro-rata and will be calculated at the full-time nodal point 4 value.

### 4.7 Pay premia

In addition to the other pay elements, a new category of pay premia will be introduced in order to pay trainees working in specific training pathways which are deemed in particular need of recognition. All premia will be paid at a percentage value of a fixed nodal point, meaning their value will increase in line with increases in basic pay over time. The TCS will provide further details on pay premia for example, which can be paid simultaneously, and which cannot.

**Flexible training**

A flexible training pay premium will be paid to trainees who have taken time out of training following completion of the foundation programme and prior to commencing specialty or core training. This is to recognise additional relevant skills, experience and competencies gained outside training that they will hold upon re-entering training in comparison to trainees who have not gained this additional experience.

Trainees will be required to evidence two years of appropriate senior medical work, with adequate participation in relevant workplace appraisal processes. Upon commencing specialty or core training, they will be eligible for a pay premium of 12.5% of nodal point 3 which will be applied until they reach nodal point 4. Trainees who can similarly evidence one year of work will be awarded the premium for the time they are at the ST/CT2 grade.

Trainees who have spent two years in a core or specialty training programme and subsequently change to another specialty or core training programme at a lower training grade will be awarded the flexible training pay premium until they reach nodal point 4.

**General practice**

Trainees in a general practice specialty training programme will be paid a pay premium of 18% of nodal point 4 for the periods in which they are undertaking placement in general practice. Whilst undertaking hospital-based placements, they will be paid according to the correct rate for their rostered hours.
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Workforce priority area
Trainees who undertake training in specific training programmes or train in specific geographies that have been identified as workforce priority areas will be paid a pay premium at a value determined separately for each area identified.

Workforce priority areas will be determined in social partnership by Welsh Government, NHS Wales Employers, HEIW and BMA Cymru Wales on a periodic basis in order to provide strategic incentives according to workforce planning and other needs.

Clinical academic
Trainees who are on an integrated clinical academic pathway will receive a pay premium at the point at which they return to their training programme following completion of the relevant academic qualification. Trainees who are in a core, higher or run-through training programme and undertake research in an out of programme research experience (OOPR), or enter such a training programme having already undertaken research that is deemed relevant by the postgraduate dean, will receive a pay premium.

The value of the premium will be 9% of nodal point 4.

The flexible training pay premium and academic pay premium cannot be held at the same time. In the event that an individual is eligible for both premia, the academic pay premium will not apply until such point as the individual no longer receives the flexible training pay premium.

Oral and maxillo-facial surgery (OMFS)
Trainees undertaking higher training in OMFS will be paid a pay premium to recognise the requirement for such doctors to complete undergraduate degrees in both medicine and dentistry. The value of the premium will 9% of nodal point 4.

Exceptional
An exceptional pay premium will be contractually available to recognise time out of training to undertake recognised activities including, but not limited to, public health emergencies. The application of this pay premium, when and if such an event occurs that it is deemed applicable, will be determined in social partnership.

Summary of pay premia

<table>
<thead>
<tr>
<th>Pay Premia</th>
<th>Percentage</th>
<th>Nodal Point</th>
<th>2022/23 value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flexible training</td>
<td>12.5%</td>
<td>3</td>
<td>£5,272.50</td>
</tr>
<tr>
<td>General Practice</td>
<td>18%</td>
<td>4</td>
<td>£9,621.90</td>
</tr>
<tr>
<td>Workforce priority area</td>
<td>Value determined separately for each area identified</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clinical academic</td>
<td>9%</td>
<td>4</td>
<td>£4,810.95</td>
</tr>
<tr>
<td>Oral and maxillo-facial surgery (OMFS)</td>
<td>9%</td>
<td>4</td>
<td>£4,810.95</td>
</tr>
<tr>
<td>Exceptional</td>
<td>Value determined in social partnership</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4.8 Pay and parental leave
Trainees taking parental leave who would have reasonably otherwise expected to progress to the next nodal point during the period of parental leave will be paid according to the higher nodal point from the point at which they would otherwise have expected to progress, subject to there being no outstanding training concerns. Depending upon whether they would be on the same training programme upon return from parental leave or will be moving to a new training programme, this will be applied either during their parental leave or retrospectively upon their return to training.
5. Supporting safe working hours

5.1 Limits on working hours

The new contract will introduce comprehensive and wide-ranging limits on working hours, designed to ensure that the rota trainees work are safe for both patient and trainee, sustainable and provide a higher quality of work–life balance than the old contract does. Employers must abide by these working limits as well as by the statutory working time regulations. Trainees will have a professional responsibility to ensure that their total hours of work comply with these limits.

