

BMA Scotland guidance for junior doctors: rota changes in response to the COVID-19 emergency

COVID-19 presents the NHS and all its staff with unique and unprecedented challenges. It has become clear that in the coming weeks and months this is likely bring significant disruption to your normal working patterns, to your working conditions and even to your teams, your own roles and the very settings in which you work.

This guidance aims to help ensure that you are safe, that you are valued and that you are treated fairly while undertaking your duties during this difficult time, whatever those duties are.

As always, if you have any individual concerns or queries you should [contact the BMA](#) for further advice. We would also suggest that you [email your LNC JDS](#) (LNC junior doctor subcommittee) for advice on any group or specific local issues.

ENSURING YOUR HEALTH AND WELLBEING

During this extraordinary period, for most of you, the work you do and how you do it will change. Your rota is likely to be temporarily reconfigured into any one of a range of shift patterns, and you may be redeployed to a different department or team to your usual one.

NHS boards are naturally looking at every option to maximise their clinical capacity, but whatever revised rotas are introduced, they should ensure that any more intensive working pattern they are expecting you to work provides you with sufficient rest to ensure both patient safety and your own health and wellbeing, not just over the next few weeks but potentially for the next few months.

Rotas should, where at all possible, incorporate a degree of redundancy to ensure that unexpected absences can be covered. It is our view that in this current emergency, where COVID-related absences are likely, this remains particularly important.

Some of you may have genuine difficulty in working your new temporary rota due to caring responsibilities, disability etc, and you will need to flag this up to your employer. If you are unable to agree an acceptable resolution, please [contact the BMA](#) as we may be able to help.

HOURS LIMITS

All current New Deal contractual provisions and Working Time Regulations remain in force to ensure your safety.

The Working Time Regulations set a maximum 48 hour week which for junior doctors is averaged over a 26 week reference period. This means that some weeks you can work more than 48 hours, so long as the average remains no more than 48 hours. You can sign an opt out, enabling you to work



up to an average of 56 hours but you are under no obligation to do so, and you can rescind an opt-out at any time. The Working Time Regulations also require that you have a 20 minute break rest after 6 hours work, a minimum 11 hours rest between each shift, and either 24 hours continuous rest in 7 days or 48 hours continuous rest in 14 days. There is no opt-out from these restrictions.

In addition to the contractual and legal provisions, there are some important additional non-contractual rota requirements that we have agreed with the Scottish Government and NHS Scotland employers over the last few years to address longstanding issues around junior doctor fatigue (ie maximum 7 days/shift working, 46 hours rest post nights, no rota to contain seven nights in a row, and adequate notice of fixed annual leave). As we have received no request to agree any variation to these additional requirements, they should also continue to apply.

LESS THAN FULL-TIME TRAINEES

When a new temporary rota is introduced, those of you who are working Less than Full Time (LTFT) must have your LTFT status protected, unless you agree otherwise. You may voluntarily agree to increase your usual LTFT percentage temporarily, or pick up additional shifts on an ad-hoc basis where this is more practicable. Consideration will need to be given to trainees in Category 1 and Category 2 LTFT status as to how your hours can be distributed depending on personal circumstances or requirements.

If you are able to offer additional hours by increasing your proportion of full-time equivalent, this should be reflected in a new rota with revised pay. Where you provide additional hours on an ad hoc basis, then this will normally be through the staff bank. Our firm position is that any decision by a LTFT trainee to offer to work additional hours to aid in the national response to the pandemic must not prejudice any application you make to work less than full time in the future.

ROTA BANDING

Under normal circumstances, rota monitoring would ensure that your rota is compliant with the various rules on shift length, rest periods breaks etc, not just on paper but in reality, and that you are being paid appropriately. The Scottish Government has taken the decision to suspend rota monitoring for the remainder of the current 6 month monitoring period (ie up to the end of July).

When your rota is temporarily redesigned, depending on the new working pattern, this may or may not result in a change to your rota banding and an associated increase in pay in line with the New Deal contractual provisions. In the unlikely event that your temporary rota is banded lower than your current rota, you will continue to receive the banding supplement that previously applied (see [paragraph e in Annex A of PCS \(DD\) 2018/01](#)).

Some of you who currently work non-resident on-call (NROC) rotas may temporarily convert to a full shift pattern, depending on local needs. Others may be asked to remain at home on 'stand-by' in order to minimise staff exposure but provide availability to cover absence. This means that you may have to be available to attend your place of work at short notice. Such hours on 'stand-by' should be reflected accurately in any working pattern when calculating the banding supplement for the new rota (see below). It is the BMA position that stand by hours should be counted as duty hours.

We advise you to check that your employer has run any redesigned rota through a compliance software tool called DRS, which all employers have access to. This will highlight any breaches of the hours and rest rules in the new rota, and will calculate the appropriate banding supplement. If you

have any reason to believe that your new temporary rota has not been run through DRS, please [contact the BMA](#) and our employment advisers will take this up on your behalf.

ADDITIONAL HOURS

Although rota monitoring has temporarily been suspended, Scottish Government [have confirmed](#) that all NHS staff should be paid at the appropriate rate for any hours worked during the emergency. Given this, we would advise that if your actual working hours do not reflect your temporary rota, then you should make sure you claim for any additional hours through whatever local arrangements apply, which will generally be through the NHS staff bank at the prevailing staff bank rates.

You can undertake additional shifts via the staff bank, and be paid at the prevailing NHS staff bank rate, in addition to your rota. You should only agree to work additional hours that allow you to obtain enough rest to ensure both patient safety and your own health and wellbeing, and are compliant with the Working Time Regulations.

Where you are asked to alter your rota duties at short notice, the situation can be quite complicated and it can be difficult to calculate what you should claim.

For example, if you were scheduled on your rota to work a standard Mon to Fri 9-5 but are asked to instead work 4 x 12.5 hour night shifts, what should you claim for? Clearly you can't claim for the full 50 hours as you're already being paid for 40 hours work. However, if you only claim for the additional 10 hours, you won't receive the appropriate enhancement working out of hours. To ensure you are paid correctly, you should claim both the difference between the out of hours bank rate (LA: outside Mon-Fri 9-5) and the in hours bank rate (LC: Mon-Fri 9-5) for the 40 hours you are already being paid for, plus the additional 10 hours at the out of hours bank rate (ie LA).

Given the potential for confusion and disagreement on what remuneration is appropriate, we strongly recommend that you agree in advance the applicable rates for any additional work being undertaken beyond your regular working pattern. If you have any difficulty in being paid appropriately for any additional work please [contact the BMA for advice](#).

RETURNING TO NORMALITY

This guidance relates solely to the response to COVID-19. The rotation freezes and temporary rotas must remain under constant review, to ensure that they remain both proportionate to demand and sustainable for doctors. We will be continuously reviewing the position, and once these measures are no longer necessary, we will work with Scottish Government to ensure that normal rotas, and arrangements for banding monitoring, are resumed.

FAQs

You will no doubt have many questions relating to COVID-19, on issues such as indemnity, annual leave, cancellation of study leave, ARCP progression etc. You may find the answer you are looking for in these [FAQs](#) on the BMA website. Further COVID-19 related information for trainees and a set of [FAQs](#) can also be found on the Scotland Deanery section of the NES website.