

## Chapter 8

# Hours of work and job planning

This chapter covers the statutory and contractual requirements on hours of work (see sections 1.1 to 1.5 below), and how hours of work can be varied with the steps to be taken by both sides (section 1.6 below). It also deals with the benefits of and content of a job plan (see section 2 below).

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**All aspects of this chapter are relevant to salaried GPs and their employers.**

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## 1. Hours of work

### 1.1 Statutory requirements: Working Time Regulations

The Working Time Regulations, for the purposes of this chapter, include the Working Time Regulations 1998 for England, Wales and Scotland, and the Working Time Regulations (Northern Ireland) 1998 for Northern Ireland.

#### 1.1.1 Working week limit

All salaried GPs can take advantage of the statutory 48-hour limit for an average working week. This is averaged out over a reference period of 17 weeks and includes work outside of the employing practice. Employers are required to ensure that their employees do not exceed the 48-hour maximum. If this is breached then a claim can be brought against the employer by the salaried GP through an employment tribunal, and action may even be taken by the Health and Safety Executive or the Department of Business and Enterprise (DBERR).

If a salaried GP wishes to work longer than an average of 48 hours per week, for example due to working for another employer, then they can opt out by signing an individual waiver form and forwarding this to their employer. However, the employer cannot force a salaried GP to opt out of the 48-hour maximum. The employer in return must keep a record of all employees who have opted out. The salaried GP may opt in again, but must give the employer three months' notice.

### **1.1.2 Night workers**

A night worker is defined as working on average three or more hours between the hours of 11pm and 5am. The average is again based on a reference period of 17 weeks.

If a salaried GP works at night (ie is a night worker as defined above), then he or she must not be allowed to work more than eight hours per 24-hour period based on a reference period of 17 weeks. It is not possible to opt out of these requirements.

Night workers also have the right to receive a free health assessment before starting the post, and also to have this assessment at regular intervals.

### **1.1.3 Rest periods**

Salaried GPs, as employees, have the right to the following:

- 11 consecutive hours rest per 24-hour period
- a weekly uninterrupted rest period of 24 hours, or every fortnight an uninterrupted rest period of 48 hours
- a minimum uninterrupted 20 minutes rest break in one block where the working day is longer than six hours. The salaried GP is entitled to spend this time away from his workstation (eg desk/consulting room). This must be taken off during the day; it cannot be taken off one end of the working day.

It is not possible for a salaried GP to opt out of the entitlement to these rest periods.

## **1.2 Sex discrimination and flexible working**

Employers should allow part-time working where appropriate. Otherwise the employer risks a claim of indirect sex discrimination since more women are likely to require part-time working for family reasons. While an employer may have a defence that it is justifiable, this could be difficult to prove if the employer fails to give it due consideration and/or it would objectively be considered that the employer could have made adjustments to allow part-time working.

Employers are also under a duty to consider fully a written request from an employee to work flexibly. Salaried GPs who have 26 weeks' continuous service with their current employer and who are responsible for the care of a child or children under 16 years of age (or under 18 years of age if the child is disabled) or who are carers of adults may apply to work flexibly. To apply, the salaried GP must put the request in writing, date it, and specify the following:

- that the application is being made under the statutory right to request a flexible working pattern
- that the salaried GP has or expects to have responsibility:
  - (a) for the upbringing of a child where the salaried GP is either:
    - the mother, father, adopter, guardian, special guardian, foster parent, private foster carer or granted a residence order in respect of a child; or
    - married to or is the partner of the child's mother, father, etc (as above)
  - or*
  - (b) as a carer for an adult who is their spouse, partner, civil partner, relative or person who lives at the same address as them
- the flexible working pattern applied for
- what effect, if any, the salaried GP thinks the proposed change would have on the employer and how, in the salaried GP's opinion, any such effect might be dealt with
- the date on which it is proposed the change should become effective
- whether a previous application has been made to the employer and, if so when it was made.

Only one application to work flexibly may be made per 12-month period.

The employer has 28 days from the letter to hold a meeting with the salaried GP to discuss the proposal. The salaried GP may be accompanied by a colleague or a trade union representative at this meeting. The employer must consider fully this proposal, and must give a written notice of the decision within 14 days of the meeting. The salaried GP will then have 14 days to appeal the decision. Failure by the employer to comply with this could result in a claim to an employment tribunal.

Salaried GP BMA members are advised to contact the BMA prior to applying to work flexibly to seek further guidance. Also, if any requests to work part-time or to work flexibly have been rejected, it is vital to contact the BMA immediately as there are strict time limits for lodging a complaint with an employment tribunal.

