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**Junior Doctor Industrial Action**

**NHSGGC Interpretation and Guidance**

**30th June 2023**

The tables below provide a summary of the local guidance:

**Consultant & SAS scenarios:** Day = 08:00 – 17:00, Night = 17:00 – 08:00

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Scenario** | **Planned to be:** | **During** | **Asked to cover:** | **Payment Rate** |
| 1 | Working / On call | Night | Junior doctor gap and consultant duties | 3x hourly rate |
| 2 | Working | Day | Junior doctor gap and consultant duties | No additional payment |
| 3 | Not on duty or on call | Night | Junior doctor gap and consultant duties | 3x hourly rate |
| 4 | Not on duty or on call | Night | Cover consultant colleague consultant duties, for colleague who is acting down to cover junior doctor gap.  Non-resident, working on call from home. | Bank rate |
| \* | Not working | Day | Junior doctor gap and consultant duties | Bank rate |

\*scenario not included in reference group guidance

**Junior Doctor scenario: (for junior doctors not undertaking industrial action)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Scenario** | **Planned to be:** | **During** | **Asked to cover:** | **Payment Rate** |
| 1 | Not on duty or on call | Day or Night | Junior doctor gap only | Bank rate |

**Sample pay rates for illustration only: (ROC based on top of pay scale)**

|  |  |
| --- | --- |
| **Grade** | **RoC Rate** |
|
| Consultant | 3 x £58.43 = £175.29 |
| Speciality Doctor | 3 x £41.13 = £123.39 |
| Associate Specialist\*\* | 3 x £47.73 = £143.19 |

|  |  |  |
| --- | --- | --- |
| **Grade** | **Bank Rate** | |
| **Day** | **Night** |
| Consultant | £58.28 | £83.92 |
| Speciality Doctor | £25.98 | £57.10 |
| Associate Specialist | £31.66 | £54.99 |

**MEDICAL STAFF WORKING DURING INDUSTRIAL ACTION BY JUNIOR DOCTORS FAQ - JUNE 2023**

**NHS GGC VERSION WITH GUIDANCE IN RELATION TO THE LOCAL ROC POLICY**

**Introduction**

The purpose of this FAQ is to provide guidance to Boards in relation to pay for Career Grade Doctors in the context of potential industrial action by Junior Doctors and the BMA Scotland rate cards issued for Consultants and SAS Doctors in Scotland.

**Q1. What is the position in relation to the rate cards issued by BMA Scotland?**

A. The BMA rate cards were neither discussed nor agreed with NHS Scotland employers and are **not** supported by MSG.  NHS Boards should maintain an approach consistent with MSG’s position in the event that they are asked to adopt the BMA’s suggested rates locally. MSG’s overall position remains that Boards should adhere to national terms and conditions, local agreements and the published bank rates.

For the purpose of this guidance local agreements are defined as extant agreements i.e. those already in place prior to BMA members voting to undertake industrial action, normally agreed through the Local Negotiating Committee.

**Q2. What rates should be paid for career grade doctors working resident on call to cover gaps resulting from junior doctors’ industrial action?**

A. There are no nationally agreed rates for resident on call. The 2004 Consultant Contract advises that where it is agreed between the Consultant and employer that he/she will undertake resident on call duty, arrangements agreed locally with the LNC will apply.

Boards should therefore have their own locally agreed Resident On Call Agreement and should adhere to this. In the context of industrial action by Junior Doctors where absence resulting from this occurs the only way to maintain a critical/emergency clinical service may be by asking a Consultant to undertake resident work in place of the non-Consultant doctor. This will normally be the Consultant already scheduled to be on duty (on call) over the period in question and they will then undertake the missing Junior Doctor’s work in addition to any senior contribution that they might have made anyway. \*\*\*SCENARIO 1\*\*\*

The rate of pay should be as per Boards’ local RoC agreement, with these rates of pay also being applied to SAS Doctors in the event that they provide cover.

Remuneration applies only to the duration of the on-call period. The payments will not be superanuable, and will be in addition to any remuneration that the Clinician would otherwise receive for being on duty.

The NHS Greater Glasgow and Clyde Resident on call policy is available through the link below

[Resident On-Call Policy - NHSGGC](https://www.nhsggc.scot/downloads/resident-on-call-policy/)

The remuneration rate for resident on call is 3 x the hourly rate appropriate to point 20 of the seniority scale set out in appendix 3 of the consultant Terms and conditions. Our current policy does not cover SAS but as per the national guidance SAS doctors will also receive the same level of remuneration.

**Q3. What rates should be paid to a Consultant acting down to cover a Junior Doctor gap?**

If the Consultant is already on duty during normal working hours and has been asked to provide cover for a Junior Doctor in addition to or by replacement of their own work no additional payment will be due. \*\*\*SCENARIO 2\*\*\* In the event that activity planned for core hours is displaced to non-core hours they should be paid rates in accordance with local practice i.e. medical staff bank rate or premium rates as outlined in the 2004 consultant contract (time and a third).

In circumstances where a Consultant, not already on duty or on call, is asked to work an additional shift outside core hours to cover the Junior Doctor gap, they should be paid rates in accordance with local practice i.e. medical staff bank rate or premium rates as outlined in the 2004 consultant contract (time and a third). \*\*\*NHSGGC Local Policy applies Roc to this Scenario\*\*\* They should not be paid the salary rate contained in the local Resident On call agreement, where both the on call and the additional shift is being covered, as in this instance they will be covering junior work - not both covering junior work and acting as a consultant on call – which is covered by the Resident On call section above.

