BMA

Scotland

New contract offer for SAS Doctors and Dentists in Scotland

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For the past year, BMA Scotland has been negotiating with the Management Steering Group (MSG) on new contracts for SAS doctors in Scotland. MSG is the body responsible for negotiating terms and conditions of service on behalf of the Scottish Government and NHS Scotland employers. These negotiations have now concluded with MSG presenting a 'full and final' offer on a contract package which comprises a revised Specialty Doctor (2022) contract and the introduction of a new Specialist (2022) grade.

The BMA's Scottish SAS Committee (SSASC) have agreed to put this package to a referendum of SAS members in Scotland, which will run from 31 October to 18 November. SSASC will then make a final decision on whether to accept the contract package at a special meeting on 23 November. You will receive details on how to vote in the referendum soon.

We held a virtual event on the MSG offer on Monday 24 October, with Bernie Scott the SSASC chair giving a presentation and answering questions. If you missed this event you can catch up by watching a recording.

Set out below is a detailed summary of the key points of MSG's offer. We will also make available shortly the full and final versions of the Terms and Conditions of Service (TCS) for both grades, following final checks by both sides.

SSASC believe this is the best offer that could be reached via negotiation at this time and while we accept that not all of our aims have been achieved, we are nonetheless recommending to SAS BMA members that you vote to accept the offer in the referendum.

In reaching this outcome, SSASC has sought to both build upon the successes of the new contracts agreed elsewhere in the UK, such as the introduction of the new Specialist grade, and also to improve on the offer in those nations, particularly around basic pay and out-of-hours working, to recognise the specific Scottish healthcare landscape and the challenges it poses. As a result, while there are many similarities between MSG's contract offer in Scotland and the new contracts now in force elsewhere in the UK, there are also some significant differences.

The MSG offer in detail

As mentioned above, the full TCS for both grades will be available very shortly. While we believe that the detailed briefing we have set out below accurately summarises those elements of the contract offer that will be of most interest to BMA SAS doctor members, for the avoidance of any doubt the authoritative source will be the full TCS.

If you have any questions about the contract offer ahead of the referendum, you can email us and we will do our best to answer as quickly as possible!

The Specialist grade

Under the contract offer, a new Specialist grade will be introduced into NHS Scotland, mirroring the recent introduction of the same grade in the rest of the UK. This should provide an opportunity for progression for highly experienced Specialty Doctors, help NHS Scotland to recruit, motivate and retain senior doctors and contribute to the SAS grades being a positive and fulfilling career choice.

As in the rest of the UK, we were not able to secure any mechanism for current SAS Specialty Doctors to progress directly to the Specialist grade, such as via personal regrading, either during transition or on an ongoing basis. Specialist posts will be created by NHS Boards solely in response to workforce need and will be advertised for competitive entry through local recruitment processes.

New contract offer for SAS Doctors and Dentists in Scotland

There is provision within the transitional arrangements for current Associate Specialists to transfer directly to the new Specialist grade, provided they meet the minimum entry requirements. This is unlikely to be a preferred option for most Associate Specialists given that their current salary will already be higher than the top of the Specialist pay scale. However, it is possible some Associate Specialists may wish to do so in order to access some of the other benefits of the Specialist grade, eg the on-call availability rates, limits on weekend working etc.

The entry criteria for the new Specialist grade are:

- a minimum of 10 years' medical work (either continuous period or in aggregate) since obtaining a primary medical qualification of which a minimum of six years should have been in a relevant specialty in the Specialty Doctor and/or closed SAS grades. Equivalent years' experience in a relevant specialty from other medical grades including from overseas will also be accepted;

- the doctor meets the criteria set out in the Generic Capabilities Framework for the new Specialist grade.

The Generic Capabilities Framework was developed by the Academy of Medical Royal Colleges in partnership with the BMA and NHS Employers in England to support the introduction of the Specialist contract in the rest of the UK. It outlines the core competencies and skills expected across all specialties for safe working practices at this senior level. Doctors will need to evidence they meet these criteria in order to enter the grade.

The appointment process for the Specialist grade has not been incorporated into the Specialist terms and conditions of service (TCS). MSG have indicated that they intend to establish a short-life working group to develop the governance arrangements around the creation of Specialist posts and appointments to the grade, and that BMA Scotland will be invited to participate in that work.