Similarly GP employers who are BMA members should contact the BMA as soon as a request for flexible working is received to ensure the correct procedure is followed.

### **1.3 Performers List requirements: minimum hours**

It is a requirement of remaining on a Performers List that a GP must undertake some NHS GP work in the PCO's area during a 12-month period. Some PCOs are interpreting this to mean that a GP must undertake a minimum of one session or one hour (or more) per week. This is a very wide interpretation of the Performers List Regulations, and is not one that is shared by the BMA. Instead, our interpretation is that provided the GP undertakes some work, say one hour per annum, then they should not be removed from the List.

If a PCO suggests to a salaried GP that he or she will be removed from a List due to insufficient GP work being undertaken, the salaried GP should contact the BMA as a matter of urgency. The BMA can assist in helping to resolve this.

However, undertaking a very limited amount of work could be detrimental to a GP as it may not allow them fully to maintain their skills and therefore could have an adverse impact on their appraisal and reaccreditation.

### **1.4 Model salaried GP contract**

The model contract states that a full-time salaried GP works 37.5 hours per week. It is possible to work less than full time or to work additional hours, with the exact hours being a matter of negotiation between the salaried GP and the employer. The model contract also requires a job plan to be agreed and appended to the contract (see below for more details).

In setting out the full-time hours of work, the model contract states that this is calculated to be nine nominal sessions, with each session being four hours and 10 minutes. In reality a session rarely lasts for such amount of time. Therefore, in determining hours of work, salaried GPs and their employers may prefer to refer to the actual hours or part of hours (rather than nominal sessions) worked.

#### **1.4.1 Overtime**

The model contract does allow for overtime to be worked where both parties agree, and if so then the salaried GP is paid on a pro rata basis for the extra time. Salaried GPs may wish to negotiate a higher rate of pay based on, for example, time and a quarter, time and a half or double time to recognise any unsocial overtime hours that they may work.

#### **1.4.2 Job plan**

As noted above, it is a requirement of the model contract for the salaried GP and employer to agree a job plan. For details on what should be included in the job plan and how to prepare for this, please see section 2 below.

### **1.5 GPs not employed on the model salaried GP contract**

There are no set hours for a salaried GP who is not employed under the model salaried GP contract. However, the Working Time Regulations (see section 1.1 above) will apply. Provided that these Regulations are met, then the salaried GP's exact hours of work will be a matter of negotiation between the employer and salaried GP. The agreed hours should be stated clearly in the written statement of particulars (which is a statutory requirement – see chapter 6 section 1) and in the written contract of employment.

It is also advisable to agree how any overtime will be rewarded, and to set this out clearly in the written contract of employment.

## 1.6 Changing hours of work

### 1.6.1 When can the hours be changed?

An employer may want to change a salaried GP's hours of work on a permanent basis because, for example, they are looking to extend the practice's opening hours. While employers cannot unilaterally change a salaried GP's hours without the risk of an action for unfair dismissal being brought against them, it is possible for the terms and conditions (including hours of work) to be changed. There are five main ways in which this may be done:

- By explicit negotiated agreement between the salaried GP and the employer.
- Where agreement is already contained within the contract prior to the change – ie if there is a contractual right to vary the contract. For example, the contract may reserve the right to change the timings of hours of work subject to consultation. If the contract contains such a provision, the employer would not need subsequently to negotiate and agree any change to hours with the salaried GP (although it would be good practice for the employer to do this). It might, however, still be possible for the salaried GP to object to the change if it is excessive or unreasonable. This will depend on the circumstances. To check whether a contract of employment contains such a term, BMA members should send their contract to the BMA for checking. However, it should be noted that there is no contractual right to vary the contract in the model salaried GP contract.
- By collective agreement where the contract specifies that such changes will be incorporated. Again, to check whether a contract of employment contains such a contractual term please send it to the BMA.
- By performance of the contract – if a salaried GP works to the new hours then they could be deemed to have accepted a change by performance. Thus, if a change occurs which a salaried GP is concerned about then the salaried GP needs to clarify with the employer that he/she is not agreeing to the change and should seek further advice from the BMA.
- By the salaried GP being dismissed from their contract and then being offered a new contract on different terms. This would only be

expected to occur in extreme circumstances. The salaried GP does not, however, need to accept the change and may be able to seek legal redress for the dismissal (see chapter 18 for more details).

It is also possible that, where a salaried GP is unable to change his/her hours, the employer may dismiss the salaried GP without re-engaging him/her. As above, this is an extreme measure and legal redress may be available to the salaried GP as a claim of wrongful and/or unfair dismissal (see chapter 18).

