



Llywodraeth Cymru
Welsh Government



NHS Wales Employers
Cyflogwyr GIG Cymru



Cymru Wales

21 April 2020

Joint statement on the application of contractual provisions for junior doctors and dentists in Wales during the Covid-19 pandemic

The Covid-19 pandemic, and the immense demands it is placing upon the NHS, represents an unprecedented challenge to this country. The past few weeks have already seen junior doctors alongside other healthcare workers demonstrating extraordinary levels of commitment and willingness to go above and beyond usual expectations. To ensure that these efforts are sustainable in the weeks and months to come it is of paramount importance that staff are not working in a manner that compromises their health or safety or that of their patients.

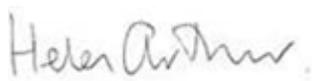
The National Health Service Hospital Medical and Dental Staff and Doctors in Public Health Medicine and the Community Health Service (England and Wales) Terms and Conditions of Service 2002 as amended contains a range of working hours restrictions, rest requirements and rota monitoring requirements that are designed to protect junior doctors and dentists from excessive fatigue and burnout. The expectation is that these protections should continue to be applied as far as possible during the coming weeks and months spent facing the Covid-19 pandemic.

However, NHS Wales Employers, BMA Cymru Wales and Welsh Government agree the following principles that will apply during this exceptional period in order to assist the Covid-19 crisis:

- **The contractual requirement to monitor rotas will be temporarily paused. However, the assessment of bandings for all emergency rotas must still be put through and determined by the rota software Allocate and be compliant with the *Hallett v Derby* judgement.**
- All partners agree that when designing rotas the health and wellbeing of our junior doctors and dentists, patient safety and sustainable service delivery remain paramount. Every effort will continue to be made to ensure that breaks are taken during and between shifts.
- Emergency rotas should be agreed with junior doctors and dentists, who should be involved where possible in their design. These should be reviewed in partnership with junior doctors and dentists locally on an ongoing basis.
- No individual will suffer financial detriment as a result of changes made to their pre-Covid-19 working pattern or by agreeing to be placed on a new emergency working pattern.
- Where working patterns may change the junior doctors on the rota will be paid the appropriate banding supplement for the emergency Covid-19 rota if that is higher than the banding supplement that would attract to their pre-Covid-19 substantive rota. If the emergency rota banding is lower than their pre-Covid-19 substantive rota then overall salary applicable to the usual pre-Covid-19 banding will be maintained for the duration of the emergency rota. Incremental credit and progression will continue to apply.
- Individual doctors may for a variety of reasons find themselves unable to work a particular rota or take on certain clinical responsibilities during the Covid-19 pandemic. These individual circumstances should be managed sensitively and on a case-by-case basis to identify and address any potential barriers and ensure that they can contribute as they are able.

- When a new or amended rota is implemented, any Less than Full Time (LTFT) doctor or dentist and those with reasonable adjustments in place must have their existing status protected unless they agree otherwise. There should be no discrimination during this period toward junior doctors and dentists whatever decision they choose to make, , nor should choices made during this time prejudice future applications for LTFT or reasonable adjustments. Applications for LTFT will remain open.
- Where a junior doctor or dentist works additional hours beyond their scheduled rostered hours, these should be paid at locum rates. If an LTFT doctor or dentist agrees to offer additional hours, they may choose to do this either on an ad-hoc basis or by voluntarily increasing their proportion of full-time equivalent and any change should be reflected in revised pay arrangements.
- Ghost shifts, where junior doctors and dentists are 'shadow rostered', are not part of the terms and conditions of service. However, in these exceptional circumstances these shifts may be used on a temporary basis as long as they are clearly rostered in advance, confirmed to be worked with at least 24 hours' notice, and paid at locum rates. Where less than 24 hours' notice is given, the rostered junior doctor or dentist is under no obligation to work the shift, and it should be offered up at locum rates to others. These shifts should be spread as evenly and as fairly across the length of the rota as possible to provide equity for all those working the rota. Ghost shifts should be factored into working-time limits.
- Rotas should, where possible, be designed to be forward rotating (e.g. day-evening-night), and rapid cycling between day and night shifts should be avoided.
- Existing annual leave bookings should be honoured, unless the individual has agreed to cancel it. Where annual leave (including public holidays) is not possible due to service demands, this can be carried over line with the [NHS Wales Covid-19 \(Coronavirus\) Frequently Asked Questions for NHS Managers and Employers](#). Parties have committed to further discussions on annual leave issues affecting junior doctors and dentists arising out of the Covid-19 pandemic.
- Individuals on emergency Covid-19 rotas will revert to their usual pre-Covid-19 rota and pay arrangements once the emergency response period is over. Whilst the duration of the emergency response period may be determined locally by each Health Board/Trust, this statement will remain in force nationally until all parties agree that the emergency response period has concluded across the whole of Wales. The parties to this statement have agreed to review these emergency working conditions no later than 30 June 2020.

These are unprecedented times and all of those working in the NHS are likely to find that they are working harder and in circumstances more challenging than those they have faced before. We know that all staff involved will pull together to support each other. NHS Wales Employers, BMA Cymru Wales and Welsh Government are so very grateful for the commitment, flexibility and professionalism demonstrated by our junior doctors in Wales at this acutely challenging time.



Helen Arthur
Interim Director of Workforce and
Corporate Business,
Welsh Government



Richard Tompkins
Director,
NHS Wales Employers



Dr Josie Cheetham
Chair,
BMA Cymru Wales Junior Doctors
Committee