

The new GMS contract explained

Focus on... Salaried GPs

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This guidance note has been produced by the General Practitioners Committee to help LMCs, GPs, practice managers and PCTs understand the new model terms and conditions for salaried GPs, which came into effect under the nGMS contract. It is one of a series of guidance notes on the new contract.

We would advise all GPs to read the contract document, supporting documentation and new contract documentation, available on the BMA website at www.bma.org.uk. The GPC has produced a list of frequently asked questions which can also be found at the website address.

Although there may be some differences in process in each of the four countries of the UK, the principles of this guidance apply to all.

Salaried GPs

An increasing number of GPs have expressed a preference for salaried contracts. The global sum gives practices new flexibility to appoint salaried staff. PCOs, with the new opportunity of direct provision, can now offer a salaried option. This document focuses on GPs employed by GMS practices and by PCOs. In the future there will be the opportunity to work as a salaried GP for an Alternative Provider of Medical Services (APMS).

Who is a salaried GP?

The term "salaried GP" can be used to describe any GP who is employed by a practice, a PCO or an Alternative Providers Medical Services (APMS). It includes the following:

- Assistants
- Associates
- GP Retainees
- Flexible Career Scheme GPs
- Returner Scheme GPs.

Funding for practice-employed salaried GPs will generally come through the practice's global sum payments. The exception to this is the salary of a Flexible Career Scheme, Returner Scheme or Retainee GP for which a practice receives reimbursement via their PCO. Funding for a PCO-employed GP comes directly from PCO-administered funds.

Terms and conditions for salaried GPs

Model terms and conditions for salaried GPs employed by both GMS practices and PCOs were published in April 2003 as part of the supporting documentation to the new GMS

contract. The National Health Service (General Medical Services Contracts) Regulations 2004 (Statutory Instrument 2004, number 291) states that:

“The contractor shall only offer employment to a general medical practitioner on terms and conditions which are no less favourable than those contained in the “Model terms and conditions of service for a salaried general practitioner employed by a GMS practice” [henceforth referred to as “the Model”] published by the British Medical Association and the NHS Confederation as item 1.2 of the supplementary documents to the new GMS contract 2003.” (Schedule 6, part 4, paragraph 63.)

This will be reflected in the standard nGMS contract for GMS practices.

GMS practices that offer employment to a new salaried GP on or after 1 April 2004 must do so on terms and conditions no less favourable than the Model. Practice employers will have the flexibility to offer enhanced terms and conditions in order to aid recruitment, but it will not be possible to offer less favourable terms and conditions.

Whether the Model applies to those already employed before 1 April 2004 is currently being discussed with the NHS Confederation. ***The GPC recommends that practices should, from 1 April 2004, ensure that the terms and conditions of service for all of their salaried GPs should be no less favourable than the Model.*** This will ensure that contractors will not face a discrimination claim (e.g. under the Part Time Workers Regulations or sex discrimination legislation) which may result from employing salaried GPs on different terms and conditions of employment. GPs already working in an employed capacity should check whether their contracts are comparable to the model salaried GP contract, and particularly ensure that they comply with current employment law, including the European Working Time Directive.

The GPC does not wish to see PMS salaried GPs disadvantaged in relation to their GMS and PCO employed colleagues and recommends that PMS practices also update the terms and conditions of their employed GPs. PMS practices should not be financially disadvantaged in relation to GMS practices and should ensure that their budgets are increased to allow them to adopt the new salaried contract. Failure by PMS practices to follow the minimum terms and conditions of the model salaried contract could result in poor recruitment and retention, with the migration of salaried GPs to nGMS practices.

Flexible Career Scheme, Retainer Scheme and Returner Scheme GPs

Flexible Career Scheme (FCS), Retainer and Returner Scheme GPs may not be offered terms and conditions that are less favourable than that of the agreed Model minimum terms and conditions for salaried GPs¹. In addition these schemes have specific features, particularly regarding educational time, which should be taken into account.

¹ These Model terms and conditions are the minimum terms and conditions of the “Model terms and conditions of service for a salaried general practitioner employed by a GMS practice” set out in schedule 6, part 4, paragraph 63 of the National Health Service (General Medical Services Contracts) Regulations 2004 (Statutory Instrument 2004, number 291).