### **1.6.2 How to avoid problems occurring**

If an employer is looking to change a salaried GP's hours of work, the BMA recommends that they have a meaningful discussion with the salaried GP before reaching any decisions. Communication, involvement and engagement are generally the key to practices managing any change successfully. Similarly, salaried GPs should consider the proposal carefully and discuss this with their employer. Below are some key recommended steps to be taken by both parties:

#### **Step 1: Setting out the proposed change**

We recommend that the employer should put the details of the proposal in writing so that it is clear and can be considered fully by both sides. This should include all of the following:

- whether the proposal is for an increase in the salaried GP's working hours or a re-arrangement in working hours
- a range of alternative options to consider (eg in terms of the hours available since some staff may be able to cover different hours)
- whether the new hours will include time for administration
- the impact that the re-arrangement of hours will have on attendance at team meetings and the ability for clinicians to communicate
- details of the support staff that would also be working with the salaried GP during the new hours
- practice security and insurance arrangements that will be in place if the salaried GP is being asked to work late or at weekends
- whether the remuneration will remain the same or will be at a higher rate to take account of any anti-social hours

- whether the proposal is for a temporary or a permanent change to working hours
- the timescale for responding to the proposal and what opportunities there will be to discuss this in a meeting.

### **Step 2: Consideration of the proposal**

The next step is for the salaried GP to consider the proposals fully. In doing so the salaried GP may find that the proposed change to their hours could work, or be rearranged to work, to their benefit. For example, if the salaried GP can arrange childcare on a Saturday morning, then it may be possible for them to negotiate that they start work later or leave earlier during the week. Alternatively the salaried GP may prefer to start work later in the day and to work later in the evening, for example.

In considering this, the salaried GP should also bear in mind how the proposed change fits in with their professional development aspirations, personal development plan and any actions agreed during their recent in-house performance review (internal appraisal).

Therefore, it is worth the salaried GP at least considering whether it might be suitable and if so how the proposed changes can be made to work for them. Of course, this will not be possible for everyone.

### **Step 3: Responding to the proposal**

After considering the proposal, the salaried GP should then carefully consider how to respond. As in any negotiation, listening to the reasons for the change and engaging in the discussion is the key for both parties. There may be parts of the proposal that the salaried GP can support, and other parts which they are unable to or which cause concern. It is important for the salaried GP to be clear about this in responding. For example, the salaried GP may be willing in principle to consider working longer one night a week, but finds the specific hours suggested are impossible. Or the timescale for meeting the change may be too short if, for example, the salaried GP has childcare cover to arrange.

Alternatively the salaried GP may be unable to change working hours at all. The BMA recommends that in the first instance the salaried GP should explain to the employer their reasons for this – for example, for family/childcare reasons.

If the salaried GP cannot accept the proposal as it stands or is unable to accept it at all, then by specifying these reasons when responding may enable the employer to seek other GPs to cover the new hours and/or consider revising their proposals.

#### **Step 4: Employer's consideration**

The employer should consider the offer made by, and/or reasons given by, the salaried GP, and review how these can be accommodated.

##### **1.6.4 If the salaried GP is unable to change their hours and the employer insists on a change**

If the employer is not willing or able to consider changing the proposal, then salaried GP BMA members should contact the BMA immediately for individual expert advice on how to handle the particular situation and to discuss options. Similarly, GP employer members should contact the BMA to ensure that they act within the law and so prevent any negative repercussions.

##### **1.6.5 If a change to hours of work is accepted**

Salaried GPs who agree to their hours being changed should request a draft revised contract of employment and a draft new job plan. We advise that the salaried GP should have these checked prior to working to the new arrangements. BMA members should contact the BMA immediately so that the proposed revision to their contract and job plan can be checked.

## **2. Job plan**

### **2.1 Benefits of a job plan**

A job plan sets out the working schedule of a salaried GP. It therefore assists both the salaried GP and the employer.

## 2.2 Developing and reviewing a job plan

The job plan should be developed collaboratively between the employer and salaried GP. It should be produced and agreed as soon as possible, and ideally before the salaried GP starts work.

The job plan should be reviewed annually or when there are any significant changes proposed to the work pattern by either party. Any changes should be made only by mutual agreement.

## 2.3 Content of the job plan

The job plan should specify the hours that the salaried GP is to work each day. It should also set out or take account of:

- i. the daily clinical duties (eg appointments, visits, telephone queries from patients or other health care professionals) – in particular it should make an allowance for patients arriving late, difficult cases requiring more time, and the need for salaried GPs to make urgent referrals

Example A: If the working day is to finish at 5.30pm, then the BMA recommends that the last booked appointment should start earlier than 5.20pm. The last booked appointment should also be set so that it reflects the length of the surgery, when the salaried GP will next be in the practice to act on referrals, and the practice's policy on patients who attend late for their appointment.

