

## Model terms for GPs in COVID-19 explanatory notes



## About the model terms

The model terms of engagement for a GP providing temporary COVID-19 services have been produced jointly by the BMA general practitioners committee and the sessional GP committee.

They can be used for the temporary engagement of a GP by a GP practice or other primary care provider for COVID-19 services and are recommended by the BMA as good practice. These explanatory notes should be used in conjunction with the model terms for GPs.

## Contract preamble

This explains the purpose of the contract; to set out the terms and conditions that govern your temporary employment from the date of commencement and to include the particulars of the employment as required under law.

## Sections 1 and 2: employer and employee details

These sections outline the name and details of the employing organisation and your details (name and address).

## Section 3: job title and obligations

This section contains the job title and provides details of the manager that you will report to within the organisation.

It outlines that the main duties and responsibilities for your role will be provided in a job description in Schedule 1 (included as an appendix to the contract) and which may also be further determined in consultation with your manager. It is a requirement of your employment that you remain fully registered with the GMC with an unconditional licence to practice and be registered on the performers list.

Furthermore, you may be required to carry out reasonable additional or different activities from your job description. This is in order to be responsive to the evolving delivery of COVID-19 services.

It states, in line with GMC Good Medical Practice that you are required you be honest, open and truthful with patients and the public.

Additionally, it sets out the guarantees that you make to the employer regarding your experience, obligations with other employers, disclosure of conflicts of interest, disclosure of any police or GMC investigations, and disclosure of any other circumstances that may put you in conflict with the employer.

There are also further general obligations covered in the clauses.

- Complying as far as possible with the employer’s requirements and organisational policies while you provide the services under this contract.
- Acting within the scope of your qualifications, which will be checked and validated by the employer.
- Providing the employer with proof of medical defence indemnity and Hepatitis B immunity, if requested.
- Undertaking any training necessary to remain able to carry out the duties in the job description provided by the employer. This does not include training for CPD and/or professional registration, which you are responsible for arranging and undertaking outside of work under this contract without cost to the employer.
- Carrying out your duties professionally.
- Promoting the employer’s interests and those of patients, the public, clinicians and NHS England.
- Working any additional time which may be required to properly carry out your duties under the contract, unless you are prevented by ill health or accident.
- Notifying the employer of any injury suffered as a result of an accident while carrying out your duties.
- Complying as far as possible with the employer’s workplace rules and policies.
- Using the employer’s equipment, systems, hardware and machinery only as approved by the employer and only for carrying out work under this contract.
- Maintaining reasonable availability to provide any assistance or information that the employer may require.
- Observing and complying with any reasonable requirements and instruction from the employer.
- Not incurring expenditure, signing documents, entering into any agreement or making promises on the employer’s behalf without obtaining written permission.
- Complying with the employer’s health and safety procedures and reporting any unsafe working conditions immediately.
- Complying with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption.

The contract does not prevent you engaging with or having any other financial interests, provided that they do not breach any of your obligations under this contract.

Guidance note: the clause regarding other financial interests allows for the possibility to be engaged by more than one employing organisation at the same time using this contract or for a GP partner to undertake additional COVID-19 work with organisations outside of their own practice, provided their obligations under the contract are not breached.

## Section 4: date of commencement

This section provides the option to either be employed on an ongoing temporary basis which can be terminated on the one-month notice period set out in Section 12;

or,

to be employed on a fixed term period which will naturally terminate on the end date provided or can be terminated earlier under the one-month notice period set out in Section 12.

Your continuous service for the purpose of statutory employment rights (for example paid maternity, paternity or adoption leave) with this employer will start on the commencement date outlined in this section. However, it should be noted that previous NHS employment will not be counted toward continuous employment with the employer under this contract.

Guidance note: due to the temporary nature of the engagement in response to the COVID-19 epidemic, the non-recognition of previous employment is to minimise the financial liability on the practice arising from statutory rights to redundancy accrued after two or more years of continuous employment.

## Section 5: place of work

This section provides the details of the primary place of work where you will be undertaking the duties of this contract.

The employer can ask you to work at other locations that may be necessary and reasonable for you to deliver the services under the contract. However, you are not obliged to agree to attend any other workplace that is more than 10 miles from your home or takes more than one-hour of travel to reach.

Guidance note: Additional expenses arising from a change of location may be submitted in line with Section 6.

## Section 6: remuneration and expenses

This section outlines your hourly pay rate as agreed between you and the employer. Additionally, it contains the option for either increased pay or time off in lieu for hours worked on a bank holiday.

Guidance note: the BMA recommend that the hourly rate should reflect the realistic market rates for engaging a locum GP, with reasonable reductions made to factor in the employment benefits conferred by this contract which would not ordinarily be available to self-employed contractors. These include access to the employer's occupational annual leave and sick pay terms, and continuous coverage of death in service benefits throughout the duration of the contract (not just when working a shift).

