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| *This template is produced by the BMA General Practitioners Committee (GPC) for use by members as sample terms of engagement for a locum GP on a self-employed basis by a GP practice in England and Wales. It has been drafted with the help of BMA Law in the interests of both locums and practices and represents the BMA’s recommendation as good practice.*  *The document should be read in conjunction with the accompanying explanatory notes. The BMA recommends that members seek legal advice on their individual situation before entering into any commercial agreement and cannot accept any liability for any loss or damage suffered as a consequence of the use or reliance on this template.* |

**BMA Model Terms of Engagement for a Locum GP**

**[*The BMA Model Terms of Engagement for a Locum GP comprises:***

1. ***A template Work Schedule that should be completed by the Practice and Locum GP for each individual engagement with the particular terms of the relevant engagement.***
2. ***The BMA Model Terms of Engagement for a Locum GP that will govern all engagements of the Locum with the Practice.*]**

**Work Schedule**

This Work Schedule is agreed subject to the BMA Model Terms of Engagement for a Locum GP agreed between the Practice and the Locum on [*date*] (**‘Terms’**).

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| **Practice Name & Address:** | [*To be completed*] | **Locum Name & Address:** | [*To be completed*] |

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| **Date Engagement commences:** | [*To be completed*] | | |
| **Duration/end date of Engagement:** | [*To be completed*] | | |
| **Services to be provided by Locum:** | [*Tick box*]  Face to face appointments □  Number and length of appointments \_\_\_\_  Catch up slots \_\_\_\_\_  Telephone appointments □  Number and length of appointments \_\_\_\_\_\_  Administrative time □  For paperwork generated by locum during surgery  For other practice paperwork  Pelvic exam (double appointment) □  Appointments requiring interpreters (double appointment) □  Smear testing □  Palliative care □  Private work (where it has been agreed that the locum will retain the fee) □  Type of work­­­­­­­­­\_\_\_\_\_\_\_\_  Agreed fee\_\_\_\_\_  □ | | |
| **Location:** | [*To be completed*] | | |
| **Times:** | [[*Insert agreed dates/days and times]* ***OR***Such dates/days and times during the period from [*date*] to [*date*] (inclusive) as may from time to be agreed between the parties] | | |
| **Fee:** [*Complete/delete as applicable*] | Morning session | £ |  |
| Afternoon session | £ |  |
| Full day | £ |  |
| Evening | £ |  |
| Weekend | £ |  |
| On call | £ |  |
| Home visit | £ |  |
| Mileage | £ |  |
| Extras | £ |  |
| **Payment method:** | [*Insert bank account details*] | | |
| **[Additional Terms:]** | [*Insert any additional agreed terms that will apply to the Engagement*] | | |

**Date Work Schedule agreed:** [*date*]

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| **Signed by** [***DELETE AS APPLICABLE:***  ***SOLE TRADER:*** *[Name of practice owner]*  ***OR***  ***PARTNERSHIP:*** *[Name of first partner]* and *[Name of second partner]* for and on behalf of the partners of [*Practice name*]] | …………………………………………………………………………  […………………………………………………………………………] |
| **Signed by** [*Name of locum*] | ………………………………………………………………………… |

**BMA Model Terms of Engagement for a Locum GP**

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| **Practice Name & Address:** | [*To be completed*] | **Locum Name & Address:** | [*To be completed*] |

**Terms and Conditions**

1. These Terms shall govern the engagement from time to time of the Locum by the Practice as described in a Work Schedule agreed between the parties in the form appended hereto.
2. Each agreed Work Schedule shall constitute a separate engagement (**‘Engagement’**) and these Terms shall apply in relation to each Engagement only and there shall be no contract between the parties between Engagements.

