Local contractual flexibilities

Introduction
The job planning process provides an ideal opportunity to introduce by agreement, local contractual flexibilities. A more detailed explanation can be found in the Reference manual.

Whilst some pay and contractual elements are predetermined by the 2003 contract, others are amenable to local flexibility to reflect the needs of NHS organisations and consultants. This chapter sets out the main areas of flexibility. In exercising these flexibilities, NHS organisations will want to take into account a range of factors including:

- service needs including Local Delivery Plans
- circumstances of individual consultants
- the appropriate balance between the need for certainty, clarity and transparency and the need for professional flexibility
- the affordability of any arrangements.

The key areas of flexibility:
- work schedules and job planning
- extra programmed activities
- objectives
- fee-paying services
- elements of pay.

Work schedules and job planning
Job plans and work schedules set out:
- how work is organised
- where it is located
- what in general terms the work comprises
- when it is to be performed.

Scope for flexibility:
- there is flexibility about how the hours are worked on a day to day basis
- PAs can be worked in half units as well as whole units
- the number of PAs worked per week can vary
- locations other than the principal place of work may be agreed
- flexibility to alter the 3:1 typical average balance of direct clinical care: supporting professional activities to meet needs of health community
- contract has no “standard” working day or week so there is absolute flexibility to agree appropriate arrangements.

Extra programmed activities
Consultants are expected to offer the NHS first call on a portion of their spare professional time before undertaking private practice if they wish to remain eligible for pay progression. Consultants already working an additional programmed activity (PA) will have fulfilled this. Local employers will decide how many additional PAs they might need to commission and offer these to all relevant consultants. An NHS organisation might, for instance, decide to offer consultants the opportunity to do one extra PA per month, rather than one per week. Organisations and consultants can also agree flexible arrangements for scheduling these additional PAs.

Scope for flexibility:
- number of additional PAs
- the spread and timing of additional PAs.
Objectives

It is a key part of the 2003 contract to agree and work to objectives. These should be set out in the job plan and whilst they are not contractually binding consultants are expected to make reasonable efforts to achieve them.

Scope for flexibility:
- tailoring objectives to reflect local service development plans and priorities.

Fee paying services

There is a key principle that the consultant should not be paid twice for the same period of working time and a default position that if fee paying services take place as part of NHS PAs then the fee should be remitted to the Trust. Consultants may retain fees for work undertaken in their own time including annual leave. The employer may allow consultants to keep fees for work done alongside NHS duties when, in their judgement, there is minimal disruption to the service.

NHS employers may also agree to consultants using, but paying for, NHS facilities and staff in order to undertake private work outside NHS PAs.

Scope for flexibility:
- agreeing to allow fee paying services during NHS PAs (remitting fee)
- agreeing minimally disruptive activities (with retention of fee)
- time diarised outside, but alongside, NHS PAs to perform some services such that both NHS and fee paying services can be performed during the agreed hours
- private work on NHS premises (with payment for facility).

Elements of pay

There is discretion allowed in the following elements of pay:
- starting pay threshold
- retention and recruitment
- on-call payments
- premium time
- other payments and allowances.

Scope for flexibility:
- starting salary recognising relevant non-NHS experience
- retention and recruitment premium - one-off or recurrent but time limited - value - applicability to consultants with similar job plans
- on-call availability supplement - number on rota and category of on-call
- timetabling and PAs for predictable on-call work
- timetabling and PAs for unpredictable on-call work - method of assessing and reviewing unpredictable work
- recognition of premium time work by reduction of length of PA or by supplement
- other payments and allowances can be made at the discretion of the employer.

Links with local policies and procedures

The contract and its schedules need to be read in conjunction with local personnel policies and procedures. NHS organisations may wish to satisfy themselves that such procedures complement rather than contradict the other contractual provisions.

Conclusion

The purpose of the flexibility provided for in the 2003 contract is for the mutual benefit of NHS organisations and consultants to enable better service provision for patients.