



## **NHS Ayrshire & Arran**

### **CONTRACT OF EMPLOYMENT**

Dear

#### **APPOINTMENT OF CONSULTANT IN { }**

##### **1. Offer of Appointment**

- a) I write on behalf of NHS Ayrshire & Arran to offer you an appointment as a Consultant in { } commencing on { }. The appointment is for { } programmed activities per week.
- b) The date of the start of your period of continuous employment { } / or if not available 'will be confirmed'. For the purposes of the Employment Rights Act 1996, your previous employment does not count as part of your continuous period of employment with NHS Ayrshire & Arran. However for the purpose of certain NHS conditions of service, previous NHS service, not treated as 'continuous' under the provisions of the Employment Rights Act 1996, may also be reckoned for those purposes, subject to the rules set out in the Terms and Conditions of Service.
- c) The terms of this Contract of Employment are subject to satisfactory Occupational Health and Disclosure Scotland PVG Scheme Application. This has been obtained before issuing this contract.

Should there be a change in your health status, which may affect your ability to safely undertake the duties of your posts, you are required to inform the Occupational Health Department.

Should you be subject to any criminal proceedings during the course of your employment you are required to inform the Medical Director immediately. Failure to do so may be dealt with under NHS Ayrshire & Arran Disciplinary Procedure.

##### **2. Applicable Collective Agreement**

The appointment will be subject to the Terms and Conditions of Service of the Consultant Grade (Scotland) as amended from time to time. A copy is available at the following website: [www.publications.scot.nhs.uk](http://www.publications.scot.nhs.uk)

##### **3. Pension**

This appointment is superannuable under the NHS Superannuation Scheme. New eligible entrants to NHS Ayrshire & Arran who are not already in a pension scheme will normally be enrolled automatically into membership of the NHS Pension Scheme.

Superannuable pay will include basic salary (up to 10 programmed activities, but not any extra programmed activities above this level), on-call availability supplements, discretionary points, distinction awards, and any other pay or allowances agreed by the Health Department, to be superannuable. Superannuable pay will be subject to HMRC legislation.

Our pension scheme is provided by Scottish Public Pensions Agency and all benefits are explained on the SPPA website <http://www.sppa.gov.uk/>

If you have previous NHS Service you should refer to the SPPA website for further information about any implications for your pension benefits.

A statement is available online once a year (<http://www.sppa.gov.uk/>) showing how much service has built up in your pension.

#### **4. Duties and Responsibilities**

Your duties and responsibilities are as defined in your job plan, which is subject to review on an annual or interim basis. In exceptional circumstances you may be asked to undertake other duties for limited periods. The provisions relating to job planning are as set out in Section 3 of the Terms & Conditions of Service.

#### **5. Principal Place of Work**

Your principal place of work is as set out in the job plan and as governed by paragraphs 3.2.9 to 3.2.13 of the Terms and Conditions of Service.

In exceptional circumstances you may be asked to carry out work at other sites for short periods of time.

#### **6. Private Practice**

You agree that any private practice you may undertake will be governed by the Code of Conduct set out in Appendix 8 of the Terms and Conditions of Service.

#### **7. Pay**

a) The salary of the appointment will be that appropriate to a { } Consultant appointment assessed at {Extra Programmed Activities} programmed activities a week. Your starting salary will be £{ } per annum (pro rata where applicable), pay point {Spinal Point}. Salary will be payable monthly.

b) Your starting seniority point will be { }. You are eligible for progression through seniority points in accordance with the provisions of Section 5 of the Terms and Conditions of Service.

c) Your seniority date will be the anniversary of the date of appointment.

d) The availability supplement payable will be { }%.

#### **8. Notice**

This employment is subject to three calendar month's notice on either side.

## **9. Registration and Insurance**

a) You are required to be fully registered with the General Medical Council throughout the duration of your employment and be included on the Specialist Register and continue to hold a licence to practise.

b) You are normally covered by the NHS Hospital and Community Health Services indemnity against claims of medical negligence. However, in certain circumstances (especially in respect of services for which you receive a separate fee) you may not be covered by the indemnity. NHS Ayrshire & Arran therefore advise that you maintain membership of a medical defence organisation. Copies of NHS Circular 1989 (PCS) 32 and NHS MEL (2000) 18 on indemnity arrangements may be obtained on request.