***Engagements***

1. The Practice shall engage the Locum as a self-employed, independent contractor and not as an employee, worker, agent or partner of the Practice (and the Locum shall not hold himself out as such).
2. During an Engagement, the Locum shall, unless prevented by illness or injury, provide the Services at the Location and at the Times (and such other times as may be necessary for the provision of the Services), as described in the relevant Work Schedule (hereinafter referred to as **‘Services’**, **‘Location’** and **‘Times’** respectively).
3. The Practice shall be under no obligation to offer any Engagement to the Locum and the Locum shall be under no obligation to accept any Engagement where offered by the Practice.
4. The Locum shall notify the Practice as soon as reasonably practicable if the Locum is unable to provide the Services due to illness or injury or any other reason, or if the Locum is unable to attend at the Times agreed in the relevant Work Schedule.
5. The Locum may appoint a suitably qualified and skilled substitute (**‘Substitute’**) to provide the Services on the Locum’s behalf, provided that the Locum shall remain responsible for the discharge of the Locum’s obligations under these Terms during the appointment of the Substitute.
6. The Fee agreed in the Work Schedule (**‘Fee’**) shall not be payable to the Locum pursuant to clause 27 in respect of any period during which the Services are not provided (whether by the Locum or any Substitute).
7. The Locum shall not be entitled to any sick pay, paid holiday or other employment benefits (for the avoidance of doubt this shall exclude any benefits relating to membership of the NHS pension scheme if applicable).
8. The Locum will be responsible for payment of the Locum’s own income tax and national insurance contributions in respect of any fees received from an Engagement.
9. If either party wishes to cancel a session agreed in a Work Schedule they shall give reasonable prior written notice to the other party.

***Locum obligations***

1. The Locum shall provide the Services with due care and skill to the best of the Locum’s ability.
2. The Locum shall provide the Services in compliance with all applicable laws, regulations, standards, codes of practice and guidance relating to:
3. the General Medical Council;
4. the National Health Service;
5. [***ENGLAND ONLY:*** the Care Quality Commission;]
6. health and safety;
7. the Data Legislation as defined in Schedule 1; and
8. the Bribery Act 2010,

and the Locum shall promptly report to the Practice any unsafe or irregular working conditions or practices.

1. The Locum shall use reasonable endeavours to comply with the Practice’s policies and procedures as notified from time to time to the Locum (copies of which shall be provided or made available to the Locum by the Practice).
2. The Locum shall complete a Covid-19 risk assessment received from the Practice and return it to the Practice prior to the provision of the Services.
3. The Locum shall, at the Locum’s own expense, maintain (and shall ensure that any Substitute maintains):
4. registration with the General Medical Council;
5. inclusion on the medical performers list maintained by the [***ENGLAND:*** National Health Service Commissioning Board (NHS England) ***OR*** ***WALES:*** Health Board];
6. personal medical equipment normally required for the provision of the Services;
7. (if applicable) a motor car or alternative means of completing home visits acceptable to the Practice; and
8. the Locum shall provide the Practice with reasonable evidence of the Locum’s compliance on request.
9. The Locum shall promptly notify the Practice of any restrictions or conditions relating to the Locum’s (or the Substitute’s) fitness to practise or the matters referred to in clause 15(a), 15(b) or 15(c).
10. The Locum shall have personal liability for, and shall indemnify the Practice against, any loss, liability, costs, damages or expenses arising from any medical or clinical negligence on the part of the Locum (or any Substitute) in connection with the provision of the Services during an Engagement.
11. The Locum shall on request promptly provide to the Practice any such information or reports as it may from time to time reasonably require in connection with the provision of the Services or the Practice.
12. The Locum shall promptly notify the Practice of any private, non-NHS and/or fee-paying medical work (including letters, reports and forms) which the Locum (or any Substitute) undertakes in connection with the Practice and unless otherwise agreed any fee or remuneration received for such work will be retained by the Practice.
13. The Locum may be engaged, employed or concerned in any other business, trade, profession, occupation or activity.
14. The Locum shall not use or disclose to any third party any confidential information relating to the Practice or any of its patients, save where such use or disclosure is authorised by the Practice or required by law.
15. As soon as possible after the last working day of each month, the Locum shall submit to the Practice an invoice for the Locum’s Fee in respect of the Services provided by the Locum (or any Substitute) during that month.