The limits will be as follows:

- No more than 48-hours worked in an average week, taken over a reference period.
- No more than 72 hours’ actual work in any 168-hour period.
- No shifts longer than 13 hours.
- No more than 4 consecutive long shifts (longer than 10 hours).
- No more than 4 consecutive night shifts.
- 46 hours’ rest immediately after any number of night shifts.
- 48 hours’ rest after 4 consecutive long shifts (longer than 10 hours).
- No more than 7 consecutive shifts of any length.
- 48 hours’ rest after 7 consecutive shifts of any length.
- All reasonable steps must be taken to avoid a weekend frequency higher than 1 in 3, with an absolute limit of 1 in 2.

5.2 Breaks

For shifts rostered to last more than 5 hours, a 30-minute break must be provided. For shifts longer than 9 hours, another 30-minute break must be provided. For shifts longer than 12 hours, a third 30-minute break must be provided. These breaks should be taken flexibly, may be combined, and should be spaced evenly.

5.3 On-call periods

On-call duty periods, where a trainee is expected to be available to attend at their workplace or provide telephone advice, may last no longer than 24 hours (and can be extended by between 15 minutes and 1 hour for handover). These duty periods cannot be worked consecutively except at weekends, when 2 are permitted, or more by local agreement subject to checks and balances. No more than 3 on-call duty periods can be rostered in 7 consecutive days. Trainees are entitled to 8 hours’ rest, and 5 continuous hours’ rest, in a 24-hour period whilst on-call. The day following an on-call duty period cannot be rostered for more than 10 hours’ work, or 5 hours’ work if the rest entitlements during the preceding on-call duty period could not be met.

Where overnight rest is significantly impeded by work during an on-call duty period, arrangements must be made immediately for adequate rest and time off in lieu taken within 24 hours. Where rest has been significantly disrupted, the default assumption is that the trainee maybe unsafe to undertake work due to tiredness and the trainee must inform the employer that they will not be attending work as rostered, other than ensuring a safe handover of patients. No detriment in pay will be experienced by the trainee.

Where an on-call duty period is defined as ‘low intensity’, being less than 3 hours’ actual work during the NROC period, a limit of 7 consecutive duty periods will apply. Subject to local agreement and oversight, this may be extended to 12 consecutive duty periods.
5.4 Facilities when too tired to drive home

Where a trainee has worked a long shift or night shift, or has been rostered on-call and has been required to attend at their place of work, and subsequently judges that they are too tired to safely drive home, the host employer must provide them with an appropriate rest facility or, where this is not possible, cover reasonable expenses for the trainee’s safe journey home by other means, as well as return to work for their next shift or to collect their vehicle.

5.5 Leave

Annual leave entitlement will be at 5 weeks and 3 days upon first employment in the Welsh NHS, rising to 6 weeks and 3 days after 5 years of employment. These entitlement values include the additional day of annual leave granted by the Minster for Health and Social Services in December 2021 and previous statutory days.

Trainees may take one day of annual leave against a shift of any length provided the shift takes place wholly on one day and no part of the shift attracts an enhanced hourly rate of pay. Other shifts must be swapped according to existing arrangements. Whilst it is the trainee’s responsibility to arrange swaps, the employer must facilitate this.

Employers must allow leave to be taken when requested for a life-changing event, provided sufficient notice is given.

No other significant changes are made in the new contract, compared to the old contract, with regards to other types of leave (e.g. study leave) except that, as part of the introduction of the common schedules of the NHS Terms and Conditions of Service Handbook, trainees will have access to shared parental leave policies and child bereavement leave under sections 15 and 23 of the Handbook.
6. Work scheduling for junior doctors

6.1 Principles of work scheduling

Work scheduling will be introduced for junior doctors to provide a clear picture of clinical duties and scheduled training for trainees and allow employers to appropriately plan and deliver clinical services alongside training commitments.

