

London Region FAQ: Arrangements for Locum cover payments for absent GP Performers

This document supplements and should therefore be used in conjunction with both the NHS England protocol published in May 2017 (“The Protocol”); and the relevant section (Part D – General Section 2) of the NHS England Primary Medical Care Policy and Guidance published in November 2017.

Background

NHS England and GPC England have agreed a number of changes to the arrangements for making payments in relation to locum cover for a GP Performer’s absence which is due to sickness or parental leave. Following the announcement of the 2017-18 GMS contract changes NHS England issued a protocol in respect of locum cover for GP performer payments for parental and sickness leave (The Protocol). The wording of the protocol then was included in the NHS England Primary Care Policy and Guidance document published in November 2017. For ease, it has been agreed that reference to the “Protocol” will be used throughout this document.

Section 1: General principles

Applicability of The Protocol to all GP contract holders

NHS England London region¹ confirms that whilst the protocol applies only to GMS contracts, commissioners shall ensure they treat Primary Medical Services (PMS) contract holders equitably.

With regard to Alternative Provider (Medical Services APMS) providers, this protocol will apply equitably to any provider who holds the London APMS or PMS equalisation contract form.

Please refer to page 5 of the Protocol.

1. Are locum payments in respect of sickness leave discretionary or a practice entitlement?

The Statement of Financial Entitlements Directions (SFE) relating to the 2017-18 GMS contract changes states that locum payments in respect of sickness leave are no longer discretionary but a practice entitlement. Further clarification on this matter is provided in The Protocol. Paragraph 20 confirms that where a GP performer is on long term sickness leave, and locum payments are no longer payable under Section

¹ All references to NHS England London region are applicable to CCGs at level 2 joint commissioning and level 3 delegated status

16 of the SFE, it will be at the commissioner's discretion whether to continue such payments, taking into account the factors in paragraph 21.

2. Are locum payments in respect of parental leave discretionary?

As above, the General Medical Services SFE applies only to GMS practices but commissioners shall ensure they treat Primary Medical Services (PMS) practices equitably. Across London region, the same applies to Alternative Medical Services Providers (APMS) that hold the London region APMS or PMS equalisation contract form.

Initial locum payments – for up to 26 weeks - are not discretionary if the criteria at 15.3 and 15.4 of the SFE are met (and as also set out at paragraph 5 of the Protocol). Reimbursement for initial locum payments is not contingent on the salary entitlement or partnership shares of the GP on parental leave.

There are some other parental leave payments which are discretionary and these are covered in paragraphs 13 -19 of the Protocol (or Part D – Section 2.5 – 2.9 pages 357 – 359 of the Primary Medical Care Policy Manual and Guidance).

NHS England London region will exercise its discretionary powers including having regard for budgetary targets, in making payments in respect of locum cover, which either do not comply with 15.3 and 15.4 of the SFE/paragraph 5 of the Protocol or are discretionary

3. Are all locum costs reimbursable?

NHS England London region will reimburse practices only for clinical sessions provided by GPs covering parental and sickness leave. Other costs for NI and Pension contributions², car parking fees, lunch etc. will not be covered. Clinical sessions may include face to face appointments, telephone consultations, on call and home visits.

4. Do I need prior approval from NHS England before submitting locum claims?

All applications from April 2018, with the exception of unplanned sickness leave, are subject to the prior written approval from NHS England London region/Commissioners. Applications for maternity leave and planned sickness leave submitted more than 28 days after the performer has started their leave may not be considered without good reason (e.g. exceptional circumstances within the practice such as illness of the practice manager and practice manager vacancy).

² Except where payable to a partner or salaried GP engaged for cover or providing additional cover up to WTE where normally paid by NHS England London region.

Applications should be sent to the following Primary Care Team email addresses.

South East London:	england.selprimarycarequeries@nhs.net
South West London:	england.swlprimarycare@nhs.net
North West London:	england.lon-nw-pcc@nhs.net
North Central London:	england.lon-nc-pcc@nhs.net
North East London:	england.nel-primarycare@nhs.net

Once received, an application will be passed to the relevant contract manager who will:

- Acknowledge receipt of the application
- Review the application in line with the relevant section of the SFE and the Protocol to ensure that all of the necessary paperwork; and evidence is complete.