The TCS for new Specialist grade will largely mirror those for the new Specialty Doctor grade, as set out below. Where there are differences between the two grades, such as around the payscale and pay progression, these have been highlighted specifically.

New contract offer for SAS Doctors and Dentists in Scotland

Basic salaries

The salary scales for both the new Specialist and Specialty Doctor (2022) grades are set out below.

Specialty doctor basic salaries

The pay structure for the Specialty Doctor (2022) grade is made up of 5 pay points, with doctors normally spending 3 years on each pay point. This means that the normal pay journey from the bottom to the top of the scale is reduced from 17 years under the 2008 Specialty Doctor contract to 12 years under the new 2022 contract.

Current Specialty Doctors who opt to move across to the 2022 contract will move across to the equivalent scale point (see below), and will retain their current incremental date, renamed their 'pay progression date'. Those already on the 12th point of the current payscale or above and who decide to transfer will move to the top of the new contract pay scale.

Scale point (current contract)	2022/23 Current SD contract	Pay Point (proposed new contract)	Scale point (new contract)	2022/23 Proposed new SD contract
0	£45,193	1	0	£54,903
1	£49,057		1	£54,903
2	£54,080		2	£54,903
3	£56,772	2	3	£65,497
4	£60,651		4	£65,497
5	£64,516		5	£65,497
6	£64,516	3	6	£69,507
7	£68,466		7	£69,507
8	£68,466		8	£69,507
9	£72,418	4	9	£77,532
10	£72,418		10	£77,532
11	£76,370		11	£77,532
12	£76,370	5	12	£85,554
13	£76,370			£85,554
14	£80,321			£85,554
15	£80,321			£85,554
16	£80,321			£85,554
17	£84,272			£85,554

For new appointments to the Specialty Doctor grade, there will be provision to count previous relevant experience as a junior doctor at ST3/CT3 level or above in determining their starting salary and pay progression date. This is a distinct improvement on current provisions and, coupled with a higher bottom point on the scale, should result in a very much improved initial pay offer for potential new recruits to the Specialty Doctor grade in Scotland. Unfortunately, we were not able to secure the same recognition of previous service for those current Specialty Doctors transferring to the new contract whose experience as a junior doctor was not taken into account on their initial appointment.

NOTE: Any SAS doctors who are not employed on the 2008 Specialty Doctor contract (eg staff grades, CMOs, SCMOs, hospital practitioners, clinical assistants) who choose to transfer to the new 2022 Specialty Doctor contract will transfer to the next available higher pay point in the specialty doctor pay scales.

New contract offer for SAS Doctors and Dentists in Scotland

Specialist basic salaries

The pay structure for the new Specialist grade is made up of 3 pay points, with doctors normally spending 3 years on each pay point. This means that the normal pay journey from the bottom to the top of the Specialist pay scale is 6 years.

Pay point	Scale point	2022/23 Specialist grade
1	0	£83,130
	1	£83,130
	2	£83,130
2	3	£88,740
	4	£88,740
	5	£88,740
3	6	£94,350

Back pay arrangements for current SAS doctors transferring before 31 May 2023

If the new contracts are agreed, NHS board employers will write to all their SAS doctors to invite individual expressions of interest in transferring to the new Specialty Doctor (2022) contract or, for current Associate Specialists only, to transfer to the Specialist contract. There would be no requirement to move across to the new contract, and you would be free to remain on your current contract.

If you respond to your NHS board employer confirming an expression of interest in transferring, a period of job planning will then follow which will result in a formal offer of transfer to the new contract being issued. If you confirm an expression of interest in transferring to the new contracts by 6 January 2023, go through the job planning process and subsequently accept a formal offer from your employer by 31 May 2023, you will be entitled to up to a maximum of 6 months' backpay.

If you transfer after 31 May 2023 you will not be able to access any backdating, unless you had been absent from work for a significant period, in which case you may be able to agree an extension to the deadline with your employer.

If you retire before 31 May 2023 after having expressed an interest in transferring to the new contract but before accepting a formal offer from your employer, you will be entitled to a pensionable payment in lieu of back pay, based on basic salary only.