These work schedules will reflect the contractual safe working hours and form the basis for determining what events require exception reporting (see section 8). They will detail all clinical commitments for which the individual trainee is contracted alongside required training and other commitments agreed with their educational supervisor and the host employer (for example, rota coordination).

The new contract stipulates minimum periods prior to the commencement of a placement by which the trainee must receive each piece of work schedule documentation in line with the Code of Practice: Provision of Information for Postgraduate Medical Training (All-Wales version will be published during implementation). These are summarised as follows:

<table>
<thead>
<tr>
<th>Work schedule element</th>
<th>Deadline for providing to trainee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generic work schedule</td>
<td>8 weeks prior to commencement of placement</td>
</tr>
<tr>
<td>Duty roster (confirming rota slot)</td>
<td>6 weeks prior to commencement of placement</td>
</tr>
<tr>
<td>Personalised work schedule</td>
<td>Before or within 4 weeks of commencement of placement</td>
</tr>
</tbody>
</table>

The clinical commitments of work schedules should be based upon well designed rotas that are, where possible, co-produced with junior doctors and adhere to appropriate Welsh guidance that will be developed in social partnership.

Work schedules will typically apply for the length of the placement but should be discussed at a minimum at the start and finish of the placement. The work schedule will also form the basis of discussions between the trainee and their educational supervisor on their progress against training objectives.

Employers will be responsible for ensuring that a system is in place to allow trainees to request annual leave prior to the commencement of a placement, to allow this to be factored into the work schedule.

6.2 Generic work schedule

The generic work schedule will provide the trainee with an understanding of the range of work, duties and training commitments involved in a placement prior to its commencement. It details broad intended educational outcomes, work duties, other workplace activities and the number and distribution of hours for which the trainee is contracted.

The generic work schedule must include time for local workplace inductions. Where a trainee is beginning work in an unfamiliar setting, the induction must be included in the generic work schedule prior to the commencement of clinical duties, which will not be undertaken until it is completed. Inductions must be delivered in line with the NHS Wales Fatigue and Facilities Charter.
6.3 Personalised work schedule

The generic work schedule should form the basis of the personalised work schedule, which will be agreed between the trainee and their educational supervisor. They will personalise the schedule according to the learning needs of the trainee and the opportunities available in the post. It may also include other professional duties that are agreed with the educational supervisor, which may include, for example, rota coordination duties or participation in the junior doctor forum.

This conversation will be the opportunity for the trainee to raise caring responsibilities that should be factored into the work schedule where possible.

6.4 LTFT work scheduling

LTFT trainees will have bespoke work schedules which reflect their agreed training percentage and ensure they are working the correct pro-rata hours. The process of agreeing this work schedule should begin as soon as possible after the trainee has been notified of their placement.

6.5 Academic trainee work scheduling

Trainees on an integrated academic training pathway will have their academic commitments reflected in their personalised work schedule in accordance with Follett principles. Where employment arrangements place the trainee under the new terms and conditions, the trainee, academic employer and clinical employer will agree a job plan for the placement prior to its commencement to accurately reflect the trainee’s various commitments.

6.6 GP trainee work scheduling

GP trainees will receive work schedules just like hospital-based trainees. Their work schedule must reflect COGPED guidance on the split of sessions for GP trainees for their basic 40-hour working week. Additional hours of work above 40 must be linked to the curriculum and be agreed in the work schedule.
7. Reporting overtime and lost training opportunities

7.1 What is exception reporting?

The new contract will introduce a new system for reporting when a trainee’s actual work varies from their personalised work schedule. This system is called 'exception reporting' – in other words, when an exception from your agreed pattern of work takes place, it must be reported.

Exception reporting enables trainees to be appropriately compensated for their actual hours of work and also ensures that they are working within safe limits. Where an exception report shows this has not occurred, it enables employers to take steps to address the issue and ensure it does not happen again. As a source of information on trainee working patterns, it will enable employers to make informed decisions about staffing in order to support clinical services and training opportunities.