## **10. Residence**

Your private residence will not be more than 30 minutes travelling time or 10 miles by road from your principal place of work unless specific approval is given by NHS Ayrshire & Arran. You must be contactable by telephone.

## **11. Leave**

a) You will be entitled to 33 days annual leave with full pay each year, plus 8 public holidays (pro rata where applicable).

b) Full details of the annual leave allowance and the conditions governing this allowance is set out in Section 7 of the Terms and Conditions of Service.

c) Other leave arrangements are as set out in **Section 7** of the Terms and Conditions of Service.

## **12. Sickness Absence**

The provisions relating to absence by you because of sickness and the sickness allowance applicable are set out in Section 7 of the Terms and Conditions.

## **13. Disciplinary Procedure**

Your appointment is subject to NHS Ayrshire & Arran 's agreed policy and procedures for the resolution of disciplinary matters for Medical and Dental Staff. These apply to doctors and dentists except in cases of professional misconduct or professional competence where the arrangements set out in NHS Circular 1990 (PCS)32 apply, or any matter affecting rights referred to in Paragraph 190 of the separate Hospital, Medical and Dental Terms and Conditions of Service.

## **14. Grievance Procedure**

Should you have a grievance relating to your employment, you are entitled to discuss the matter in the first instance with your immediate line manager e.g. Clinical Director. If the matter remains unresolved you will have recourse to NHS Ayrshire & Arran 's agreed policy and procedures for the resolution of grievance matters for Medical and Dental Staff.

## **15. Property**

NHS Ayrshire & Arran accepts no responsibility for damage to or loss of personal property,

with the exception of small valuables handed to their officials for safe custody. You are therefore recommended to take out an insurance policy to cover your personal property.

#### **16. Deductions**

NHS Ayrshire & Arran will not make deductions from or variations to your salary other than those required by law without your express written consent.

#### **17. Indemnity**

In terms of NHS Circular 1989 (PCS) 32 dealing with Medical Negligence the Health Board indemnity will cover only Health Board responsibilities. Paragraph 63 of the General Medical Council's Good Medical Practice requires you to have adequate insurance or indemnity cover. You may wish to consider taking out additional medical indemnity e.g. with a Medical Defence Organisation to ensure that you have indemnity for the whole of your practice.

#### **18. Confidentiality**

##### Obligations Arising from Data Protection Legislation

You are responsible for adhering to the principles of Data Protection Legislation and any subsequent legislation or formal guidance issued by the Scottish Government.

You will ensure that you comply with your legal and professional responsibilities about confidentiality whilst undertaking your role.

Unauthorised disclosure or removal of information may be regarded as serious misconduct and could result in disciplinary action, including dismissal.

NHS Ayrshire & Arran will collect and process information relating to you in accordance with the Data Protection Notice which is annexed to this contract of employment. You shall comply with the privacy standard when handling personal data in the course of your employment, including personal data relating to any employee, patient, supplier or agent of NHS Ayrshire & Arran. Failure to comply with the privacy standard may be dealt with under NHS Ayrshire & Arran's Policy and Procedure on disciplinary action and, in serious cases, may be treated as gross misconduct leading to summary dismissal.

##### Patients

In the course of your duties you may have access to confidential material about patients. On no account must information relating to patients be divulged to anyone other than authorised persons - for example medical, nursing or other professional staff, as appropriate who are concerned directly with the care, diagnosis and/or treatment of the patient. Particular care must be taken to ensure that any information relating to a patient which may be used for education and training purposes is not identifiable.

##### Staff

Similarly no information of a personal or confidential nature concerning individual members of staff should be divulged to anyone without the proper authority having first been given.

##### Health Service Business

You may also have access to confidential material on Health Service business that should not be divulged to anyone without the proper authority having first been given.

If you are in any doubt whatsoever as to the authority of a person or body asking for information on patients, staff or Health Service business you must seek advice from your manager. The Scottish Office Home and Health Department code of practice on confidentiality of personal health information is available from your local HR Department.

#### Information Technology

You are required to comply with NHS Ayrshire & Arran policies on information technology security, use of e-mail and Internet access. Copies of these policies may be obtained through your line manager.