Pay progression

Doctors will normally be expected to evidence the relevant criteria for pay progression before moving from one pay point to another. There are two forms of pay progression in the new Specialty Doctor contract: 'standard pay progression' and 'progression through the higher threshold'. The higher threshold relates only to progression between pay point 3 and pay point 4 on the new pay scale; progression through all the other pay points is subject to the criteria for standard progression only.

Standard pay progression

Standard pay progression will require a doctor having:

- participated satisfactorily in the job planning process on a yearly basis:
  - made every reasonable effort to meet the time and service commitments in their Job Plan and participated in the annual Job Plan review;
  - met the personal objectives in the Job Plan, or where this is not achieved for reasons beyond the doctor's control, made every reasonable effort to do so;
  - worked towards any changes identified in the last Job Plan review as being necessary to support achievement of joint objectives;

New contract offer for SAS Doctors and Dentists in Scotland

- participated satisfactorily in the medical appraisal process on a yearly basis in accordance with the GMC's requirements set out in 'Good Medical Practice' where the outcomes are in line with organisational standards and objectives;
- demonstrated yearly completion of the employer's mandatory training, or where this is not achieved for reasons beyond the doctor's control, made every reasonable effort to do so.

Where any of the above criteria are not achieved for reasons beyond the doctor's control, but they have made every reasonable effort to do so, then pay progression will continue as normal.

As you can see, while the criteria for standard pay progression in the new Specialty Doctor contract are overall very similar to the criteria for incremental progression in the current Specialist Doctor contract, there are some differences. In the new contract, the previous requirement to offer up an Additional Programmed Activity if undertaking private practice has been removed, while a requirement to demonstrate completion of mandatory training has been added.

Progression through the higher threshold

The criteria for Specialty Doctors to progress through the higher threshold (ie between pay point 3 and pay point 4) recognises the higher level of skills, experience and responsibility of those doctors working at that level:

- have met the standard pay progression criteria;
- able to demonstrate an increasing ability to take decisions and carry responsibility without direct supervision; and
- provide evidence to demonstrate their contributions to a wider role, for example, meaningful participation in or contribution to relevant:
  - Management or leadership
  - Service development and modernisation
  - Teaching and training (of others)
  - Committee work
  - Representative work
  - Innovation
  - Audit

Again, these are very similar to the criteria for progression through Threshold 2 in the current Specialty Doctor contract. As in the current contract, there will not be an expectation that the doctor will provide evidence in all the wider areas of contribution listed above, and an overall picture will be considered.

The aim is that doctors will acquire the skills and experience to allow them to meet the criteria for passing through the higher threshold. As a doctor becomes more experienced and takes on a broader role, their employer will be expected to keep all elements of their Job Plan under review and ensure that doctors have the support needed to enable them to meet the requirements of the higher threshold.

Pay progression in the Specialist grade

As in the Specialty Doctor grade, doctors in the Specialist grade will normally be expected to spend 3 years on each pay point. The pay progression criteria for all the Specialist pay points are the same as those for standard pay progression for Specialty Doctors.

New contract offer for SAS Doctors and Dentists in Scotland

On-call availability supplement

The on-call availability supplements for both the new contracts are aligned with the arrangements already in place for consultants. These are based on a combination of on-call frequency and the expectations of those on-call (see below). For most SAS doctors who undertake non-resident on-call, particularly those who have more onerous on-call commitments, the new rates will be an improvement on the supplements payable in the current SAS contracts.

Frequency	Value of availability supplement as a percentage of basic salary	
	Level 1	Level 2
High Frequency: 1 in 1 to 1 in 4	8%	3%
Medium Frequency: 1 in 5 to 1 in 8	5%	2%
Low Frequency: 1 in 9 or less frequent	3%	1%

Level 1: applies where the doctor is typically required to return immediately to site when called or has to undertake interventions with a similar level of complexity to those that would normally be carried out on site, such as telemedicine or complex telephone consultations.

Level 2: applies where the doctor can typically respond by giving telephone advice and/or by returning to work later.

It's important to note that, once prospective cover is included, on-call frequency is not the same as the number of people on the rota. The formula to calculate the frequency including prospective cover is: 1 in (number of doctors on the rota x 42/52), rounded up or down to the nearest whole number as appropriate.