5. When will payments be made in respect of parental or sickness leave?

Claims for Parental leave (SFE 15.6) must be made within 14 days of the end of the month during which the costs were incurred, or at a frequency agreed with NHS England London region.

Claims for sickness leave (SFE 16.9) must be made at the end of the month in which the costs were incurred with no provision for a different frequency agreed with NHS England London region.

Claims are required to be submitted monthly. Unless a different frequency/period is formally agreed with the Commissioner, claims outside the monthly periods will not be processed.

All claims must be made on the form set out in Appendix 1 and must include copies of the supporting documentation.

Subject to the claim being agreed by NHS England London region, it will be reimbursed on the next available monthly payment run.

NHS England London region must be notified of any changes to the locum arrangements. This notification may be made by contacting the Primary Care Contract Manager, using the relevant email address provided above.

6. Can I claim for locum reimbursement for parental leave if a GP performer is on parental leave longer than 26 weeks?

The protocol which has been agreed with the GPC, as directed by the SFE states this is a discretionary matter. NHS England London region will take into account the term of a Salaried GP contract or partnership agreement when considering whether

to reimburse practices in respect of parental leave and make a recommendation to the relevant Primary Care Commissioning Committee taking into account the Protocol. If a GP performer is entitled to their full pay for the full length of their parental leave, Commissioners may consider continuing to reimburse the practice beyond week 26 for additional maternity or adoptive leave, only in exceptional circumstances³, subject to budgetary targets. Where the commissioner agrees to make payments for any weeks between weeks 27 to 52 for cover for additional maternity leave or adoption leave, the commissioner will pay the lower of either 50 per cent of the weekly rate it paid for weeks 3 to 26 or 50 per cent of the actual invoiced costs.

7. What is the decision-making process for discretionary payments?

As all CCGs across London are delegated, consideration and approval of discretionary funding support is the responsibility of the relevant delegated CCG Commissioner, as set out in the Primary Care Commissioning Committee Operating Model. Where the CCG has an established Primary Care Operations Group (PCOG)⁴ the application for discretionary funding will be considered there with a view to either approval of the claim or making recommendations for decision to the Primary Care Commissioning Committee (PCCC), subject to the terms of reference of the PCOG. Discretionary funding requests will be only considered under exceptional circumstances and subject to budgetary targets of the Commissioners.

The relevant STP primary care contracting team will inform the applicant in writing about the outcome.

For the avoidance of doubt, the dispute resolution process set out in Section 4 of the document will not apply to decisions made in relation to discretionary funding requests.

8. What are the circumstances in which NHS England London region is likely to stop making payments in respect of parental locum cover of less than 26 weeks?

NHS England London region will take into consideration the terms of a Salaried GP contract when approving reimbursement in respect of parental leave. If the

³ The commissioner is likely to exercise these discretionary powers to make payments only in exceptional circumstances, for example (but not limited to) consideration of:

- demonstrable financial hardship
- areas of significant deprivation
- GP recruitment difficulties
- applications from single-handed GPs and from nurse led PMS practices

⁴ The name of the Primary Care Operations Group may differ slightly, however the function of the group should be the same.

practitioner's parental leave entitlement is less than 26 weeks then reimbursement will be made for the leave taken for parental leave.

9. Can I claim for a GP Performer returning from sickness leave under a phased return arrangement?

GP practices are entitled to claim reimbursement of the cost for providing GP performer cover when a GP performer is absent from their duties due to sickness.

London Region is awaiting formal confirmation from NHS England about the arrangements for considering applications for phased return payments for a GP returning from sick leave that will be included in The Protocol, and reflected in this FAQ, following recent discussions between the BMA and NHS England.

London Region was previously advised that there was no provision for phased return payments or non-clinical sessions provided by the GP who is on sick leave, therefore until further confirmation received any applications will be placed on hold pending notification of national arrangements'.