**Practice obligations**

1. [***ENGLAND ONLY:*** The Practice shall maintain registration with the Care Quality Commission.]
2. The Practice shall:
3. provide reasonable support in order to enable the Locum to provide the Services including an orientation and any materials necessary for the provision of the Services;
4. provide an induction document, containing details of the systems and support in place for remote working consultations;
5. provide personal protective equipment including, but not limited to, antibacterial cleaner, hand sanitiser, gloves, masks and other adequate personal protective equipment for face to face appointments;
6. provide the Locum with a Covid-19 risk assessment prior to the provision of the Services;
7. screen any patients who attend the Practice for Covid-19 for face to face appointments in advance and on arrival by practice booking and reception staff;
8. regularly consider whether implementing remote working is appropriate in the circumstances, such as to ensure that where in unforeseen circumstances the Locum is required to self-isolate, they have the same opportunities to carry out their booked sessions remotely as any other members of the practice team with provision of equipment to support this;
9. use its best endeavours to ensure that, where the Locum is required to self-isolate, the Locum has the same opportunity to carry out their booked sessions remotely as any other member of the practice team with provision of IT equipment to enable and support remote working where required; notify the Locum of any complaints or ‘significant events’ (as defined by the General Medical Council) in which the Locum has been personally named or involved; and
10. subject to compliance with the Data Legislation as defined in Schedule 1, provide reasonable access to information including for the purposes of clinical care, local clinical audit, appraisal, or complaints or significant events.
11. The Practice shall protect the health and safety of staff and patients during Covid-19 pandemic, including establishing safe systems for any face to face appointments in the surgery.
12. In consideration for the provision of the Services during an Engagement, the Practice shall, within 28 days of receipt of an invoice, pay the Fee to the Locum by the Payment Method, as described in the relevant Work Schedule.
13. Where the Locum is a member of the NHS pension scheme and chooses to pension the income from an Engagement in the NHS pension scheme, the Practice will pay the appropriate employer’s contribution in addition to the Fee.
14. Except as described in the relevant Work Schedule, the Locum shall bear the Locum’s own expenses incurred in providing the Services during an Engagement.
15. The Practice shall be entitled to deduct from any sums payable to the Locum any sums that the Locum owes to the Practice at any time.
16. The Practice will collect and process information relating to the Locum in accordance with the privacy notice which can be found [on its website ***OR*** [*other location*]].

***Termination***

1. Either party may terminate an Engagement with immediate effect with no liability to make any further payment to the other party (other than in respect of any accrued Fees as at the date of termination) if it commits any serious or persistent breach of any of these Terms.
2. The Practice may terminate an Engagement with immediate effect with no liability to make any further payment to the Locum (other than in respect of any accrued Fees as at the date of termination) if the Locum:
3. is suspended or removed from the medical register of the General Medical Council;
4. is suspended or removed from the medical performers list maintained by the [***ENGLAND:*** National Health Service Commissioning Board (NHS England) ***OR*** ***WALES:*** Health Board];
5. ceases to hold medical indemnity cover in accordance with clause 16(c);
6. is convicted of any criminal offence.
7. On expiry or termination of an Engagement the Locum shall return any property belonging to the Practice and any original or copy documents created or obtained by the Locum in the course of providing the Services and the Locum shall if requested by the Practice irretrievably delete any electronic information relating to the business of the Practice or any of its patients which is in the Locum’s possession or control.

***General***

1. The parties agree to comply with the provisions relating to the Data Legislation as contained in Schedule 1.
2. The parties may from time to time review these Terms, provided that any variation of these Terms (or any Work Schedule agreed between the parties pursuant to these Terms) shall be made in writing and signed by both parties.
3. These Terms and any dispute or claim arising out of or in connection with them shall be governed by and construed in accordance with the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with them.
4. Any dispute arising out of or in connection with these Terms shall in the first place be referred to the British Medical Association (BMA) mediation service (or such other mediation or alternative dispute resolution service as the parties may agree).

**Schedule 1 – Data Legislation**

**Part 1**

‘Data Legislation’ means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation (**‘GDPR’**); the Data Protection Act 2018; the Privacy and Electronic Communications Directive and Regulations as amended; and all other legislation and regulatory requirements in force from time to time relating to the use of Personal Data and the privacy of electronic communications.