Example B: An estimate should be made of the likely time to be spent on each home visit. On average a visit lasts about 30 minutes, and longer where there is extended travelling time. It is advisable for the employer and salaried GP to agree a maximum weekly number of visits, and where this is extended and cuts into time for administration/ paperwork, then additional time should be protected for these tasks at another time during working hours. It is also important for there to be a clear cut-off time when visits become the responsibility for out-of-hours or on-call doctors.

- ii. administrative work to be undertaken, bearing in mind that the ratio of clinical work to administrative work is usually in the region of 3:1 for salaried GPs, excluding meetings. If the salaried GP is to perform a specific practice development role, this should be accompanied by a further reduction in the clinical face-to-face time
- iii. specific specialist roles, such as medical student or GP trainee teaching/training/mentoring, and responsibility for particular areas of practice development
- iv. time for practice team meetings
- v. protected time for continuing professional development (CPD) – which could include in-house meetings, private study, time off in lieu for external educational events outside of normal working hours, etc
- vi. the statutory requirement for rest breaks (see section 1.1.3 above).

The job plan must also be realistic in terms of the amount of work that can be achieved during the working hours. GP employers owe an implied duty to take reasonable care for the health and safety of their staff, and also owe a duty of care to their patients. For these reasons it is imperative that salaried GPs are not given unreasonable workloads. Also, when a salaried GP undertakes work, including team meetings and agreed CPD, outside of normal working hours then the way that this will be recognised should be clearly set out in the written employment contract. Where this will result in time off in lieu this should be taken into account in the job plan (eg a change to the start or finish times and so a corresponding reduction in the number of patients to be seen and/or visits to be undertaken).

It is also worthwhile to reflect the salaried GP's particular abilities when drawing up the job plan (for example, experience and clinical and/or management skills). The employer may also wish to aid a working relationship by considering the salaried GP's developmental priorities (eg need for CPD) and external commitments (ie by varying the start and finish times to meet the salaried GP's childcare arrangements).

An example of the factors to consider in preparing a job plan, as well as a job plan diary, is set out on pages 50 to 52.

**To be completed separately for each day of the working week:**

<b>DAY OF THE WEEK</b>	
Start time	
Finish time (and time of last appointment)	
Hours worked this day	
Morning surgery: number of patients, time of first and last appointments	
Afternoon surgery: number of patients, time of first and last appointments	
Number of visits	
Time for administration and whether includes correspondence/ prescriptions not addressed to the salaried GP	
Meetings: start and finish time	
Comments: eg adjustments to workload to allow attendance at monthly meetings	
Mentoring time	
Protected CPD time undertaken in the practice	
Protected CPD activities external to the practice	

**For any on-call duties**

Start time for on-call duties	
Finish time	
Frequency (eg 12 mornings a year)	
How many on calls per year?	
Does this extend the normal day? If so, by how many hours	
Arrangement to take time back in lieu; specify when time in lieu will be taken, eg last Thursday afternoon of month when four hours of on call undertaken during the month	

**Specialist roles within a practice**

(to be completed separately for each role)

Definition of role (eg practice lead in diabetes)	
What skills and knowledge base will be required to carry this out?	
What support will the salaried GP receive from within the practice? State the key administration and managerial support available, with names and their role	
What support will the salaried GP receive from outside the practice? (eg local groups of experts)	
Other comments	

### How the activities set out below will be worked into the job plan

Fixed time (eg weekly or monthly clinics, regular meetings)	
Unscheduled time for protocol development (eg 20 hours during the year)	
Training time (eg 12 hours per year to access the required training)	
Any other provision	

<b>Types of activities that the specialist role will involve</b>	<b>Time allocated</b>
Training required to carry out the role	Hours per year
Advising other members of staff	Hours per week
Clinical time seeing a specific patient group	Hours per week
Regular meetings within the practice discussing patient groups	Hours per month
Time spent developing practice protocols either alone or with other clinicians/non clinicians	Hours per month
Time spent auditing standards in the area of expertise	Hours per month
Time attending relevant meetings outside the practice	Hours per month

## **2.4 Job plan diary**

A job plan diary can assist the annual review of the job plan. It will identify whether the current job plan is being followed, and whether the balance of activities in the plan is appropriate. In this way it can help to prevent and/or resolve disputes.