Trainees will be able to exception report a range of events including, but not limited to, work performed outside rostered hours, missed training opportunities, other activities contained in the personalised work schedule that have been missed, differences in the support or cover available, and differences in role and responsibility.

7.2 How will trainees be able to exception report?

Exception reporting will be available to all trainees working under the new contract. It will be available via an easy to use, digital system that will be consistent across Wales.

Trainees will be able to report the type of exception, when and where it occurred, other doctors who were also affected, and what steps have already been taken to resolve the issue.

Exception reports do not preclude conversations within teams, for example to arrange time off in lieu, but should be used in parallel to ensure that an accurate record is kept of when exceptions have occurred. This enables employers to better understand work pressures and design rotas accordingly.

7.3 What happens to exception reports?

All exception reports will have a clear actioner who will determine the appropriate action in response to the exception. All exception reports will be copied to the trainee's educational supervisor regardless of if they are the actioner. Where the exception relates to working patterns, it should be sent to the rota manager or coordinator and a designated lead consultant or the consultant who was on shift when the exception occurred. The trainee will copy in the Director of Medical Education where the exception relates to training and the Guardian of Safe Working where it relates to safe working practices.

The appropriate course of action will depend upon the nature of the exception that occurred. It may include time off in lieu, additional payment, or changes to the work schedule. Where the report has flagged that other trainees were affected, the actioner may follow up with the other affected trainees and, if appropriate, register additional reports to reflect that multiple trainees were affected. They may discuss an appropriate action in response to the exception with the affected individual(s), or decide upon the appropriate course of action where this is clear.

Where an exception report has not received a response within 7 days, the Guardian of Safe Working will have the authority to independently action the report. The Guardian will routinely review the outcome of exception reports to identify whether further improvements to the work schedule are required to ensure safe working hours are being maintained. They will also be able to investigate whether other doctors were affected and if further action is required.
For trainees in non-hospital settings, the actioner will by default be the trainee’s educational supervisor. However, all parties are committed to further work on exception reporting in GP practice settings to ensure that an appropriate system that will inspire trainee confidence will be in place.

7.4 Breaches that incur a financial penalty

Some breaches of working hour limits will incur a financial penalty to the host employer. This will take place where the exception that is reported is determined to have caused the trainee to have breached the safe working hours limits as follows:

- A breach of the 48-hour average working week (across the reference period agreed for that placement in the work schedule); or
- A breach of the maximum 13 hour shift length; or
- A breach of maximum of 72 hours worked across any consecutive 168 hour period
- Where 11 hours rest in a 24 hour period has not been achieved (excluding on-call shifts); or
- Where five hours of continuous rest between 22:00 and 07:00 during a non-resident on-call shift has not been achieved; or
- Where 8 hours of total rest per 24 hour non-resident on-call shift has not been achieved.

The trainee will be paid for the additional hours at stipulated penalty rates and the Guardian of Safe Working will additionally levy a fine on the department for the additional hours worked.

Where a concern is raised that breaks have been missed on at least 25% of occasions across a four-week reference period, and the concern is validated and shown to be correct, the guardian of safe working hours will levy a fine at the rate of twice the relevant hourly rate for the time in which the break was not taken.

Where a breach that incurs a financial penalty can be demonstrated to affect a group of doctors, the Guardian will consider the number of doctors affected and will determine a proportionate level of penalty. To ensure that no further breaches occur, a work schedule review may be suggested by the Guardian.

The money raised through fines will be used to benefit the education, training and working environment of trainees. The Guardian will collaborate with the host employer and junior doctor forum to allocate the funds.

7.5 Work schedule reviews

The trainee, their educational supervisor, their manager, or the Guardian of Safe Working may request that a review of the work schedule takes place if they have concerns regarding its compliance with contractual rota design requirements, or where actual working patterns vary consistently from the work schedule or training opportunities are consistently being missed due to clinical commitments.

The trainee’s educational supervisor will discuss the need for a review with them as soon as possible following receipt of the request, ideally no later than 7 working days. Where the request is in response to a serious concern that there was an immediate risk to patient and/or doctor safety, this must be followed up within 7 working days.