Out of hours working

Out-of-hours (OOH)period

The OOH period for the new contracts will remain the same as the current SAS contracts, ie 7pm – 7am Monday to Friday, and all day at weekends and on public holidays. This is a significant 'win' for BMA Scotland, as the new SAS contracts agreed in the rest of the UK involve the extension of plain time working to 9pm on weekdays. The rates payable for work undertaken in the OOH period remain the same as currently – either time and a third or a reduction in PA length from 4 to 3 hours.

Limits on OOH working

A number of new provisions have been agreed, placing limits on OOH working with the aim of ensuring a SAS doctors can enjoy a good work/life balance. These are:

- elective work should not normally be scheduled to finish later than 19.00 on weekdays, at weekends or on public holidays unless mutually agreed;
- no more than 40 per cent of work will take place in the OOH period unless otherwise mutually agreed;
- unless by mutual agreement, a Job Plan will not require a doctor to work for more than 13 weekends (defined for this purpose as 00.01 Sat – 23.59 Sun), in whole or in part, per year averaged over two years. This includes any weekends where work is undertaken or a doctor is required to be available on-call, including weekends when the doctor is available on-call but is not contacted.

Transitional arrangements apply to existing SAS doctors transferring to the new contracts, which means that NHS board employers are not required to implement the above provisions immediately, but are expected to reduce OOH working over time to bring them into line.

New contract offer for SAS Doctors and Dentists in Scotland

Shift working

The new contracts come with limits on shift-working aimed at minimising doctor fatigue, bringing arrangements for SAS doctors into line with provisions that already apply to junior doctors in Scotland. For a doctor working a full shift rota, unless otherwise mutually agreed, the following will apply:

- a maximum of six night shifts (ie any shift worked that ends at or which falls past 02:00) in any seven days, with best practice being no more than four nights in a row;
- a maximum of seven days or shifts in a row;
- a maximum of four consecutive days of long shifts (greater than 10 hours) in any seven days;
- a minimum period of 46 hours rest following any block of full shift night working, including single stand-alone night shifts, commencing on conclusion of the final night shift.

On-call working

Unless by mutual agreement, job plans for those working under the new contracts will not require a doctor to undertake an on-call rota of 1 in 4 or more frequent. Where such an intensive rota has been agreed, the employer will review at least annually the reasons for this rota and for its high frequency and take any practicable steps as part of team service planning to reduce the need for high frequency rotas of this kind. That also applies to arrangements for existing SAS doctors transferring to the new contracts.

The new contracts state that every effort should be made through job planning to ensure that work is not routinely scheduled for the following day where it is likely that a doctor's sleep will be disrupted as a result of being on-call overnight. Where a doctor is scheduled to work following a disrupted night on-call but they regard themselves as too tired to do so, they should notify their employer as soon as is practicable. Any displaced time/activity should either be rescheduled to take place at another time in the doctor's agreed Job Plan, be covered by colleagues, or cancelled, with no detriment to the doctor or colleagues.
Job planning

As with the previous 2008 contracts, job planning is at the core of the new contracts and robust and effective job planning will underpin both the contract and the employment relationship. Most of the process remains very similar to what is already in place – for example the previous term "Additional Programmed Activities" (APAs) has been relabelled as "Extra Programmed Activities" (EPAs) to bring the language in line with the consultant contract, but almost everything about them remains the same as before.

There are however a few key differences to note:

SPA Provisions

The new contracts take a much clearer approach to the level of Supporting Professional Activities (SPA) that should be allocated within the job plan as a minimum to ensure that doctors are able meet their requirements for appraisal and revalidation. The table below outlines the minimum levels to be allocated, depending on the total number of programmed activities in the individual job plan and this should make the process of agreeing SPA allocation in job plans, particularly for those working less than full time, smoother.

Total Job Plan PAs (Including EPAs)	Minimum SPA allocation
5 or more	1.0 PA
More than 2 but fewer than 5	0.5 PA
2 or fewer	0.25 PA

Doctors will need to be comfortable that these minimum SPA allocations are sufficient to enable completion of job planning and to meet their requirements for appraisal and revalidation. They should be clearly identified within the job plan and a separate allocation agreed and outlined in the job plan for all other SPA work, such as teaching and training, audit, etc.