You will be paid monthly in arrears for the hours you have been contracted to work. The payment will be made three days prior to the last day of the month or if the pay day falls on a weekend or bank holiday, you will be paid on the last working day prior to it.

The section contains standard terms for the repayment of any overpayments made to you. The clause ensures that sufficient notice is provided to you in writing by the employer detailing the amount being deducted and the reason. It contains a requirement for the employer to engage with you in good faith to agree a repayment plan should any deductions result in your financial hardship.

There is also a standard clause outlining that the employer will not be obliged to pay you for any period where it is unlawful (through no fault of the employer) for you to work under this contract.

You will be eligible to be paid for reasonable expenses, in line with the employer's expenses policy, that you incur while carrying out your duties. Claims should be supported with the appropriate receipts.

## Section 7: working hours

This section sets out the minimum number of hours of work per week that the employer is required to make available to you and which you are required to provide during the course of your total period of employment under the contract.

Guidance note: this is intended to create mutual obligations to offer and accept work between the employer and you. Mutuality of obligations is one of the key indicators of a contract of service conferring employee status which is required to facilitate access to the continuous death in service benefits under this contract as noted in Section 10 below.

You are entitled to a minimum rest break of 30 minutes per shift worked that is 6 hours or longer. Due to the changing needs of the service in responding to COVID-19, your hours of work will vary but will be agreed in advance between you and the employer.

You are given the option to opt-out of the Working Time Regulations using the opt-out form provided with the contract, that you can provide to the employer if you choose. If you wish to withdraw from opting-out, you can do so by giving the employer 3-months' notice in writing.

## Section 8: holiday

This section details your annual leave entitlement, on top of which normal English bank and public holidays are added.

Guidance note: We recommend using the 30-day annual leave entitlement as contained in the Salaried GP model terms and conditions.

Annual leave will be paid at the hourly rate outlined in Section 6 and the leave year for the purpose of annual leave entitlement starts on 1 April.

As per clauses 8.5 and 8.8 your entitlements to annual leave and holiday pay for bank holidays will be calculated pro-rata based on the number of weeks you are employed in the annual leave year.

Annual leave must be agreed in advance and you should give reasonable notice of proposed leave dates to the employer. There are conditions around not using more leave than your accrued entitlement, generally not taking more than 10 days' leave consecutively, taking at least 4 weeks' leave in each leave year and being entitled to carry over up to 5 days unused holiday into the next leave year.

Upon termination of the contract (except for dismissal by gross misconduct) you will be entitled to payment in lieu of any outstanding holiday entitlement or your employer may require you to take any unused leave during your notice period.

If upon termination of employment you have taken more than your leave entitlement, you are required to repay this, and the employer may make a deduction to your final pay.

## Section 9: absence from work and sick pay

This section outlines that you are entitled to occupational sick pay provisions in line with the employer's policy, subject to providing the necessary notification to the employer as detailed below.

Guidance note: we recommend using the sick leave entitlement for year one of NHS service of one-month's full pay and (after 4 months' service) two-months' half pay, as contained in the Salaried GP model terms and conditions.

There are standard conditions around notification and explanation of absence (due to illness or if you are self-isolating) to your line manager by telephone as soon as reasonably possible. Where any period of absence continues beyond seven calendar days, you may be required to obtain a fit note if requested by your employer and you should continue to provide any additional notes as required to cover the full duration of any continuous absence.

Guidance note: we recommend regularly reviewing Government guidance on fit notes and isolation notes during COVID-19.

You may be required to complete a self-certification form on return from any absence of 3 calendar days or more, if required by the employer.

Your occupational sick pay will be paid at the hourly rate outlined in Section 6 (minus any social security benefits that you are entitled to recover) and includes any Statutory Sick Pay which you may be entitled to.

Guidance note: Further information on statutory Sick pay and social Security benefits can be found on the GOV.UK website.

In the event that you are receiving occupational sick pay from the employer as a result of the negligence of a third party where damages could be recoverable, the sick pay is considered a loan against any damages you may receive. You must inform the employer of any claims and outcomes in connection with the absence, and the employer may request repayment of the funds up to the amount received in damages (plus any interest owed on the loan).

## Section 10: pension

This section states that employment under this contract is pensionable in line the NHS Pension Scheme, unless you choose not to join or are ineligible to join. Additional details are provided in the scheme guide which is included with the contract.

Guidance note: being a member of the NHS Pension Scheme for the purpose of this contract is necessary to maintain continuous coverage of death in service benefits and is therefore highly recommended. If you are unable to or choose not to join, you may wish to look at alternative arrangements such as private pension schemes or insurance for the purpose of obtaining equivalent protections.

## Section 11: notice of termination

This section contains clauses with the terms for termination to support the clauses in Section 4.1 and 4.2. The notice to be provided in writing by either the employer or you to terminate the contract is one month. However, there is no obligation on the employer to extend the contract beyond a specified fixed end date or make payment in lieu where the contract would naturally end in less than the one-month notice.