#### Failure to Comply with Obligations

Failure to observe these obligations will be regarded by your employer as serious misconduct that could result in disciplinary action being taken against you including dismissal. You may also be liable to prosecution for an offence under the data protection legislation or an action for civil damages.

### **19. Protection of Intellectual Property**

NHS Ayrshire & Arran has a policy on the management of intellectual property, which is consistent with the Management Framework for Intellectual Property of the Scottish Executive Health Department as contained in HDL (2004) 9. Generally, intellectual property which arises, or could reasonably be expected to arise, in the course of your work with NHS Ayrshire & Arran belongs to NHS Ayrshire & Arran, unless agreed otherwise in writing.

### **20. Acceptance of Gifts and/or Hospitality**

Advice on acceptance of gifts and/or hospitality and the declaration of interests is as set out within the NHS Ayrshire & Arran policy and NHS Circulars 1989(GEN) 32 and MEL (1994) 48/80. Any breach of the principles will be treated as serious misconduct and may attract appropriate disciplinary action. It is the responsibility of all staff to ensure that they are impartial and strictly independent in their dealings with commercial bodies and external organisations. You are therefore advised to check with your line manager before accepting any gifts and/or hospitality.

### **21. Conflict / Declaration of Interests**

The Board is responsible for maintaining a register of declaration of financial interests of any staff concerned with the awarding of a contract. If your position allows you to influence purchasing decisions or you have ordering powers you must discuss the matter with your manager and produce a written declaration of any interest which may infringe or might reasonably be deemed by others to infringe on your impartiality in any matter relevant to your duties.

### **22. Health & Safety**

NHS Ayrshire & Arran has a duty to ensure so far as is reasonably practicable the Health, Safety and Welfare at Work of all its employees.

Every employee is also under a duty while at work to take reasonable care for the health and safety of themselves and of others and as regards any duty imposed on NHS Ayrshire & Arran to co-operate with NHS Ayrshire & Arran so far as is necessary to enable that duty to be performed or complied with.

Please refer to the NHS Ayrshire & Arran local policy relating to health, safety and

wellbeing.

**23. Trade Union Membership**

You have a right to join and remain a member of a trade union/professional association. Similarly you also have a right not to join a trade union if you choose not to do so. Your rights of representation in disciplinary and grievance matters are set out in the NHS Ayrshire & Arran policy relating to conduct matters.

**24. Equal Opportunities Policy**

NHS Ayrshire & Arran is an equal opportunity employer. The policy of NHS Ayrshire & Arran is that all employees and job applicants should be afforded equal opportunities in employment irrespective of their sex, sexual orientation, marital status, race, religion, creed, colour, age or disability.

**25. Acceptance**

If you agree to accept this appointment on the terms indicated above, please sign the contract and return it to me. A second signed copy of this contract is enclosed, which you should also sign and retain for your future reference.

Yours sincerely

Medical & Dental Recruitment  
On behalf of NHS Ayrshire & Arran

I hereby accept the appointment on the conditions set out in the foregoing contract & acknowledge that I have read and understood the Staff Privacy Notice in Appendix A of this document

Signature ..... Date .....

This offer and acceptance of it will together constitute a contract between the parties.

**Appendix A – Staff Privacy Notice**

**Introduction**

During the course of NHS Ayrshire & Arran activities we will collect, store and process personal information about our prospective, current and former staff. For the purposes of this privacy notice, 'staff' includes applicants, employees, workers (including agency, casual and contracted staff), volunteers, trainees and those carrying out work experience.

We recognise the need to treat staff personal data in a fair and lawful manner. No personal information held by us will be processed unless the requirements for fair and lawful processing can be met. This privacy notice provides a summary of how we will ensure that we do that, by describing:

- the categories of personal data we may handle
- the purpose(s) for which it is being processed, and
- the person(s) it may be shared with.

This notice also explains what rights you have to control how we use your information. Please read it carefully to understand what we do.

### **What laws are relevant to the handling of personal information?**

The law determines how organisations can use personal information. The key legislation governing the use of information is listed below:

- Data Protection Legislation
- General Data Protection Regulation (GDPR (EU) 2016/679)
- The Human Rights Act 1998
- Freedom of Information (Scotland) Act 2002
- Computer Misuse Act 1998
- Regulation of Investigatory Powers Act 2000, and
- Access to Health Records Act 1990.

