

Dear Colleague,

## Maternity / Paternity / Adoption Pay

### Summary

1. This Circular provides updated guidance for NHS Boards and GP Practices. It clarifies the arrangements regarding the level of reimbursement for locums covering maternity, paternity and adoption leave, as detailed within the Statement of Financial Entitlements ("SFE").
2. The latest Statement of Financial Entitlements: [http://www.sehd.scot.nhs.uk/pca/PCA2015\(M\)01letter.pdf](http://www.sehd.scot.nhs.uk/pca/PCA2015(M)01letter.pdf) was issued on 23 January 2015.
3. This updated guidance has been agreed with the Scottish General Practitioners' Committee of the BMA, and will be incorporated into the 2016/17 SFE. It will come into effect from 1 April 2016.

### Changes to the 2014/15 SFE

4. **Requirement to pay:** Part 4, Paragraph 9.2 of the 2014/15 SFE will be altered to ensure that the contractor is entitled to a payment of the costs of locum cover actually incurred, up to the maximum amount payable as set out in paragraph 9.5. This currently reads:

*"9.2 If an employee or partner who takes any such leave is a performer under a GMS contract, the contractor may need to employ a locum to maintain the level of services that it normally provides. Even if the Health Board is not directed in this SFE to pay for such cover it may do so as a matter of discretion. However if –*

- (a) the performer is a GP performer; and
- (b) the leave is ordinary maternity, paternity leave or ordinary adoption leave;

*the contractor may be entitled to payment of, or a contribution towards, the costs of locum cover under this SFE."*

31 March 2016

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#### Addresses

##### For Action

Chief Executives NHS Boards

GP Practices

NHS National Services Scotland

##### For information

Scottish General Practitioners  
Committee

Primary Care Leads NHS Boards

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#### Policy Enquiries to:

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[Fiona.howe@gov.scot](mailto:Fiona.howe@gov.scot)

5. The updated paragraph 9.2 will read as follows:

*“9.2 If an employee or partner who takes any such leave is a performer under a GMS contract, the contractor may need to employ a locum to maintain the level of services that it normally provides. Under this SFE the Health Board is directed to pay such cover to the contractor under its GMS contract in respect of the payment of the costs of locum cover actually incurred where the performer on leave is a GP performer subject to paragraphs 9.3 and 9.4 and up to the maximum amount payable as set out in paragraph 9.5. The Health Board may pay for other such cover as a matter of discretion.*

6. **Entitlement to payments:** Part 4, Paragraph 9.3 of the 2014/15 SFE will be altered to clarify that the contractor will be entitled to a payment of the costs of locum cover actually incurred up to the maximum amount payable as set out in paragraph 9.5. This currently reads:

***“Entitlement to payments for covering ordinary maternity, paternity and ordinary adoption leave.***

*9.3 In any case where a contractor actually and necessarily engages a locum (or more than one such person) to cover for the absence of a GP performer on ordinary maternity leave, paternity leave or ordinary adoption leave, and–*

*(a) the leave of absence is for more than one week (the maximum periods are: 26 weeks for ordinary maternity leave and for ordinary adoption leave for the parent who is the main care provider; and 2 weeks for paternity leave and for adoption leave for the parent who is not the main care provider);*

*(b) the performer on leave is entitled to that leave either under–*

*(i) statute;*

*(ii) a partnership agreement or other agreement between the partners of a partnership; or*

*(iii) a contract of employment, provided that the performer on leave is entitled under their contract of employment to be paid their full salary by the contractor during their leave of absence;*

*(c) It is expected that an external locum will be engaged to provide any required cover, who is not a partner or shareholder of the contractor, or already an employee of the contractor, unless the performer on leave is a job sharer. Where there is evidence of limited or no availability of external locums the NHS board and LMC can agree that the engagement of internal locum(s) is necessary. In these circumstances any additional sessions required and approved must be provided and evidenced by the normal claim mechanisms; and*

*(d) the contractor is not also claiming another payment for locum cover in respect of the performer on leave pursuant to this Part;*