10. How is NHS England London region likely to exercise its discretionary powers to make payments in relation to a partner or shareholder in a contractor, or an employee of a contractor, who is providing locum cover for an absent GP performer who is also a partner or shareholder in, or an employee of, the contractor?

Where a contractor wishes to engage a locum who is an employee of that contractor or a partner or shareholder, in circumstances where in all other respects the Board would be obliged to make payments pursuant to Part 4 of the SFE, any agreement by NHS England London region to make payments to the contractor in respect of the additional hours worked by that employee / partner / shareholder, will be subject to the following conditions:

- the GP providing cover is normally a part-time GP Performer and is on the Medical Performers List;
- cover periods per week will be limited to that which would bring the part time GP up to a full-time (full time is defined as 9 clinical sessions a week); and

NHS England London region will require evidence of other sessional commitments that the GP is or is proposing to cover, to ensuring the covering GP is not exceeding 9 clinical sessions. For example, evidence could be the schedule of the GP providing the parental leave cover.

11. Is the practice entitled to Locum Reimbursement if the GP is on leave has a private health insurance?

NHS England London region will not take into account GP's private health insurance payments in respect of the amount they pay to practices.

12. Is the practice entitled to Locum Reimbursement if the GP Practice has an insurance cover?

NHS England London region will not take into account GP Practice insurance payments in respect of the reimbursable amount for locum claims.

13. Are there likely to be further changes to the arrangements for making payments in relation to locum cover?

As part of the 2018-19 GMS contract negotiations ⁵NHS England and GPC England agreed the following:

- If a contractor chooses to employ a salaried GP on a fixed-term contract to provide cover, NHS England will reimburse the cost of that cover to the same level as cover provided by a locum, or a performer or partner already employed or engaged by the contractor.
- NHS England and GPC England agreed to uplift the maximum figure practices can be reimbursed for locum costs by 1%. The agreed amounts published in the SFE Directions 2018⁶.
- In respect of maternity leave or adoption leave where the GP performer going on leave is the main care provider, the maximum amount payable is £1,143.06 per week for each of the first two weeks and then £1,751.52 per week for each of weeks 3 to 26.
- In respect of paternity leave or special leave (which is equivalent to the terms and duration of paternity leave) where the GP performer going on leave is not the main care provider, the maximum amount payable is £1,143.06 per week for each of the first two weeks.
- In respect of sickness leave (after two weeks), payments start and the maximum amount payable is £1,751.52 per week for each of weeks 3 to

⁵ <http://www.nhsemployers.org/your-workforce/primary-care-contacts/general-medical-services/gms-contract-changes/gms-contract-changes-201819>

⁶ <http://www.nhsemployers.org/-/media/Employers/Documents/Primary-care-contracts/GMS/GMS-contract--Statement-of-Financial-Entitlements---2018.pdf?la=en&hash=EFC85AFDA85369CFEA1CAC6EE107FA7BE94A5FA2>

28. Thereafter, the maximum amount payable is £875.76 per week for each of weeks 29 to 54.

Section 2: Supporting Documents required for initial consideration of applications for discretionary financial assistance towards locum costs

In addition to the application form (Appendix 1) the following documents will be required, as a minimum, for the initial assessment:

Maternity:

- Maternity Certificate (Mat B1 form);
- copy of the contract / partnership agreement of the contractor on leave, detailing leave entitlement; and
- copy of the fixed term contract of the locum engaged to cover for the maternity leave where this exists.

Paternity:

- letter confirming prospective fatherhood from the applicant/GP performer;
- letter to include confirmation dates of leave (paternity leave must be taken within 56 days of the birth of the child);
- copy of the contract / partnership agreement detailing leave entitlement; and
- copy of the fixed term contract of the locum engaged to cover the paternity leave where this exists

Adoptive:

- letter from the GP performer confirming the date of the adoption and the name of the main care provider, countersigned by the appropriate adoption agency;
- copy of the contract / partnership agreement detailing leave entitlement; and
- copy of the fixed term contract of the locum engaged to cover the adoption leave where this exists

Sickness:

- sick certificate covering the period of time on sick leave, including the first seven consecutive calendar days of sickness absence self-certification period;

- copy of the contract / partnership agreement detailing leave entitlement;
- and
- in relation to any planned long term sick leave, a copy of the fixed term contract of the locum engaged to cover the sickness leave where this exists

NHS England London region must be notified of any changes to the locum arrangements.