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The GPC has recently published a model contract of employment for FCS GPs. This is available on the BMA website (<http://www.bma.org.uk/ap.nsf/Content/flexiblecontract>). This model contract uses the agreed and binding minimum model salaried GP contract as its basis, with amendments made to incorporate the terms of the Scheme and offers some enhanced conditions for such doctors. It is recommended that practices wishing to employ a FCS GP do so according to this model contract of employment for FCS GPs.

The GPC is currently updating its model contract for Retainer Scheme GPs and is also working on producing a model contract for GP Returners. These will be available on the BMA website once they are finalised.

What do the Model terms and conditions¹ for salaried GPs contain?

The Model terms and conditions bring important improvements to the terms and conditions of salaried GPs, in line with the terms and conditions of other salaried doctors in the NHS.

Hours of work

Full time is defined as 37.5 hours (9 notional sessions of 4 hours and 10 minutes). Working hours should be carefully defined in a job plan. The ratio of contracted hours in relation to this definition of full time determines a less than full-time employee's minimum entitlements to annual leave, public holidays, protected CPD time and pensionable service.

The salary of part-time employees should be calculated pro rata in relation to this definition of full time hours – for example, a GP employed for five sessions should receive 5/9^{ths} of the full time salary. If a salaried GP accepts a contract of more than 37.5 hours then the extra time must be recognised by a pro-rata increase in salary.

Practitioners employed in salaried posts will have the basic rights and protection as the Working Time Regulations provide. This includes (but is not limited to):

- a working time limit of an average working week of 48 hours a week which a worker can be required to work (though workers can choose to work more if they sign an individual waiver form)
- a right to a minimum 20 minutes' rest break where the working day is longer than 6 hours.

It is an employer's duty to ensure that employees are given adequate rest breaks. The EWTD times quoted above are the minimum, and where work patterns can be intensive or stressful there is a case for longer breaks to be implemented.

Extra non-contractual hours must be mutually agreed and should be either remunerated or recognised with time off in lieu.

Job Plan

This is a key appendix of the Model contract. This should outline the employee's normal duties, workload and important non-clinical roles undertaken within paid work time, such as

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participation in practice meetings, clinical governance, primary health care team meetings, etc. An element of flexibility between both parties, for example regarding working later when busy and leaving early when not so busy and for childcare reasons, may be mutually agreed. An example of what to include in the job plan is appended to this guidance.

Continuity of service with respect to various benefits

(e.g. maternity and sickness benefits)

Under the Model, the level of entitlement to maternity, sickness and some other benefits is based on a GP's previous NHS employment and not just on the duration of their employment with their current employer. Paragraph 1.7 of the Model defines NHS employment as previous work for an NHS Trust, PCO, Strategic Health Authority or Special Health Authority (or any of the predecessors in title of those bodies or the equivalent bodies in Wales, Scotland and Northern Ireland), together with time as a GP provider or performer.

Continuing Professional Development

Full-time salaried GPs are entitled to one session (four hours and 10 minutes) per week on an annualised basis of protected professional development time. This is adjusted on a pro-rata basis for part-time workers and is subject to a minimum for FCS and Retainer Scheme doctors.

The use of the CPD time will depend on the educational needs of the doctor as specified by their appraisal and personal development plan (PDP). It may include time spent on courses, private study, specific clinical refresher experience, audit, preparation for appraisal, practitioner group meetings and participation in practice educational meetings.

Please also see the later section and table on leave entitlement.

Sickness and maternity leave benefits

Practitioners will be entitled to the provisions of the General Whitley Council Handbook. These leave benefits are explained later in this guidance note.

LMC levies

Under the Model, the employer (i.e. the practice or the PCO) will pay the LMC voluntary levy for the salaried GP.

The salary for employed GPs

In 2003 the NHS Confederation, the GPC and the four Health Departments put forward joint evidence to the DDRB to support a determination of a salary range for salaried GPs. The DDRB's suggested range for 2004/2005 is £47,710 to £72,478 for full-time salaried GPs (an overall uplift of 2.6% on the 2003/04 figures). This is only a minimum range, and PCO and practice employers have the flexibility to offer enhanced pay rates to aid recruitment, but cannot offer less than this range in assessing the appropriate salary. The principle of local job evaluation should apply and personal experience should be taken into account.

