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To: All NHS Scotland Board Chief Executives and
Employee Directors

Copied to: All NHS Scotland Directors of Finance
and Human Resources

3 April 2020

Dear Colleague

USE OF FIXED-TERM CONTRACTS AS PART OF COVID-19 RESPONSE

I am writing firstly to highlight the following points from [DL\(2020\)5](#), which offers guidance around NHS Scotland's response to the COVID-19 outbreak:

- Health Boards are asked to offer bank staff without part-time contracts fixed-term contracts to help manage staffing levels for COVID-19, and to offer them security and stability.
- Bank and other staff on fixed-term contracts will then qualify for sick pay and other entitlements in line with Agenda for Change terms and conditions.

All Boards must assess the best way of increasing staffing resilience at this time based on local circumstances and the needs of specific services. And it remains the choice of each individual staff member whether they wish to accept such a contract. However, fixed-term contracts offer an effective way of secure staff on a mutually beneficial basis.

In order to remove any potential barriers to using fixed-term contracts for the COVID-19 response, the Scottish Government has agreed a variation to the [Use of Fixed-Term Contracts Within NHS Scotland PIN Policy](#). The extant PIN requires all staff on fixed-term contracts to be placed on the redeployment register at the end of their contract. This provision reflects the legal principle that these staff should be treated no less favourably than permanent staff.

Where permanent employees' posts are redundant they are able to access redeployment. On that basis, staff on fixed term contracts where the post is redundant, i.e. the post disappears, are entitled to redeployment to reflect the requirement for equitable treatment. The PIN, however, goes beyond this legal requirement by extending the right to redeployment to all staff on fixed-term contracts who simply come to the end of their contract.

This means staff who are on fixed-term contracts to cover for maternity, secondments, long-term absence etc. are given more favourable treatment than the law would require. It is anticipated that the majority of staff recruited on fixed-term contracts to support the COVID-19 response will be to backfill permanent staff who are unwell, self-isolating, or up-skilled to support essential services. On that basis the PIN requirement to place staff on the redeployment register in non-redundancy situations should be stepped down for the period of the COVID-19 response.

This should allow Boards to utilise fixed-terms contracts, where appropriate, without raising fears that admin resources will be overwhelmed at a later date. The need for this variation will be reviewed at the appropriate time over the course of the COVID-19 crisis.

Yours sincerely



Stephen Lea-Ross



DIRECTION VARYING APPROVED REMUNERATION AND CONDITIONS OF SERVICE

1. Scottish Ministers, in exercise of the powers conferred on them by Section 105(7) of and paragraph 5 of Schedule 1 to the National Health Service (Scotland) Act 1978, hereby give all NHS Boards and Special Health Boards, NHS National Services Scotland (Common Services Agency), and Healthcare Improvement Scotland the following Direction.
2. The remuneration and conditions of service agreed and approved by Scottish Ministers, may be varied in relation to staff indicated in, and in accordance with, paragraph 3 of this Direction.
3. This Direction enables all NHS Boards and Special Health Boards, NHS National Services Scotland (Common Services Agency), and Healthcare Improvement Scotland to disregard the requirement in the Use of Fixed-Term Contracts Within NHS Scotland PIN Policy to place staff on the redeployment register at the end of their fixed-term contract where these staff have been employed to assist NHS Scotland in dealing with COVID-19.
4. This Variation Order is effective from the date of issue (3 April 2020) until further notice.

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