

New NHS consultant contract Part-time and Flexible working

1. Introduction

The Department of Health, the CCSC and the NHS Confederation intend that the implementation of a new contract should provide the necessary flexibility for those consultants who wish to work part-time. This document focuses on those aspects of the contract that relate specifically to part-time working as well as highlighting other aspects of the agreement that will be of particular interest to part-time consultants.

2. Encouraging part-time working

There have been a number of recent developments that make part-time and flexible ways of working more realistic and attractive in the NHS. The BMA, the Department of Health and the NHS Confederation are keen to encourage flexible ways of working to improve recruitment and retention of consultants in the health service.

The NHS Improving Working Lives (IWL) initiative places an expectation on all NHS employers to promote healthy work-life balance. The new NHS Flexible Careers Scheme for doctors is part of the IWL initiative and is designed to enable doctors to move in and out of full-time and part-time working, spread training over a longer period, reorganise hours, take career breaks and wind down gradually before retirement or return to the NHS. The scheme provides central funding and is designed to find working patterns for consultants wishing to work less than 50% of full-time. Consultants wanting to work as part of a job share or part-time above these hours can apply for any substantive post.

There have also been developments in employment legislation. Since 6 April 2003, all parents with children aged under 6 or disabled children aged under 18 have the right to request a flexible working pattern and their employers have a duty to consider their applications seriously. The Department of Trade and Industry website at www.dti.gov.uk/er/workingparents.htm contains further information.

The part-time workers regulations ensure that part-timers are not treated less favourably than comparable full-timers in their terms and conditions. This means part-timers are entitled, for example, to the same hourly rate of pay, the same access to pensions, the same entitlements to leave on a pro-rata basis and no less favourable treatment in access to training. Again, advice can be found on the Department of Trade and Industry website at www.dti.gov.uk/er/ptime.htm.

3. Part-time and flexible working principles

There are a number of principles underpinning the agreement with regard to part-time working. These are as follows:

- To encourage flexibility on the part of employers as an aid to recruitment and retention of doctors with other commitments such as family commitments.
- To ensure that part-time doctors do not suffer direct or indirect discrimination because of their contractual status.
- To ensure that part-time doctors are able to keep up to date and continue their professional development.

- To avoid penalising employers who recognise the need for flexible working arrangements and the particular needs of those employees wishing to work part-time.

4. Transitional arrangements

The existing contract is based on notional half days of 3.5 hours duration. The new contract is based on programmed activities of 4 hours. Existing part-time consultants can choose whether to take up the new contract based on the number of programmed activities nearest to their hours of work for the NHS or based on the same number of programmed activities as their current number of notional half days. Part-time consultants, like full-timers, will need to agree with their employer, an assessment of the hours that they undertake. For part-time doctors transferring onto the new contract, any rise in workload will only be by agreement and will be accompanied by the award of additional programmed activities.

5. Pay protection

There will be no financial detriment to the small number of consultants who, on transferring to the new contract, find that their pay (basic pay and on-call supplement) is less than pay (basic plus intensity) under the existing contract, provided that the consultant continues to undertake the same level of activity and remains employed by the same employer (or successor). For consultants transferring to the new contract in 2003/04, there will be full protection for one year, i.e. taking account of annual pay uplift for 2004/05. After this date, protection will be on a mark-time basis (ie until the new salary exceeds the salary at the point of transfer).

6. The basis of the contract

Trusts can offer part-time consultant contracts of between one and nine programmed activities. For appointments after 1 January 2004, where the request to work part-time is *in order* that the consultant can undertake private practice, part-time contracts should not normally be for more than six programmed activities. Employers have the flexibility to agree part-time contracts for more than six programmed activities. Where a consultant wishes to work part-time mainly for reasons other than private practice, but still wishes to undertake some private work, they can be appointed on a contract for more than six programmed activities.

7. The working week

The division of programmed activities between direct clinical care and other activities for part-time consultants will be seen broadly as pro-rata of those for full time consultants. However, it is recognised that part-timers need to devote proportionately more of their time to supporting professional activities, for example due to the need to participate to the same extent as full timers in continuing professional development. The principle is that the consultant must be able to undertake all teaching, audit, and clinical governance activities required by the employer within the time allowed for supporting activities. As for full timers, direct clinical care activities will not intrude on time for supporting professional activities except very occasionally in emergency situations.

Whilst it will be a matter for individual agreement, an illustration of the breakdown between direct clinical care and supporting professional activities sessions for part-timers working eight or six programmed activities is as follows:

TOTAL PAs	DIRECT PATIENT CARE	SUPPORTING ACTIVITIES
8	5.5	2.5
6	4	2

Apart from their timetabled activities, a part-time consultant should have no NHS commitment during the working week. Variations in the balance of activities will be a subject for agreement between the consultant and their employer. Any agreement will need to reflect the requirements for continuing professional development agreed in appraisal and job planning reviews.

Consultants working part-time will not be expected to carry the same workload as a full time consultant. The assessment of the workload needed to fulfil a consultant's duties and responsibilities will be based on the agreed number of direct clinical care programmed activities in the job plan.

8. Out of hours work

Where a part-time consultant participates in an on-call rota on the same basis as a full-time colleague, they will receive the full value of an on-call availability supplement. If the participation in the rota is on a different basis, a consultant will receive the same supplement as a full-time consultant on an equivalent rota. If a doctor is on-call on a day that they do not normally work, time off in lieu or additional payment will be agreed.

9. Pay progression

There will be a small number of flexible trainees who, because of the length of time spent in the specialist registrar grade, would not be able to reach the top of the new consultant pay scale. Consultants whose training was lengthened because they were in a flexible training scheme will, where necessary, have their progress through the pay thresholds adjusted so that they will reach the threshold they would have attained had they trained on a full time basis (eg training extended by two years counts as the equivalent of two years seniority as a consultant on first appointment as a consultant).

10. Extra programmed activities and spare professional capacity

Under the framework agreement, consultants wishing to undertake remunerated clinical work outside the main contract are obliged to offer their first spare professional capacity to the NHS. Part-time consultants who wish to use some of their non-NHS time to do private practice would be expected to offer up to one extra programmed activity on top of their normal working week.

11. Flexibility and annualisation

The contract allows for flexibility in the timing and location of consultants' programmed activities. Some consultants, particularly part-timers, may find it convenient to do their routine work at weekends or outside normal working hours in order to balance their other commitments and responsibilities. Employers have a duty to consider seriously, and will make reasonable attempts to accommodate, any requests to work flexibly. Doctors requesting to work flexible patterns will be entitled (with appropriate notice) to return to a regular pattern of work.

Some consultants may wish to vary the number of sessions worked each week to cover other commitments, for example school holidays, research or higher degree courses. Employers will make serious attempts to accommodate these requests and pay will be calculated on an annualised basis. In such circumstances, the contract as a whole would be expressed in terms of the annual equivalent of the working week. By agreement between consultant and employer, the job plan will specify variations in the level and distribution of programmed activities within the overall annual total. A consultant could thus work more or less than the standard number of programmed activities in particular weeks. These doctors should be entitled (with a reasonable period of notice) to return to a regular pattern of work.