*then subject to the following provisions of this Section, the Health Board must provide financial assistance to the contractor under its GMS contract in respect of the cost of engaging that locum (which may or may not be the maximum amount payable, as set out in paragraph 9.5)."*

7. The updated paragraph 9.3 will read as follows:

***"Entitlement to payments for covering ordinary maternity, paternity and ordinary adoption leave.***

*9.3 In any case where the contractor actually and necessarily engages a locum (or more than one such person) to cover for the absence of the GP performer on ordinary maternity leave, paternity leave or ordinary adoption leave, and–*

*(a) the leave of absence is for more than one week;*

*(b) the performer on leave is entitled to that leave either under–*

*(i) statute;*

*(ii) a partnership agreement or other agreement between the partners of a partnership; or*

*(iii) a contract of employment, provided that the performer on leave is entitled under their contract of employment to be paid their full salary, be that a full-time or part-time salary, by the contractor during their leave of absence; and*

*(c) the contractor is not also claiming another payment for locum cover in respect of the performer on leave pursuant to this Part,*

*then subject to paragraph 9.2 and the following provisions of this Section, the Health Board must provide financial assistance to the contractor under its GMS contract in respect of the cost of engaging that locum (this will be the costs of the locum cover actually incurred, up to the maximum amount payable, as set out in paragraph 9.5)."*

8. **When engagement of locum necessary:** Part 4, Paragraph 9.4 of the 2014/15 SFE will be altered to set out principles as regards when engagement of a locum is necessary. This currently reads:

*"9.4 It is for the Health Board to determine whether or not it is or was in fact necessary to engage the locum, or to continue to engage the locum, but it is to have regard to the following principles–*

*"(a) it should not normally be considered necessary to employ a locum if the Health Board has offered to provide the locum cover itself and the contractor has refused that offer without good reason;*

*(b) it should not normally be considered necessary to employ a locum if the performer on leave had a right to return but that right has been extinguished;*

and

*(c) it should not normally be considered necessary to employ a locum if the contractor has engaged a new employee or partner to perform the duties of the performer on leave and it is not carrying a vacancy in respect of another position which the performer on leave will fill on his return.”*

9. The updated paragraph 9.4 will read as follows:

*“9.4 It is for the Health Board to determine whether or not it is or was in fact necessary to engage the locum, or to continue to engage the locum, but it is to have regard to the following principles–*

*“(a) it should not normally be considered necessary to employ a locum if the Health Board has offered to provide the locum cover itself and the contractor has refused that offer without good reason;*

*(b) it should not normally be considered necessary to employ a locum if the performer on leave had a right to return but that right has been extinguished;*

*(c) it should not normally be considered necessary to employ a locum if the contractor has engaged a new employee or partner to perform the duties of the performer on leave and it is not carrying a vacancy in respect of another position which the performer on leave will fill on his return; and*

*(d) it should not normally be considered necessary (where the performer on leave is not a job sharer) to employ an internal locum unless there is evidence of limited or no availability of an external locum (which is a locum who is not a partner or shareholder of the contractor, or already an employee of the contractor).*

10. **Amounts payable:** Part 4, Paragraph 9.5 of the 2014/15 SFE will be altered to increase the maximum amount payable by the Health Board in respect of locum cover for a GP performer. This currently reads:

***“Ceilings on the amounts payable.***

*9.5 The maximum amount payable under this Section by the Health Board in respect of locum cover for a GP performer is-*

*(a) in respect of the first two weeks for which the Health Board provides reimbursement in respect of locum cover, £982.92 per week; and*

*(b) in respect of any week thereafter for which the Health Board provides reimbursement in respect of locum cover, £1506.15 per week.”*

11. The updated paragraph 9.5 will read as follows:

***“Ceilings on the amounts payable.***

9.5 *The maximum amount payable under this Section by the Health Board in respect of locum cover for a GP performer is –*

*(a) in respect of the first two weeks for which the Health Board provides reimbursement in respect of locum cover, £1131.74 per week; and*

*(b) in respect of any week thereafter for which the Health Board provides reimbursement in respect of locum cover, £1734.18 per week,*