NHS Ayrshire & Arran is the 'Data Controller' (the holder, user and processor) of staff information.

### **What types of personal information do we handle?**

In order to carry out our activities and obligations as an employer we handle data in relation to:

- name, home address, telephone, personal email address, date of birth, employee identification number and marital status, and any other information necessary for our business purposes, which is voluntarily disclosed in the course of an employee's application for and employment with us
- national insurance number
- sensitive personal data: for example, data about race, ethnic origin, religious or philosophical beliefs, trade union membership, health, and sexual orientation (collected only where required by law and used and disclosed only to fulfill legal requirements)
- absence information, e.g. annual leave, sickness absence, study leave, maternity leave, paternity leave
- occupational health clearance information

- qualification and training information; and
- statutory and voluntary registration data.
- CCTV data, if your Board uses this.
- Swipe access cards, if your Board use them.

When you are no longer our employee, we may continue to share your information as described in this notice, i.e. so long as this is fair and lawful.

### **What is the purpose of processing data?**

Your personal data is collected by NHS Ayrshire & Arran and shared with NHS Scotland for the purposes of employee management. It will be captured and stored on an electronic system and will be used and shared by human resources (HR) professionals in NHS Ayrshire & Arran and board(s) where you are working in any capacity.

Occupational health clearance information – referred to as the Occupational Health Passport – will be shared by NHS Ayrshire & Arran with occupational health professionals in the Board, and Boards where you have been offered employment.

We use information about you in order to:

- evaluate applications for employment
- manage all aspects of your employment with us, including but not limited to, payroll, benefits, corporate travel and other reimbursable expenses, development and training, absence monitoring, performance appraisal, disciplinary and grievance processes, pensions administration, and other general administrative and human resource related processes
- develop workforce and succession plans
- maintain sickness records, and occupational health programme
- administer termination of employment and provide and maintain references
- maintain emergency contact and beneficiary details, which involves us holding information on those nominated by you
- comply with applicable laws (e.g. health and safety), including judicial or administrative orders regarding individual employees (e.g., child support payments); and
- share and match personal information for the national fraud initiative.

### **Sharing your information**

There are a number of reasons why we share information. This can be due to:

- our obligations to comply with current legislation, and
- our duty to comply with any Court Order which may be imposed.

Any disclosures of personal data are always made on case-by-case basis, using the minimum personal data necessary for the specific purpose and circumstances and with the appropriate security controls in place. Information is only shared with those agencies and bodies who have a "need to know," or where you have consented to the disclosure of your personal data to such persons.

In order to comply with our obligations as an employer we will need to share your information as follows:

<b>Reasons why we share your personal information</b>	<b>Who we share your information with (the list below is not exhaustive)</b>
For the purposes outlined above	Human resources, occupational health and line managers
Professional registration purposes	Regulatory bodies such as the General Medical Council
Contractual terms and conditions of service	Appraisal Scottish Training Database The Scottish Advisory Committee on Distinction Awards (SACDA)
Training and Development	NHS Scotland training administrators HR administrators
National reporting	Scottish Workforce Information Standard System (SWISS). For more information see: <a href="http://www.swiss.scot.nhs.uk">www.swiss.scot.nhs.uk</a>
Pay, time and attendance	Payroll NHS Ayrshire & Arran and the Scottish Standard Time System (SSTS)
National and internal Employee Directory	General public and internally to NHS Scotland employees
National Fraud Initiative. Every year, the NHS is required to participate in the National Fraud initiative. As part of this, we provide payroll information for data matching. Data matching involves comparing sets of data, such as payroll or benefits records of an organisation, against other records held by the same or another organisation.	Audit Scotland.  Further information about the National Fraud Initiative is available from Audit Scotland: <a href="http://www.audit-scotland.gov.uk">www.audit-scotland.gov.uk</a>

### **Background on sharing and our responsibilities**

Privacy laws do not generally require us to obtain your consent for the collection, use or disclosure of personal information for the purpose of establishing, managing or terminating your employment. In addition, we may collect, use or disclose your personal information without your knowledge or consent where we are permitted or required by law or regulatory requirements to do so.

