

April 2008

Extended hours

Guidance for Salaried GPs



GPC guidance for salaried GPs: Extended hours

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Some GP practices are looking to extend their opening hours following the introduction of the new extended access Directed Enhanced Service (DES). Details of the DES can be found in the GPC guidance note, *Focus on Extended Access 2008/09* (www.bma.org.uk/ap.nsf/Content/Focusextendaccess0408).

This guidance note has been prepared for salaried GPs who may be asked to amend their contracted hours of work on a permanent basis. It covers:

- What action you should take if your employer wants to change your hours
- Points to consider before making a decision
- How your employer may change your hours/terms and conditions
- Points to consider in responding to your employer's proposal
- Action to take if your hours are unilaterally changed
- Action to take if your hours are changed with your agreement
- BMA support available to BMA members.

While this guidance note provides advice on where a permanent change to your terms and conditions is proposed, it may be that your employer requests that you work different hours on a temporary basis. If this occurs and you agree to the change, then if you are employed under the model salaried GP contract you will receive payment for this extra work based on a pro rata of their salary. More details of this are set out on page 2 (see *).

1. If your employer wants to change your hours permanently, what should you do in the first instance?

We would hope that your employer would have a meaningful discussion with its salaried GPs before reaching any decisions. Certainly communication, involvement and engagement is generally the key to practices managing any change successfully.

If your employer suggests changing your hours, then ask your employer (if they do not do it automatically) to put the details of the proposal in writing so that you can consider this fully and can use this to take advice as necessary. We recommend that the proposal should include the following:

- whether the proposal is for an increase in the individual's working hours or a re-arrangement in working hours;
- a range of alternative options to consider (e.g. 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 team meetings and the ability for clinicians to communicate;
- details of the support staff that would also be working with you during the new hours;
- practice security and insurance arrangements that will be in place if you are 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; and

- the timescale for responding to the proposal and what opportunities there will be to discuss this in a meeting.

2. Could the permanent change in hours work for you?

The next step is to consider the proposals fully. You may find that the proposed change to your hours could work, or be rearranged to work, to your benefit. For example, if you can arrange childcare on a Saturday morning, then you may be able to negotiate that you start work later or leave earlier during the week. Alternatively you may prefer to start work later in the day and to work later in the evening.

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

Therefore, instead of rejecting immediately such a proposal it is worth at least considering whether it might be suitable for you and if so how you can make the proposed changes work for you. Of course, this will not be possible for everyone.

3. How your hours of work may be changed?

In considering whether to accept the changes proposed, you may wish to note the ways that an employer may amend your terms and conditions of employment within the law.

There are five main ways in which your terms and conditions can be changed:

- By explicit negotiated agreement between you and your employer.
- Where agreement is already contained within the contract prior to the change – i.e. 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 your contract contains such a provision, the employer would not need subsequently to negotiate and agree any change to your hours with you (although it would be good practice for the employer to do this). It might, however, still be possible to object to the change if it is excessive or unreasonable. This will depend on the circumstances*. To check whether your contract of employment contains such a term, BMA members should send their contract to AskBMA.
- By collective agreement where the contract specifies that such changes will be incorporated. Again, to check whether your contract of employment contains such a contractual term please send it to AskBMA.
- By performance of the contract - if you work to the new hours then you 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 you being dismissed from your contract and then you being offered a new contract on different terms. This would only be expected to occur in extreme circumstances. The employee does not, however, need to accept the change and may be able to seek legal redress for the dismissal. Furthermore, where an employee is qualified¹ to make a claim for

¹ To be qualified to make a claim of unfair dismissal on general grounds, an employee must have been employed by the same employer for at least one year. Claims of unfair dismissal on some special grounds, such as any form of unlawful discrimination, may be made from day one of employment.

unfair dismissal the employer would have to show a fair reason (which may include business reorganisation/efficiency as 'some other substantial reason') and have acted reasonably.

It is also possible that, where a salaried GP is unable to change his/her hours, the employer may dismiss salaried GP without re-engaging him/her. As above, this is an extreme measure and legal redress may be available in such an instance if a fair reason is not given, the correct procedure for dismissal is not followed, or if adequate notice is not given.

- * While the national model salaried GP contract refers to undertaking additional work (as follows) this is not a contractual right to vary the contract:

"A Practice may agree with the practitioner that he/she should undertake work which is not specified in his/her job plan by way of additional nominal sessions or fractions thereof. The extra session(s) shall be remunerated on a pro rata basis to a full-time practitioners` salary. Any such agreement shall be reviewed when required but at least annually and will be terminable at three months` notice on either side".

4. Your response to the proposal

After considering the proposal, you should then carefully consider how you respond to it. As in any negotiation, listening to the reasons for the change and engaging in the discussion is the key.

There may be parts of the proposal that you can support and other parts which you are unable to or which cause you concern. You should be clear about this in your response. For example, you may be willing in principle to consider working longer one night a week, but the specific hours suggested are impossible. Or the timescale for meeting the change may be too short if, for example, you have childcare cover to arrange.

Alternatively you may be unable to change your working hours at all. We recommend that in the first instance you explain to your employer your reasons for this – for example, for family/childcare reasons.

If you cannot accept the proposal as it stands or are unable to accept it at all, then by specifying your reasons when you respond may enable your employer to seek other GPs to cover the new hours and/or consider revising their proposals.

5. What if you cannot change your hours and your employer insists on a change?

If your employer is not willing or able to consider changing the proposal, then BMA members should contact AskBMA (email: askbma@bma.org.uk ; telephone: 0870 6060 828) immediately for individual expert advice on how to handle the particular situation and to discuss options.

6. What if you agree to a change to your hours of work?

If you agree to your hours being changed, then you should request a draft revised contract of employment and a draft new job plan. We advise that you have these checked prior to working to the new arrangements. BMA members should contact AskBMA immediately so that the proposed revision to their contract and job plan can be checked.

7. Support available to BMA members

The BMA has an extensive network of industrial relations officers/assistant secretaries and employment advisers across the UK who are able to provide support to salaried GP members. The particular services that are available to salaried GPs includes individual tailored advice and representation on employment issues. In addition, the BMA provides a service whereby we will check the employment contract that salaried GPs have been offered and will particularly advise on how it compares to the salaried GP model contract.

These services are available by contacting AskBMA (email: askbma@bma.org.uk; telephone: 0870 6060 828).