*and the maximum periods that such locum cover can be claimed for are: 26 weeks for maternity leave or for adoption leave for the parent who is the main care provider; and 2 weeks for paternity leave or for adoption leave for the parent who is not the main care provider.”*

12. **Conditions of payment:** Part 4, Paragraph 9.7 and 9.8 of the 2014/15 SFE will be altered to refer to the evidence required by internal locums. This currently reads:

***“Conditions attached to the amounts payable.***

*9.7 Payments under this Section, or any part thereof, are only payable if the contractor satisfies the following conditions–*

*(a) if the leave of absence is maternity leave, the contractor must supply the Health Board with a certificate of expected confinement as used for the purposes of obtaining statutory maternity pay, or a private certificate providing comparable information;*

*(b) if the leave of absence is for paternity leave, the contractor must supply the Health Board with a letter written by the GP performer confirming prospective fatherhood and giving the date of expected confinement;*

*(c) if the leave of absence is for adoption leave, the contractor must supply the Health Board with a letter written by the GP performer confirming the date of the adoption and the name of the main care provider, countersigned by the appropriate adoption agency;*

*(d) the contractor must, on request, provide the Health Board with written records demonstrating the actual cost to it of the locum cover;*

*(e) once the locum arrangements are in place, the contractor must inform the Health Board–*

*(i) if there is to be any change to the locum arrangements; or*

*(ii) if, for any other reason, there is to be a change to the contractor’s arrangements for performing the duties of the performer on leave; at which point the Health Board is to determine whether it still considers the locum cover necessary.*

*9.8 If the contractor breaches any of these conditions, the Health Board may, in appropriate circumstances, withhold payment of any sum otherwise payable under this Section.”*

13. The updated paragraphs 9.7 and 9.8 will read as follows:

**“Conditions attached to the amounts payable.**

*9.7 Payments under this Section, or any part thereof, are only payable if the contractor satisfies the following conditions–*

*(a) if the leave of absence is maternity leave, the contractor must supply the Health Board with a certificate of expected confinement as used for the purposes of obtaining statutory maternity pay, or a private certificate providing comparable information;*

*(b) if the leave of absence is for paternity leave, the contractor must supply the Health Board with a letter written by the GP performer confirming prospective fatherhood and giving the date of expected confinement;*

*(c) if the leave of absence is for adoption leave, the contractor must supply the Health Board with a letter written by the GP performer confirming the date of the adoption and the name of the main care provider, countersigned by the appropriate adoption agency;*

*(d) the contractor must, on request, provide the Health Board with written records demonstrating the actual cost to it of the locum cover;*

*(e) once the locum arrangements are in place, the contractor must inform the Health Board–*

*(i) if there is to be any change to the locum arrangements; or*

*(ii) if, for any other reason, there is to be a change to the contractor’s arrangements for performing the duties of the performer on leave; at which point the Health Board is to determine whether it still considers the locum cover necessary;*

*(f) where cover is provided by an internal locum, any such additional sessions required by the GP performer must be provided and evidenced by the normal claim mechanisms.*

*9.8 If the contractor breaches any of these conditions, the Health Board may, in appropriate circumstances, withhold payment of any sum otherwise payable under this Section.”*

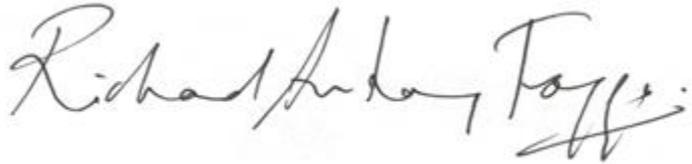
**Action**

14. NHS Boards are requested to bring this circular to the attention of all GP contractors.

## Enquiries

15. In the instance of any enquiries on this circular please contact Fiona Howe.

Yours sincerely

A handwritten signature in black ink that reads "Richard Foggo". The signature is written in a cursive style with a prominent initial 'R' and a stylized 'F'.

Richard Foggo  
Deputy Director, Primary Care Division