Section 3: Supporting documents required following approval of application

In addition to the above, where a contractor's application has been approved and this has been confirmed to it in writing by NHS England London region, the contractor will be required, as a minimum, to submit the following documents on a monthly basis:

- completed invoice organised form Appendix 2 ;
- locum invoices for the period or payslips for the GP employed on a fixed term basis to cover for the absent performer; and
- sickness certificate covering the period (if the leave is longer than 3 months) and evidence of any self-certification for the first seven consecutive calendar days of sickness absence (self-certification period).

Please note that if a copy of the contract / partnership agreement does not state leave entitlement, NHS England London region will require a copy of the practice's relevant human resources policy demonstrating leave entitlement. If the policy does not detail entitlement, NHS England London region shall follow relevant statutory guidelines.

Section 4: Dispute Resolution Process

Any dispute arising out of or in connection with Locum reimbursement payments between NHS England London region and a contractor, is to be resolved under the following London dispute resolution procedures or as a dispute arising out of or in connection with the contractor's GMS, PMS or APMS contract, i.e. in accordance with the NHS dispute resolution procedures. Details of the NHS England London region dispute resolution procedures are below:

NHS England London region will consider discretionary funding applications on behalf of Clinical Commissioning Groups (CCG's) in accordance with NHS England Primary Care Co-commissioning Operating Model.

Where NHS England London region does not accept an application for discretionary funding in respect of locum cover, details of the basis for its decision will be provided to the unsuccessful applicant.

Any disputes arising in connection with applications for contributions towards the costs of locums should be notified to NHS England London region promptly and will be addressed as part of the internal dispute resolution process as follows:

Stage 1: Contractors may write to the Assistant Head of Primary Care, who shall review the Primary Care Contract Manager's decision.

Stage 2: If the dispute is not resolved at stage 1, the Assistant Head of Primary Care may refer it to the Head of Primary Care.

Stage 3: If the dispute is not resolved at stage 2, the Head of Primary Care may refer it to part 2 of either the relevant Primary Care Joint Committee or Primary Care Commissioning Committee. The relevant committee's decision will be communicated promptly to the contractor and Assistant Head of Primary Care.

If the dispute is not resolved after exhausting the internal dispute resolution process, it may be referred by the contractor as a dispute arising out of or in connection with the contractor's contract (i.e. via a referral to the FHSAU or, if appropriate, the civil courts).

Section 5: Payments for locums to cover suspended doctors

NHS England will pay the practice a contribution towards the cost of a locum to replace the suspended GP. Practices are able to claim for a contribution towards locum costs under one of the following categories;

- A **sole GP performer** who has been suspended from the Board's medical performers list and where the practice is not in receipt of any other financial assistance under section 96 of the 2006 Act during the contractor's suspension.
- A suspended GP who is a **partner** of the contractor who is receiving at least 90% of their normal monthly drawings (or a pro rata amount in the case of part months) from the partnership account for at least six months of that performer's suspension, and the suspended GP performer is still a partner of the contractor.

- An **employee** of the contractor who is receiving at least 90% of their normal monthly salary (or a pro rata amount in the case of part months) from the partnership account for at least six months of that performer's suspension, and the suspended GP performer is still an employee of the contractor.

Practices must continue to pay the suspended GP performer directly up to 90% of their earnings (or whatever the contract of employment or partnership agreement states), and must inform NHS England if there are any changes to these arrangements.

A contract of employment evidencing salary entitlement must be submitted to NHS England as part of the claim.

For full details please refer to the SFE Directions 2013, Section 17 as amended by the 2017 SFE amendment

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Updated in line with the Primary Medical Care Policy and Guidance document March 2018

V6.1 final draft: updated to incorporate both further advice from National Team, and London region's responses to London LMCs requested clarifications

V6.2 amendments to final draft following comments from London LMCs

V6.3 final amends to incorporate holding position on phased return reimbursement arrangements
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