

BMA Scotland guidance for consultants and SAS doctors: changing working patterns in response to the COVID-19 emergency

In responding to the unprecedented demands posed by the COVID-19 emergency, your NHS board employer will wish to review rotas and propose changes to many doctors' working hours, either in the very short term or for the duration of the crisis. This may include requests for you to agree to temporarily convert SPA into DCC activity, take on additional work, move to a shift working pattern or even be redeployed into a different clinical area.

In normal times, the recognised process for seeking to alter your working patterns is through an individual job plan review. While this should continue to apply where possible, this may not always be feasible in the current emergency, but nevertheless the same emphasis on change through agreement, rather than directive, should still apply. Any proposed changes to your hours of work should include agreement on the applicable remuneration, rest time and adequate breaks. Changing working patterns in response to the COVID-19 emergency should be on a temporary basis only, with the expectation that you will revert to your normal working patterns. During the emergency, changes should be agreed for a defined period of time with the proviso that they can be reviewed should circumstances change.

The Scottish Government has issued [DL\(2020/5\): CORONAVIRUS \(COVID-19\): National Arrangements for NHS Scotland Staff](#) which sets out interim national arrangements for staff.

If you find that agreement cannot be reached for your individual situation, then you should [contact the BMA](#) for further advice. We would also suggest that you [email your LNC](#) for advice on any group or specific local issues.

Q. My employer has said they're temporarily suspending my Supporting Professional Activities (SPA) time to replace it with Direct Clinical Care (DCC). Are they allowed to do this?

Yes. In these extreme circumstances, a change such as this could be considered as a necessary measure. Despite this, our view is that changes to working patterns are always best done through agreement. If you find yourself in this position, your employer should work with you to determine the practical steps necessary to ensure that this is done safely and proportionately, so that changes to SPA time do not have a detrimental effect on your ability to plan and deliver a safe, effective service during this unprecedented time.

Time to provide direct clinical care will be at a premium in what will likely be very difficult circumstances, but doctors must be given the very best opportunity to work safely and effectively or patient outcomes risk being compromised. We have already had suspension of appraisal and revalidation timetables, as well as cancellation of non-essential CPD.

This may free up time during your working week, and the key will be finding the right balance when utilizing this time to ensure that the radical change in how we deliver care is implemented safely and effectively.

There will be a need for more direct clinical care and new ways of working, and this will require additional training, planning and evaluation of our response to COVID-19. Whilst on the face of it, simply converting all SPA time to DCC time would contribute to fulfilling this need it would simultaneously impair the ability of consultants/SAS doctors to retain any capacity to consider planning of the ongoing and changing demands on a service to enable any urgent changes that the service, staff and patients require. It could also adversely impact the ability to evaluate the efficacy of the response. We therefore advise that given the extreme circumstances, and for a limited period, a balanced approach to flexibility on when where and how much SPA time is taken and how it is used will be necessary.

Q. My employer has asked me to temporarily take on additional work, beyond my contracted hours, to help in the COVID-19 response. Do I have to do this, and what should I be paid?

No, and indeed many doctors, particularly some who are currently working LTFT, will be unable to respond to such requests due to caring responsibilities, disability etc. In these difficult circumstances, NHS boards are naturally looking at every option to maximise their clinical capacity, but you should ensure that you only agree to additional working hours that provide you with sufficient rest to ensure both patient safety and your own health and wellbeing.

We strongly recommend that you agree in advance the applicable rates for any additional work being undertaken beyond your contracted PAs. Work contracted through the medical staff bank will be remunerated in line with prevailing hourly rates.

Local arrangements will be in place to claim for additional hours worked.

Q. My employer has not asked me to agree to additional work, but I find that I am working longer hours anyway, e.g. day shifts repeatedly overrun due to patient need and lack of staff, on-call is much more intensive etc. How do I get paid for this extra work?

In normal times, the mechanism for this would be through requesting a job plan review. As this is unlikely to be feasible just now, BMA Scotland advice is to record all the additional hours and seek payment as you work them. The Scottish Government have told us they expect all NHS Boards to have systems in place to capture and remunerate the extra hours that all staff undertake during this time, and to ensure those systems are as administratively simple as possible. If you have problems securing payment for additional work, [contact the BMA for advice](#).

Q. My employer wants me to temporarily move from non-resident on call and a standard working day of 8 am to 6 pm to work resident shifts either during the day or on nights. What should I be paid for this?

The BMA Scotland position is that existing locally agreed arrangements for working ‘resident on-call’ or acting down should apply in such cases. Please email [your LNC](#) or contact [the BMA](#) for further advice if you are unclear on what these are.

Q. My employer wants me to work outside my normal area of practice to help in the COVID-19 response – what should I do?

In such unprecedented circumstances, many senior clinicians are likely to be asked to work in ways for which you will not have trained or not have worked in for some time. This will be a particular concern for those of you who work in non-acute specialties or in niche subspecialties and either don't have a wider breadth of previous training, or if you do, it was many years ago. You will want to ensure that you are working as safely as possible and not putting yourself at professional risk. While we understand that NHS Indemnity will apply, we would strongly recommend that you consult your MDO before undertaking such work.

Before starting work in a new clinical environment, you must make sure you have had an appropriate induction, and you may need to be supervised by other colleagues to ensure that you are delivering your new or modified role as well as possible. Many NHS board employers have already committed to providing orientation/induction/refresher training and you should check what is available in your area and not take on any work you do not feel competent or trained to perform.

Q. What if I am asked to provide cover for sick consultant/SAS colleagues?

Given the circumstances, this is a very likely scenario. Local arrangements for cover will apply – if in doubt, email [your LNC](#) or contact [the BMA](#) for further advice.

There is generally an expectation that you will cooperate with your employer to provide cover for colleagues at an equivalent level where you are sufficiently competent to do so and, crucially, where providing such cover is ‘practicable’. This will depend on the circumstances, including your personal circumstances and short notice cover for colleagues should take account of your own work schedule and levels of rest and recuperation.

Q. What if I am asked to ‘act down’ to cover sick junior doctor colleagues?

Provision of cover by consultants for junior colleagues is usually dealt with under any locally agreed ‘acting down’ policy. Currently there is no similar provision for specialty doctors or associate specialists, however in the current emergency we would anticipate the same provision being made. If you are covering the work of junior colleagues, you do not have the option of acting as if you are working at a lesser level of responsibility than you do normally and you will be expected to work to your normal level of seniority. “Acting down” should not mean that you are paid at the rate of the individual you are covering.

This should only ever be a short-term measure and you should check for local agreements on acting down and ensure that pay or time off in lieu arrangements are in place. If in doubt, email [your LNC](#) or contact [the BMA](#) for further advice.