The conversation between the doctor and the educational supervisor will lead to one or more of the following outcomes:

a. No change to the work schedule is required.
b. Prospective documented changes are made to the work schedule.
c. Compensation or time off in lieu is required.
d. Organisational changes, such as a review of the timing of ward rounds, handovers and clinics, are needed.
If the trainee is dissatisfied with the outcome of the review, they may request a level 2 review, setting out their areas of disagreement with the original outcome and the outcome they are seeking. This review will be composed of a meeting between the educational supervisor, the doctor, a service representative and a nominee either of the director of postgraduate medical education (where the request pertains to training concerns) or of the Guardian of Safe Working (where the request pertains to safe working concerns).

If the trainee is dissatisfied with the outcome of the level 2 review, they may request a final stage review. The final stage for a work schedule review will be a formal hearing, in accordance with the ACAS Code of Practice on Discipline and Grievance and the final stage of the Respect and Resolution Policy, with the provision that the Director of Medical Education or nominated deputy must be present as a member of the panel. Where the trainee is appealing a decision made by the Guardian of Safe Working, the panel will include a representative of the BMA.

8. Guardians of Safe Working and Champions of Flexible Training

8.1 What is a Guardian of Safe Working?

The contract contains a number of safeguards to ensure safe working conditions that mitigate against staff fatigue. The Guardian of Safe Working, a new role introduced in the new contract, will provide assurance to the host employer and the lead employer that safe working hours are being complied to.

The Guardian is a senior appointment that all health boards will be obliged to make. The lead employer will also appoint a guardian for GP trainees and a ‘lead guardian’ to provide strategic oversight on behalf of the lead employer to ensure compliance with the safeguards within host organisations.

Welsh Government has allocated investment towards the implementation of the Guardian of Safe Working and Champion of Flexible Training roles to ensure health boards are able to properly resource and implement these roles.

8.2 Role of the guardian

The Guardian of Safe Working will:

- act as the champion of safe working hours for trainees
- provide assurance to trainees and employers that trainees are safely rostered and enabled to work hours that are safe and in compliance with the TCS
- receive copies of all exception reports in respect of safe working hours. This will allow the guardian to record and monitor compliance with the terms and conditions of service.
- escalate issues in relation to working hours that are raised in exception reports to the relevant executive director, or equivalent, for decision and action, where these have not been addressed at departmental level
- require intervention to mitigate any identified risk to doctor or patient safety in a timescale commensurate with the severity of the risk
- require a work schedule review to be undertaken, where there are regular or persistent breaches in safe working hours, which have not been addressed
- have the authority to intervene in any instance where the guardian considers the safety of patients and/or doctors is compromised, or that issues are not being resolved satisfactorily; and
- distribute monies received as a consequence of financial penalties to improve the training and service experience of doctors.
The Guardian will also report quarterly to the organisation's board once per quarter, which will include information on all rota gaps on all shifts. A consolidated annual report on rota gaps and the plan for improvement will be included in the organisation's quality account. These reports will also be shared with the local negotiating committee.

Where the Guardian has escalated a serious issue which remains unresolved, they will submit an exceptional report at the next meeting of the board. Where the Guardian identifies an issue with specific posts that cannot be solved locally, they will inform the board, who will raise the system-wide issue as appropriate.

8.3 Appointing a guardian

Organisations will be provided with guidance on the appointment and support of the Guardian role. Funding will be provided as part of contract reform for a minimum sessional requirement dependent upon the size of the organisation. This will be reviewed as the role is introduced to ensure that Guardians are properly resourced.

8.4 Champion of Flexible Training

The new role of the Champion of Flexible Training will be introduced alongside the new contract. This is a strategic role to promote and improve support for less-than-full-time and other models of flexible training. Recognising that increasing numbers of trainees are electing to undertake their training on a less-than-full-time basis, the role is intended to champion flexible training pathways and support trainees and employers by providing guidance and being a point of contact on LTFT issues. This role is mandatory and employer and host organisations will be provided with funding in order to support its implementation.