### **2.4.1 Completing the job plan diary**

The diary is prepared by the salaried GP. It should be completed over a four-week period which is representative of normal workload. This period should be agreed between the salaried GP and employer.

A sample diary, with suggested coding to enable the diary to be completed with ease, is set out on pages 54 to 57. The coding is not exhaustive; additional codes may need to be added (for example, for external activities).

It is also important for both parties to agree in advance the level of detail required for the diary activities – although making the recording too onerous may jeopardise its accuracy.

## Suggested diary activity codes

<b>Direct clinical care</b>		
Surgery appointments	Separate codes can be assigned to distinguish specialised clinics eg baby clinic, ANC, diabetes, minor ops. (eg A1, A2, A3, A4)	A
Home visits	Includes travelling time and recording in notes	B
Telephone	Telephone appointments and triage	C
On-call time	When to be available for emergencies	D
<b>Indirect clinical care</b>		
Referrals	Written or by telephone To external services or to other healthcare professionals within the practice	I1
Incoming Correspondence	Reading, actioning	I2
Results	Reading and actioning	I3
Prescriptions	Repeats and queries	I4
Team discussion of cases	Case conference or other PHCT meetings where patients are discussed, or telephone discussion	I5
<b>Supporting clinical activities</b>		
Business or partnership meetings	Business, management, employment issues, premises, tax, accounts, partnership agreement, etc	N
Clinical team meetings	Clinical matters- practice development, protocols, audit, practice guidelines, clinical governance	O
<b>Practice meetings educational</b>		
Personal CPD	Private study, online modules, attending outpatient clinics, courses lectures, audit etc	Q
Appraisal	Preparation, meeting and follow up	R
<b>External activities</b>		
	Can also code X for covered by contract, Y if work for another employer e.g. PCT)	
Training registrar	And related activities eg trainers meetings	V1
Teaching students	And related activities eg preparation and training for this role	V2
PCT work		V3
Private work done during surgery time	Specially if remunerated separately eg appraisals for external GPs, drug trial work	V4

**Job plan diary**

To be completed for each day of work for a typical four-week period

Date:

	Activity code <sup>1</sup>	Location <sup>2</sup>	Employer/ <sup>3</sup> contractor
0700-0730			
0730-0800			
0800-0830			
0830-0900			
0900-0930			
0930-1000			
1000-1030			
1030-1100			
1130-1200			
1200-1230			
1230-1300			
1300-1330			
1330-1400			
1400-1430			
1430-1500			
1500-1530			
1530-1600			
1600-1630			
1630-1700			
1700-1730			
1730-1800			
1800-1830			
1900-1930			
1930-2000			

1 See activity codes table.

2 This column will only be required occasionally where this is of special interest. Indicate the codes you have decided to use (none suggested here) and which locations they refer to in the documentation accompanying the diary.

3 This column will only be required occasionally, where relevant. Indicate the codes you have decided to use (none suggested here) and which employers or contractors they refer to (eg PCO, university, etc) in the documentation accompanying the diary.

**Job plan diary – analysis and review**

Average time spent on:

		Daily	Weekly (total divided by 4)
<b>Direct clinical care</b>		<i>(sum of below)</i>	<i>(sum of below)</i>
Surgery appointments	A		
Home visits	B		
Telephone	C		
On-call time	D		
<b>Indirect clinical care</b>		<i>(sum of below)</i>	<i>(sum of below)</i>
Referrals	I1		
Incoming correspondence	I2		
Results	I3		
Prescriptions	I4		
Team discussion of cases	I5		
<b>Supporting clinical activities</b>		<i>(sum of below)</i>	<i>(sum of below)</i>
Practice meetings	N		
Practice meetings	O		
Practice meetings educational	P		
Personal CPD	Q		
Appraisal	R		
<b>External activities</b>		<i>(sum of below)</i>	<i>(sum of below)</i>
Training registrar	V1		
Teaching students	V2		
PCT work	V3		
Private work done during surgery time	V4		

Total weekly hours worked (on activities for the practice as required by contract excluding work for external organisations)	
Percentage of this time spent on direct clinical care (DCC)	
Percentage of this time spent on indirect clinical care (IDC)	
Percentage of this time spent on supporting clinical activities (SPA)	
Additional time spent on external activities (EA)	

#### 2.4.2 Using the job plan diary to review the job plan

Below is a template for the salaried GP and employer to use when considering the diary.

	Comments/suggestions for how the job plan could be amended
Are the number of hours worked consistent with the contract of employment?	
Is the balance of activities – DCC, IDC and SPA (see abbreviations used above) – within the recommended parameters?	
Problem areas identified	
Practice developments	