The GDPR and Data Protection Legislation require personal data to be processed fairly and lawfully. In practice, this means that NHS Ayrshire & Arran must:

- have a legal basis for collecting and using personal data;
- not use the data in ways that have unjustified adverse effects on the individuals concerned;

- be transparent about how it intends to use the data – and give individuals appropriate privacy notices when collecting their personal data;
- handle people's personal data only in ways they would reasonably expect; and
- make sure it does not do anything unlawful with the data.

NHS Ayrshire & Arran legal basis for collecting and using staff personal data and/or special category such as health information, is because it is necessary to do so when staff have an employment contract with the Board or potentially entering into an employment contract.

Information about the rights of individuals under the Data Protection Legislation can be found within the NHS Ayrshire & Arran Data Protection Policy.

### **Security of your Information**

We take our duty to protect your personal information and confidentiality very seriously and we are committed to taking all reasonable measures to ensure the confidentiality and security of personal data for which we are responsible, whether computerised or on paper.

At director level, we have appointed a Senior Information Risk Owner (SIRO) who is accountable for the management of all information assets and any associated risks and incidents, and a Caldicott Guardian who is responsible for the management of patient information and patient confidentiality. We also have a Data Protection Officer who is responsible for the Boards data protection compliance and who liaises with the SIRO and Caldicott Guardian.

All staff are required to undertake regular information governance training and to be familiar with information governance policies and procedures.

Everyone working for the NHS is subject to the law of confidence. Information provided in confidence will only be used for the purposes advised and consented to by the service user, unless required or permitted by the law.

### **How do we collect your information?**

Your information will be collected on a national workforce information system. The national system manager is authorised for full access nationally, providing access and accounts for NHS Boards system administrators. NHS Ayrshire & Arran has four staff in this role – all within HR.

We also collect information in a number of other ways, for example correspondence, forms, interview records, references, surveys.

### **Retaining information**

We only keep your information for as long as it is necessary to fulfill the purposes for which the personal information was collected. This includes for the purpose of meeting any legal, accounting or other reporting requirements or obligations. The NHS Scotland retention policy sets out the minimum retention timescales.

We may, instead of destroying or erasing your personal information, make it anonymous so that it cannot be associated with or tracked back to you.

### **How can you get access your personal data?**

You have the right to access the information which NHS Ayrshire & Arran holds about you, and why, subject to any exemptions. Requests can be made in a number of ways, including in writing or verbally. You will need to provide:

- Adequate information [for example full name, address, date of birth, staff number, etc.] so that your identity can be verified and your personal data located.
- An indication of what information you are requesting to enable us to locate this in an efficient manner.
- We may ask you to complete an application form to collect the data we need, although you are not obliged to do so.
- You should direct your request to the Data Protection Officer – details can be found on page 9.

We aim to comply with requests for access to personal data as quickly as possible. We will ensure that we deal with requests within 30 days of receipt unless there is a reason for delay that is justifiable.

### **What if the data you hold about me is incorrect?**

It is important that the information which we hold about you is up to date. Staff can amend some elements of personal information as required via the national workforce information system. If any other changes not accessible via this route are required then it is important that you let us know by contacting your manager and the HR team.

### **Freedom of Information**

The Freedom of information (Scotland) Act 2002 provides any person with the right to obtain information held by NHS Ayrshire & Arran, subject to a number of exemptions. Personal data is often exempt, however. If you would like to request some information from us, please send your request to the Data Protection Officer– contact details can be found on page 9.

Any request to access personal data we hold about you will be handled under the Data Protection Legislation and GDPR.

### **Complaints about how we process your personal information**

In the first instance, you should contact the Data Protection Officer – contact details can be found on page 9. Information about the rights of individuals under the Data Protection Act can be found online at:

<https://ico.org.uk/for-organisations/guide-to-data-protection/principle-6-rights/>

### **Data Protection Notification**

NHS Ayrshire & Arran is a ‘data controller’ under the Data Protection Act. We have notified the Information Commissioner that we process personal data and our registration number can be found on the ICO register at <https://ico.org.uk/ESDWebPages/Search>

Tip: Search for either ‘NHS board name’ or ‘Board Name Health Board’ e.g. NHS Lanarkshire, Lothian Health Board, and the registration details will be displayed.

The details are publicly available from the:-

Information Commissioner's Office  
Wycliffe House  
Water Lane,  
Wilmslow SK9 5AF  
[www.ico.gov.uk](http://www.ico.gov.uk)