The GPC has previously published guidance to assist salaried GPs in their salary negotiations. This is available at <http://www.bma.org.uk/ap.nsf/Content/negotiatingSalary>.

The GPC recommends that salaried GPs should ensure that they will receive an annual pay uplift (e.g. in line with inflation, and if available in line with the Government's decision on the

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pay of general practitioners following the recommendation of the Doctors' and Dentists' Review Body) as well as an annual pay increment. The details of this and how this will be calculated should be included in the written contract of employment.

Please also see the earlier section of hours of work regarding calculating the salary for less and more than full time salaried GPs.

Maternity leave benefits

Under the terms and conditions of the Model for salaried GPs, salaried GPs will be entitled to the provisions of the Whitley Council Handbook (Section 6).

The most recent changes to the maternity leave arrangements of the General Whitley Council benefits were identified in the Department of Health's Advance Letter (GC) 1/2003, which is available on the Department's website at <http://www.dh.gov.uk/assetRoot/04/06/24/69/04062469.PDF>. Section 6 of the General Whitley Council Handbook is attached to the letter and explains the maternity leave and pay entitlements of NHS employees under the NHS contractual maternity leave scheme.

In summary:

- a salaried GP working full-time or part-time will be entitled to paid and unpaid maternity leave if she has 12 months of continuous service with one or more NHS employers at the beginning of the eleventh week before the expected week of childbirth
- the amount of contractual maternity pay receivable is as follows:
 - for the first eight weeks of absence, the employee will receive full pay, less any Statutory Maternity Pay or Maternity Allowance receivable
 - for the next 14 weeks, the employee will receive half of full pay plus any Statutory Maternity Pay or Maternity Allowance receivable providing the total amount does not exceed full pay
 - for the next four weeks, the employee will receive the standard rate of Statutory Maternity Pay or Maternity Allowance.
- with prior arrangement of the employer the entitlement may spread differently across the maternity leave
- employees will also be entitled to 26 weeks of unpaid leave.

For the purposes of calculating whether a salaried GP meets the 12 months of continuous service qualification, the following breaks in service are disregarded (though does not count as service):

- a break in service of three months or less
- employment as a GP locum for a period not exceeding 12 months
- absence due to maternity leave (paid or unpaid).

Further details on this are set out in the Whitley Council Handbook, section 6, part C.

The Advance Letter also explains entitlements to paternity, adoption and related leave under the provisions of the Whitley Council Handbook.

Further information about maternity rights and statutory maternity pay is available on the Department of Trade and Industry website at <http://www.dti.gov.uk/er/individual/maternity.pdf>. There is also information available on the Department for Work and Pensions website at <http://www.dwp.gov.uk/lifeevent/famchild.index.htm>.

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Sickness leave benefits

According to the Model, "a practitioner absence from duty owing to illness, injury or other disability shall... be entitled to receive an allowance in accordance with the NHS scale contained in paragraph 225 of the Hospital Conditions of Service."

This means that salaried GPs will be able to receive the following sick leave allowances:

- during the first year of NHS service:
one month's full pay and (after completing four months' service) two months' half pay
- during the second year of NHS service:
two months' full pay and two months' half pay
- during the third year of NHS service:
four months' full pay and four months' half pay
- during the fourth and fifth years of NHS service:
five months' full pay and five months' half pay
- after completing five years of NHS service:
six months' full pay and six months' half pay

All previous NHS service (including locum service), without a break of more than 12 months, is aggregated for the purposes of sick leave. There are specific circumstances in which a break of more than 12 months does not mean a break in qualifying service.

Further details are contained in paragraphs 225 to 244 of the Hospital Medical and Dental Staff terms and conditions of service (www.dh.gov.uk/assetRoot/04/07/40/14/04074014.PDF) and section 57 of the Whitley Council Handbook.

Risk management of maternity and sickness leave

In the event that a salaried GP takes leave for maternity, paternity, adoption or sickness leave, their practice will typically employ locums to maintain the level of services that it normally provides. A practices' entitlements to the funding for such locums is detailed in the Statement of Financial Entitlements (<http://www.dh.gov.uk/assetRoot/04/06/71/92/04067192.pdf>). The SFE's suggested maximum locum payment to practices is currently £943.33 per week for a full-time locum, and pro rata for part-time.