New contract offer for SAS Doctors and Dentists in Scotland

Team Service Planning

In order to reflect current best practice, and recognising changes in the approach taken in Scotland for consultant job planning, the new contract now incorporates a requirement for a Team Service Planning approach to be taken to job planning. This means that teams should meet regularly throughout the year to promote engagement between employers and their medical staff so that team service plans are developed and owned by the teams who provide the service. The intention of this development is to enhance individual job plans and the contract defines the elements that should be covered in Team Service Planning discussions.

Resolving disagreements over job plans

The new contracts introduce an enhanced process of mediation and appeals which broadly mirror the 3-step process that has been in place in NHS Scotland for consultants for some time, and which some employers have already been broadly using for SAS doctors.

The main difference here is the addition of a 2-stage mediation process, rather than the current single stage before moving to an independent appeal. Precise details of the process should be agreed locally through LNCs, which allows flexibility in terms of who is available to act as mediators or sit on appeals panels to reflect the size and scope of different employers.

There is also provision within the minimum requirements for the applicable timescales to be flexed, in particular for Less Than Full Time (LTFT) doctors.

Ad hoc additional work

One key change is that the new contracts explicitly recognise the difference between regular additional work, which should be subject to a job plan review, and the recognition of more irregular, ad hoc additional working, in particular short-term absence cover and Waiting List Initiative (WLI) work.

Short-term cover for unexpected absences (up to 72 hours)

The current SAS contracts already have an expectation that doctors are expected to be flexible in providing cover for their colleagues' unexpected absences. However, they are by no means clear over what that flexibility in providing cover should look like, which can lead to unreasonable expectations from employers. The current contracts are also less than clear on the level of remuneration that can be expected.

The new contracts contain an explicit provision that employers should make every effort to ensure that internal cover for colleagues' unexpected absences is for as short a period as practicably possible, with a maximum limit of 72 hours, unless mutually agreed. After that initial period, suitable alternative cover should be arranged by the employer, or clinical activities rescheduled.

Remuneration for any additional clinics, shifts etc worked by a doctor during the initial 72 hour period will be at their applicable hourly rate, including the enhanced rate for any work undertaken out-of-hours, rounded up to the nearest half of a PA. Travel time will be included in the calculation of hours worked.

For any additional on-call availability within the first 72 hours, there will be a fixed payment based on the average number of hours that the doctor would expect to work when providing such cover, as established through job planning, irrespective of actual hours worked. This is subject to a minimum payment of 0.5 PA for a single weekday night on-call, 1.0 PA for any period of weekend on-call or 2.5 PAs for a full weekend on-call. This fixed payment is intended to cover both the on-call availability and any work undertaken as a result of being on-call.

> For example, Doctor A covers a full weekend on-call for a colleague who has rung in sick. Job planning has confirmed that on their on-call rota this generates an average of 12 hours of actual work (ie weekend ward rounds plus callouts). As 12hrs worked out of hours = 4 PAs, Doctor A will receive 4 PAs for providing the additional weekend cover.

New contract offer for SAS Doctors and Dentists in Scotland

By contrast, Doctor B also covers a full weekend on-call, but in a different specialty where it is generally much quieter, with just the occasional call, generating an average of only 3 hours of work. Although 3hrs = 1 PA, this is less than the 2.5 PA minimum, so Doctor B will receive 2.5 PAs for providing the cover.

A doctor would not be able to count additional on-call availability in providing short-term absence cover towards the calculation of rota frequency as part of the agreed job plan for the purposes of calculating their availability supplement.

Medium/longer term cover for unexpected absences

Critically, after the first 72 hours the new contracts provide that where external cover is not available, remuneration arrangements for the provision of internal cover will be agreed locally. As such cover is entirely voluntary, a SAS doctor will be free to turn down the additional work if they simply do not want to do it, or if they are unable to agree appropriate remuneration with their employer in advance, either through a local/LNC agreement or individually.