9. Modernised terms and conditions

9.1 Additional capacity and locum work

Where a trainee wishes to undertake additional hours of paid work as a locum, they are strongly encouraged to offer this first to the NHS, so long as work is available appropriate to their grade and competencies.

The trainee will have a professional duty to ensure that any additional work they undertake for their host employer or another NHS organisation does not exceed the safety and rest requirements of the new contract.

9.2 Fee-paying services

Fee-paying work should normally be carried out in the trainee’s own time. However, it will be permissible for the trainee to undertake fee-paying work and retain the fee where undertaking the work entails minimal disruption to the NHS (around 30 minutes or less).

Where the work requires more time than this, the trainee must remit the fee to the employer unless they choose to undertake an equivalent duration of compensatory work outside of their normal rostered hours or they authorise their employer to reclaim the salary for the time during which the fee-paying work was undertaken.
9.3 Introduction of common schedules

The following sections from the *NHS Terms and Conditions of Service Handbook* will be introduced as part of the new contract. Where the relevant sections are updated via existing procedure, these will be reflected in the TCS for doctors and dentists in training.

- Section 15: Leave and pay for new parents
- Section 16: Redundancy pay (Scotland, Wales and Northern Ireland)
- 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
- Annex 26: Managing sickness absences – developing local policies and procedures

9.4 Facilities

Host employers will be responsible for providing minimum standards of facilities in line with the *NHS Wales Fatigue and Facilities Charter and the Standards for Hospital Resident Accommodation and Associated Support Facilities*.

The host employer will have to provide options for a range of foods via vending machines or other arrangements during periods where restaurant facilities are not open.

The host employer will have to provide sufficient and reasonably accessible parking which has well-lit, safe and timely routes to and from the hospital/site for staff expected to travel after dark. Safety assessments should be undertaken to ensure that car parking provision meets the needs of staff working shifts, on-call and at night.
10. Implementation and transitional arrangements

10.1 Transitional pay and pay protection

The implementation of the new contract will not be subject to a multi-year pay deal. Instead, the pay scales published in this agreement will be considered in the usual manner by the Welsh Government for an uplift alongside all other medical pay scales following the publication of recommendations by the Review Body on Doctors’ and Dentists’ Renumeration (DDRB) in the 2023/24 pay year (i.e. prior to beginning of implementation).

Trainees moving from the old contract onto the new contract as part of implementation will see their pay protected by a cash floor or ‘no-detriment’ arrangement based upon their salary, including banding, the day prior to their transfer.

Pay protection arrangements will be subject to review two years and five years following completion of implementation to assess the utilisation of the pay protection and consider the reinvestment of funding freed-up by the diminishing need for pay protection as trainees progress up the nodal pay structure.

10.2 Transitional rota arrangements

Where possible, health boards will only onboard trainees onto the new contract once the relevant rota has been redesigned to be compliant with the rota design requirements of the new contract. However, where this conflicts with the implementation timeline mandated by the Minister for Health and Social Services (i.e. completion within the 2023/24 training year), or otherwise determined, transitional arrangements for non-compliant rotas may be required.

These arrangements will be determined in social partnership as part of the implementation programme and will be subject to routine monitoring and oversight by all parties until compliance is achieved.

10.3 Implementation programme

An implementation programme will be conducted to manage the complex and significant changes required to implement the new contract. This will be overseen in social partnership by Welsh Government, NHS Wales Employers and BMA Cymru Wales.

Onboarding will begin for the August 2023 intake and will end in August 2024. The process and order of trainee onboarding will be determined by the programme board to ensure a smooth and manageable transition over the course of the implementation period.

10.4 The role of MDBG and JNC(J)

A subgroup reporting to the Medical and Dental Business Group will allow ongoing development of the contract according to the needs of doctors and dentists in training in Wales and Welsh NHS employers. The contract will be subject to a review two years following implementation to assess its operation against expectations. A five-year review will also be conducted on the operation of transitional pay protection to assess the ongoing need for the scheme and the appropriate use of funds previously allocated to pay protection.

NHS Wales Employers, Welsh Government and BMA Cymru Wales will establish a framework to work with colleagues in England via the joint negotiating committee (juniors) on future developments to the new contract in order to maintain appropriate alignment between the contracts in the two nations.