The provision for locum funding allows PCO discretion, with the SFE suggested condition that external locum GPs be employed to cover the work of the absent doctor and that full entitlements are paid to the absent doctor. The GPC continues to press the Department of Health for more definitive entitlements to practices for locums covering maternity, paternity, adoption and sickness leave.

The GPC recommends the following actions:

- LMCs should discuss the local funding of locum arrangements with their PCOs to ensure that practices in their area will receive funding for locum cover of salaried GPs in the event of sickness, maternity, paternity, adoption or sickness leave
- practices should consider purchasing locum insurance to cover all of their salaried GPs (and

possibly other staff as well). This would ensure that a practice would not be out of pocket in the event that a salaried GP required sickness, maternity, paternity, adoption or sickness leave.

Leave entitlements under the Model

The table below will assist salaried GPs in calculating their leave entitlements under the Model. The table does not take into account any adjustments that might have to be made to the CPD entitlement if the salaried GP takes maternity leave or sick leave. Please also note that CPD sessions may include time spent on courses, private study, specific clinical refresher experience, audit, preparation for appraisal, practitioner group meetings and participation in practice educational meetings.

Number of sessions per week	Total number of sessions per annum	Number of sessions of annual leave per annum	Number of sessions of statutory and public holidays per annum	Remaining number of sessions per annum	CPD sessions per annum [an explanation of what these sessions include is given above]	Clinical sessions per annum
X	X x 52	X x 6	X/9 x 20	Y	Y/9 = Z	Y – Z
9	468	54	20	394	44	350
8	416	48	18	350	39	311
7	364	42	16	306	34	272
6	312	36	13	263	29	234
5	260	30	11	219	24	195
4	208	24	9	175	19	156
3	156	18	7	131	15	116
2	104	12	5	87	10	77
1	52	6	2	44	5 (8*)	36

* Please note that Flexible Career Scheme and Retainer Scheme GPs are entitled to a minimum of 8 protected sessions per year for CPD regardless of working hours.

Appraisal for salaried GPs employed by GMS practices

Under the new GMS contract Regulations, it will be compulsory for all medical practitioners performing services under the new GMS contract to participate in appraisal. The funding for appraisal for salaried GPs employed by a GMS practices will be in the practices' global sum. The GPC is currently negotiating the appraisal arrangements for PCT-employed salaried GPs and locum GPs.

All salaried GPs must be allowed sufficient protected time to prepare for appraisal. The appraisal interview should take place during a salaried GPs normal working hours. If this is not possible and has the agreement of the salaried GP, the appraisal interview could be held out of hours provided that the salaried GP is sufficiently reimbursed. The English Department of Health has agreed that no GP should be out of pocket as a result of participating in appraisal.

The Department of Health will soon be producing guidance on GP appraisal which will include the requirements for salaried and locum GPs.

For further information

For any further information about salaried GPs and the new contract, please contact your local BMA office (BMA members only), your Local Medical Committee or the GPC office at info.gpc@bma.org.uk stating your name and address.

BMA members wishing to access information about maternity and sickness entitlements should contact their local BMA office.

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APPENDIX

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Job Plan

The agreed daily arrangements for your work sessions are as follows:
(Indicate start and finish time of each session)

	AM	PM
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		

Total of average weekly hours

Total of average weekly sessions

(Note: It may be appropriate when preparing the job plan to consider whether there are any periods of leave that should be taken into consideration).

Duties

It is suggested that the salaried GP and employer discuss proposed duties and estimates of the time that would reasonably be taken to perform those duties. It is subject to at least annual review and amendment by mutual agreement.

	Hours/frequency
Surgery: Frequency of appointments Number of appointments	
Home visits (if appropriate and agreed)	
Paper work/Correspondence/Results	
Team meetings-clinical, practice, PHCT etc.,	
Specialist interest area of service provided (if applicable)	
Educational: Debriefing Mentoring and support	
Sessions of work reserved for CPD	
Private reports/medical insurance etc., (where applicable and where income is retained by the employer)	
On call duties (if appropriate and agreed):	
Consider both frequency and duration.	
Other	
Total	