If gross misconduct is found, the employer could dismiss you without notice. The employer can pay you in lieu of notice, and the payment will be based the hourly pay set out in Section 6 with any normal PAYE deductions made (the same as your normal monthly payments).

During the notice period the employer is not required to provide you with additional work and may ask that you do not attend its premises, but this will not affect your normal salary and other contractual benefits. You should seek the employer's written permission if you wish to undertake work with anyone other than the employer during your notice period.

## Section 12: employer property and data processing

This section contains clauses that govern your handling of the employer's property and data upon the termination of your contract (in particular returning all materials and property no later than 5-days after the contract terminates), outlines the personal information that the employer processes and retains about you (while following its obligations under GDPR and relevant data protection legislation) and your compliance with the employer's data protection policy.

## Section 13: confidentiality

This section contains standard confidentiality clauses to protect both patient data but also the practice's business interests.

## Section 14: Inventions and other intellectual property

This section outlines your right to make or create intellectual property (IP) rights in the course of your duties. In order to protect the intellectual property of the employer and ensure that any IP created by you in the course of employment is owned by the employer, it contains a clause common in most employment contracts, requiring you to assign all IP rights or hold them in trust for the employer.

## Section 15: grievance procedure

This section contains a standard clause about reporting any employment grievances to your line manager either verbally or in writing. Where a grievance is not resolved at that initial stage, it should be escalated in line with the employer's grievance policy and procedure. You are entitled to be accompanied by a fellow employee or trade union representative at any grievance meeting.

Guidance note: You may also wish to refer to the ACAS code of practice on disciplinary and grievance procedures.

## Section 16: disciplinary rules and procedures

This section provides the details of where/who the employer's disciplinary rules and procedures can be obtained from.

It additionally outlines that any appeals should be made to your HR lead (this could be the practice manager, for example) who will refer it to the appropriate member of staff.

In a case where you are being investigated for possible gross misconduct, the employer may suspend you from your duties (in addition to any other conditions the employer may impose) on full pay and benefits while they investigate. The clause provides a clear entitlement to be represented by your trade union and/or defence organisation at all stages in the process.

## Section 17: collective agreements

This section outlines that the terms and conditions of this contract are independent of and will not be impacted by changes to other collective agreements, for example the national salaried GP model terms and conditions.

## Section 18: indemnity

The section confirms that you will be indemnified for the duties you deliver to NHS patients under this contract in line with the CNSGP (clinical negligence scheme for general practice). Guidance note: Further information on the CNSGP, including the scheme scope table, is available from the NHS Resolution website.

You will need to take out additional indemnity cover for any activities outside of what is covered by CNSGP. This may include non-NHS or private work, inquests, regulatory and disciplinary proceedings, employment and contractual disputes, and non-clinical liabilities.

In the event that you act outside the scope of your normal duties and cause loss or damage to the employer as a result, in line with other standard contract terms they may seek to recover this from your personal indemnity cover.

## Section 19: revalidation

This section outlines the expectation that you will already have a responsible officer and arrangements in place for your revalidation. You must notify the employer before commencing if you believe that they will become responsible for your revalidation during the time you are employed under this contract.

## Section 20: right to work

This section contains standard requirements for you to provide the employer with any necessary right to work documents for verification of your eligibility to work in the UK and to notify the employer should your entitlement change/cease.

## Section 21: DBS checks

This section outlines that a satisfactory DBS check is a condition of the contract and details the obligation to disclose any convictions (spent or unspent), police arrests, cautions, court appearances, reprimands and/or final warnings to the employer.

Guidance note: it is at the employer's discretion to decide what is satisfactory. This can include previous DBS checks, in line with CQC advice for GPs.

## Section 22: health assessment

This section contains clauses intended to promote your health protection and that of patients in your delivery of the services. As such, there is a requirement to disclose any illness or condition to the employer as soon as possible that may affect your delivery of services.

Additionally, you may be required to undergo a medical or health assessment as a condition of your employment if requested by the employer. Failure to do so if requested could result in the termination of your contract.

## Section 23: standards of business conduct

This section contains clauses with regard to the employer's Standards of Business Conduct policy which describes the standards and public service values which underpin your duties under this contract and reflect current guidance and best practice which staff must follow.

## Section: 24: employer's policies and procedures

This section contains a standard clause outlining that you will act in accordance with the employer's policies and procedures, and that failure to do so may amount to disciplinary action. The clause will provide the details of where/who the employment policies can be obtained from.

## Section 25: variation to standard and other terms and conditions

This section ensures that any changes or variations to this contract must be agreed between you and the employer in writing and signed by both parties. The contract terms cannot be varied unilaterally and without agreement.

## Schedule 1 – job description

Schedule 1 contains the job description provided by the employer setting out your role and duties under this contract, in addition to any other relevant information as provided by the employer. However, it is a separate document and is not considered part of the contract.

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