In summary, where the Consultant who is on call also agrees to cover the Junior Doctor gap and work the full shift, the locally agreed Resident On Call Agreement will apply and the rate of pay will be as defined in that agreement. However, if only the Junior Doctor gap is being covered and no Consultant on call is undertaken, they should be paid rates in accordance with local practice i.e. medical staff bank rate or premium rates as outlined in the 2004 Consultant Contract (time and a third).

In addition, as per Section 5.2 of the GGC Residents On-call Policy if a Consultant , not already on duty or on call has been asked to work a full shift out-of-hours to cover the junior doctor gap and undertake Consultant duties, the locally agreed resident on-call agreement will apply \*\*\*SCENARIO 3\*\*\*

**Q4. What rate should be paid to a Consultant who is asked to undertake an additional non resident on call shift either to cover a colleague who is “acting down” into a Junior Doctor gap or to cover a Junior Doctor on call gap?**

1. A Consultant covering an additional non resident on call shift should be paid in accordance with the arrangements **locally, as** outlined in Q3 i.e. at standard, medical bank or premium rates as outlined in the 2004 Consultant Contract. \*\*\*SCENARIO 4\*\*\*

**Q5. What rates should doctors working on Medical Banks be paid during the Junior Doctor’s industrial action?**

A. In relation to work carried out on the Medical Staff Banks the position remains that Boards should adhere to the national rates set by MSG. These are:

|  |  |
| --- | --- |
| **Grade** | **Rate per Hour** |
| Consultant (based on Point 20 of the pay scale) | £83.92 |

|  |  |
| --- | --- |
| **Grade** | **Rate** |
| New Specialist Doctor Grade (based on point 3 of the pay scale in 2022 contract) | £63.93 |
| Specialty Doctor on 2022 contract (based on Point 5 of the pay scale in 2022 contract) | £57.97 |

|  |  |
| --- | --- |
| **Grade** | **Rate** |
| Specialty Doctor on 2008 contract (based on Point 10 of the existing pay scale under 2008 contract) | £57.10 |
|  |  |
| **Grade** | **Rate** |
| Associate Specialist (based on Point 10 of the existing pay scale under 2008 contract) | £69.85 |

The only exception to this are the enhanced rates currently being paid in some Boards for Consultants and Specialty Doctors working in Emergency Medicine Departments and these should continue locally. **These enhanced rates only apply to work carried out in Emergency Departments and should not be extended to work conducted in other areas of activity.**

**Q6. Can Boards use Time off in Lieu as a means of recompensing career grade staff for cover during the industrial action?**

A. TOIL is an alternative way of compensating for additional work undertaken and should only be used as an alternative to payment if the work is not already factored within the Job Plan.

At this time we are not endorsing TOIL as an alternative to payment as this will undoubtedly cause issues to Services in the future, however if Clinicians do not wish to be paid for additional Ad-hoc hours they should discuss with Management the option of receiving time off in lieu. (TOIL).

TOIL would be based on the number of additional hours worked. If the additional hours are worked in premium time (Time + 1/3) Premium time applies to work undertaken at weekends, public holidays, between 8pm and 8am Mon - Fri for consultants and 7pm – 7am for Specialty doctors) e.g. this would mean that for every 3 hours worked in premium time this will attract 4 hours TOIL.

**Q7. What rate of pay should be made for work deemed as extra – contractual?**

BMA Scotland have issued guidance in relation to a number of activities which are in their view extra contractual. In these cases BMA Scotland are recommending doctors should utilise the BMA rate card as a basis for remuneration. BMA Scotland’s argument is that these works are outside the agreed job plan, are therefore extra contractual, and that pay needs to be negotiated and agreed between the employer and the doctor.

The activities in question include:

* Catch-up work such as waiting list initiatives (WLIs) and similar
* Weekend clinics
* Extra lists at the weekend (including trauma lists)
* Additional shifts (e.g., in emergency departments)
* ward rounds (including post-on call ward rounds) in premium time (time outside of 7am-7pm Monday to Friday)
* providing cover for foreseeable junior doctor colleague absences
* periods of on-call in premium time which necessitate a consultant in practice to be resident whilst 'on call'.

It seems likely that a number of these areas of activity will come into play in the context of industrial action. Some of these e.g. WLI work are clearly covered by National Terms and Conditions. Others, e.g. Resident On Call will be the subject of local agreements with Local Negotiating Committees or in the case of Bank work in Emergency Departments, already covered by enhanced Bank rates.

There are however a multiplicity of potential circumstances in which cover will be required in the context of industrial action. Providing this cover will sometimes require career grade doctors to carry out additional work, whilst in other cases the work required will not be additional but will be different to that agreed in their job plan.

The general principles to be followed are:

* If the work is additional, whether within or outside core working hours it should attract additional pay at the rates outlined above depending on the circumstances of the additional work
* Where the work is not additional but is replacing Junior Doctor’s work during core working hours this should be undertaken at normal salary rates.

As previously advised MSG’s overall position remains that Boards should adhere to national terms and conditions, the relevant extant local agreements and the published bank rates.

**Q8. If a Junior Doctor who has chosen not to strike is asked to work an additional shift to cover a gap what will they be paid?**

A In these circumstances, payment will be made in accordance with the arrangements locally, asoutlined in Q4 i.e. at standard, medical bank or premium rates as outlined in the 2004 Consultant Contract.

**Q9. In the event that Advanced Nurse Practitioners are asked to cover gaps in Junior Doctors rotas, how should they be recompensed?**

1. . All Agenda for Change staff are eligible for overtime payments for excess hours worked over full time hours. Part time staff will receive payments for the additional hours at plain time rates until their hours exceed standard hours of 37.5 hours per week. An additional on call would be subject to the normal on call payments.