Cover for predictable absences and vacancies

While the new contract acknowledges that ad hoc additional work may be undertaken by mutual agreement between the doctor and employer without the need for a Job Plan review, we were only able to secure specific reference within the TCS on the remuneration arrangements that should apply for cover for colleagues' unexpected absence in the first 72 hours (see above) and for WLI work (see below). We were not able to reach agreement within the negotiations on the remuneration arrangements that should apply in other circumstances, eg cover for colleagues' planned absence for personal medical procedures, maternity/paternity/adoptive/parental leave cover, etc or when a doctor covers for rota gaps due to vacancies. However, our view is that, as with the current contracts, such work is entirely voluntary and that SAS doctors are free to either agree an appropriate rate of remuneration with their employer for such work or else decline the additional work.

Waiting List Initiative work

The current SAS contracts make no provision at all for WLI work, which has led to some NHS employers wrongly arguing either that SAS doctors are not able to undertake such work or that if they do, they should only receive the basic hourly rate.

The new contracts explicitly allow for SAS doctors to undertake WLI work, where they have the relevant skills and competence, with remuneration set at twice the hourly rate appropriate to top of the pay scale. While this is still less than the 3x the top of the scale paid to consultants for WLI work, it is a significant improvement on the current position for Scottish SAS doctors.

Annual leave and public holidays

The TCS for the new contracts reflect the recent agreement, covering all hospital doctors in Scotland, to reduce the number of public holidays by 2 days from 10 to 8 days a year and to increase the annual leave entitlement by 3 days a year (expressed in the TCS as 0.6 weeks) from the start of the individual doctor's 2022/23 leave year. Taking public holidays and annual leave together, this gives hospital doctors in Scotland one additional day off. This is an improvement on the position agreed as part of the SAS contract deal elsewhere in the UK, where SAS doctors are only eligible for an additional day off after 7 years in the grade. Most existing SAS doctors will have already moved across to the new entitlements by the time the new contracts are available, although it is just possible that an existing SAS doctor will transfer across under the transitional arrangements before the end of their individual 2021/22 leave year. In such cases they will remain on their existing entitlements until the start of their 2022/23 leave year.

Private practice and secondary employment

Throughout the negotiations we emphasised the point that outside of their agreed job plan, a SAS doctor's time is their own, to do with as they wish, and we have achieved that. The new contracts provide greater clarity that while a SAS doctor should inform their clinical manager in advance of any regular private practice, secondary employment with other NHS or non-NHS employers, or other professional commitments, so that they can be noted in their job plan, they are free to undertake such work without requiring the approval of their employer and without these having any impact on their substantive NHS contract. This is always provided

New contract offer for SAS Doctors and Dentists in Scotland

that such work is undertaken outside the time agreed in the Job Plan for their work for their NHS employer. The previous TCS provisions around private practice have been replaced with a Scottish 'code of conduct' bringing arrangements more explicitly into alignment with those which already apply to consultants.

In line with this new approach, the 'spare professional capacity' provisions in the current SAS contracts which require those undertaking private practice to offer up an APA or else risk losing pay progression have been removed in the new contracts. Also, unlike in the rest of the UK, there is no 'strong encouragement' provision in the new contracts for those doctors intending to undertake locum work to offer their services via an NHS staff bank.

Acting-up

As in the rest of the UK, both the new contracts make provision for SAS doctors to receive an acting-up payment for taking on appropriate duties and responsibilities of a more senior role, normally for a period of at least three weeks and up to six months. For a Specialty Doctors this may involve acting up into either the Specialist or consultant role.

Generic Provisions

The current SAS contracts make explicit reference to a separate set of provisions called the 'General Whitley Council' (GWC). These are supposed to cover those generic contractual issues such as leave which apply equally to all NHS staff, but they have not been updated since all the NHS non-medical and dental staff moved over to Agenda for Change (AfC) TCS in 2004 and are now obsolete. In the new SAS contracts elsewhere in the UK, this has been addressed by replacing references to the GWC with a link to the AfC TCS. In Scotland we have taken a slightly different approach, integrating all the relevant GWC provisions into the new TCS, so that they work as standalone documents and do not require reference to the TCS of another staff group, changes to which may be made without our knowledge or input. That is why the Scottish TCS are significantly longer, with additional schedules that are not included in the equivalent TCS elsewhere in the UK, but these are now fully updated and more fit for purpose that the previous GWC provisions.

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