‘Controller’, ‘Processor’, ‘Data Subject’, ‘Personal Data’, ‘Personal Data Breach’ shall have the same meanings as under the Data Legislation.

1. The parties agree that the Practice is the Controller and the Locum is the Processor for the purposes of the Data Legislation.
2. The Data Processing Register in Part 2 sets out details of the processing by the Locum.
3. The Locum may, for the duration of an Engagement, process Personal Data (including personal information and data concerning health) relating to patients, staff, suppliers or agents of the Practice for the purpose of providing the Services in accordance with these Terms.
4. The parties shall comply with all applicable requirements of the Data Legislation. For the avoidance of doubt nothing within these Terms relieves the Locum (as Processor) of its own direct responsibilities and liabilities under the Data Legislation.
5. In relation to any Personal Data processed in connection with an Engagement the Locum shall:
6. to process the Personal Data only on receipt of the written instructions of the Practice, unless required to do so by (for as long as and to the extent that they apply to the Locum) the law of the European Union and/or any of its member states and/or any data protection legislation from time to time in force in the UK (including the Data Protection Act 2018) and any other law that applies in the UK; if so required, the Locum shall inform the Practice of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
7. to at all times keep the Personal Data confidential;
8. taking into account the state of the art, costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, to implement appropriate technical or organisational measures to ensure a level of data security appropriate to the risk. A non-exhaustive list of such potential measures are as follows:
9. the pseudonymisation and encryption of Personal Data;
10. the ability to ensure the ongoing confidentiality, integrity, availability and strength of processing systems, services and the Personal Data processed within them;
11. the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident;
12. a process for regularly testing, assessing and evaluating the effectiveness of security measures and undertaking any required improvements;
13. taking into account the nature of the processing, to maintain appropriate technical and organisational measures to assist the Practice to fulfil its obligations under the Data Legislation in respect of the rights of Data Subjects;
14. taking into account the nature of the processing and the information available to the Locum, to assist the Practice in ensuring compliance with the obligations under the Data Legislation in relation to secure processing, Personal Data Breach reporting, impact assessments and consultation;
15. if required to do so by the Practice, to delete or return all the Personal Data (including copies) to the Practice on the expiry or termination of an Engagement, unless storage of the Personal Data in required under the Data Legislation;
16. to make available to the Practice all information necessary to demonstrate compliance with the obligations under the Data Legislation and participate in and contribute to audits and inspections conducted by the Practice or any auditor designated by the Practice from time to time;
17. to not transfer any Personal Data outside of the European Economic Area (EEA) without the Practice's prior written consent; and
18. to immediately inform the Practice of any Personal Data Breach or any instruction which infringes the Data Legislation or other data protection laws of the European Union or any of its member states.
19. The parties agree that any Substitute appointed under clause 7 of these Terms will be a third-party Processor of Personal Data. The Locum agrees to enter into a written agreement with any Substitute that will incorporate terms the same as or substantially similar to those set out in this Schedule 1. The Locum shall remain fully liable to the Practice for the performance of the obligations of the Substitute as a third-party Processor. The Locum shall not appoint any other third-party Processor without the prior written consent of the Practice.

**Part 2**

**Data Processing Register**

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| 1. **Subject matter, nature and purpose of processing** | ***[To be completed]*** |
| 1. **Types of Personal Data** | ***[To be completed]*** |
| 1. **Categories of Data Subject** | ***[To be completed]*** |
| 1. **Duration of processing** | ***[To be completed]*** |
| 1. **Specific processing instructions (if any)** | ***[To be completed]*** |

**Date Terms agreed:** [*date*]

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| --- | --- |
| **Signed by** [***DELETE AS APPLICABLE:***  ***SOLE TRADER:*** *[Name of practice owner]*  ***OR***  ***PARTNERSHIP:*** *[Name of first partner]* and *[Name of second partner]* for and on behalf of the partners of [*Practice name*]] | …………………………………………………………………………  […………………………………………………………………………] |
| **Signed by** [*Name of locum*] | ………………………………………………………………………… |