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Subject: FW: Chair's newsletter: Be prepared for changes in IR35 rules which could affect how locum GPs are paid

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Sent: 23 March 2017 09:49

To: LMC-L@LISTSERV.BMA.ORG.UK

Subject: FW: Chair's newsletter: Be prepared for changes in IR35 rules which could affect how locum GPs are paid

Dear all

Please see below this week's Chair's newsletter which, amongst other things, focuses on the IR35 rules changes, and an important reminder about the Sessionals survey.

Please also find a [link](#) for your use.

Many thanks

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IR35 guidance | [View in a browser](#)

BMA

From your BMA GPs committee chair

Be prepared for changes to IR35 rules which could affect how locum GPs are paid

Dear ,

It is important that all GP practices are aware of changes to IR35 rules that take effect on 6 April.

They relate to paying workers who provide services via intermediaries (for example, although not restricted to, workers' limited companies).



What is IR35?

IR35 is an anti-tax avoidance measure introduced by the Government in April 2000. It is also

known as the 'intermediaries legislation'.

Its purpose is to prevent workers from avoiding paying employee income tax and NICs (national insurance contributions) by supplying their services through an intermediary (usually a 'personal service company') and paying themselves dividends rather than as employees. The rules apply across the UK.

How does it affect locums and practices?

It is important to note that IR35 only applies where locums (or other individuals) are engaged via an intermediary. IR35 does not apply to genuine self-employed locums providing their services directly to practices.

The IR35 rules have to date required the intermediary to establish the nature of the relationship between the locum and the practice. Where an employment contract would have existed between the locum and the practice in the absence of the intermediary, the intermediary has had an obligation to pay the locum as if an employee net of tax and NIC.

IR35 changes will affect 'public sector bodies' – including general medical services and personal medical services practices and NHS trusts – who engage locums to provide services via an intermediary. Non-public sector bodies such as APMS (alternative provider medical services) providers or commercial providers that provide some out-of-hours services are not affected by the changes.

What is changing on 6 April?

Under the new rules, the responsibility for determining whether IR35 is applicable is shifting from the intermediary to the public sector body (or recruitment agency, if it uses one to engage the locum).

This means that public sector bodies – including GMS and PMS practices – and agencies will now be responsible for deducting tax and NIC from any payments made to the intermediary supplying a locum, where they deem IR35 applies. This will require additional administration by the practice for processing PAYE as well as bearing the cost of employer NICs.

If practices do not deduct tax and NICs from a locum who should have been considered to be within IR35 rules, this could result in HMRC requesting the practice pays back any taxes and NICs due as well as penalties. These taxes could be clawed back on payments as far back as 6 April 2017 when the new rules will have taken effect.

How can a practice decide whether IR35 applies to a locum?

All locums providing services via an intermediary need to be considered on a case-by-case basis – this does not mean that such locums need to automatically be paid net of tax and NICs.

In the first instance, read the BMA's [general guidance on IR35](#) and [employment status](#)

HMRC has also published useful [guidance on IR35](#), and launched a new [employment status tool](#) for practices to determine whether any current or prospective locums would fall within the new IR35 rules.

HMRC has stated that it will stand by the result its online tool produces, unless it is based on inaccurate information.

A set of [FAQs on IR35 for locums](#) has also been written by BMA sessional GP committee member Matt Mayer. If you are a BMA member, the BMA can provide initial support for IR35 queries, as well as general support for members with employment issues.

To speak to a BMA adviser about IR35 please call 0300 123 1233 or email support@bma.org.uk

All practices should take note of these changes and look at BMA and HMRC guidance so that they pay locums in the correct manner in keeping with IR35 rules.

Survey of Sessional GPs

Can I remind you that the BMA [survey of sessional GPs](#) is now live.

The survey is open to all locum, salaried, out of hours, prison GP, CCG role GP, portfolio GP locum and salaried GPs, including GP partners who locum. It doesn't matter if you are a BMA member or not, or where you live in the UK.

It is so important that we have clear data to understand the needs and wishes of sessional GPs and to gather information about workload and pressures, so that we can make sure that the discussions we have with the Government and the Department of Health about sessional GP issues truly reflect what you want.

If you have not already done so, please take the survey of sessional GPs [here](#). You can read more about the survey, the key areas which it covers, and its aims, on our webpages [here](#).

The survey should take no longer than 15 minutes to complete. Please share it as widely as you can – the more responses we get, the louder your voice will be heard. Please do not miss out on this important opportunity.

With best wishes,



Chaand Nagpaul
BMA GPs committee chair
info.gpc@bma.org.uk

Data sharing arrangements in practices using TPP SystemOne

In the last week questions have been raised in the national media about data governance at TPP practice sites where data sharing has been turned on. In response to these developments the GPC's IT policy group has produced [advice](#) for practices to be aware of the issues and help them make an informed decision on what actions they may need to take. Our advice has been produced in collaboration with NHS England, NHS Digital, the Royal College of GPs and the Information Commissioner's Office.

Meet the team – Chandra Kanneganti

As I have previously mentioned, the GPC executive is supported by policy leads in developing and implementing strategy, and delivering our key responsibilities. In this newsletter, I would like to introduce you to Chandra Kanneganti, the GPC England policy Lead for the GPFV (General Practice Forward View).

Chandra completed his GP training in Dumfries, following which he moved to Stoke-On-Trent in 2007. He is a GP partner of a GMS practice and also manages two APMS practices. He is also chair of North Staffordshire GP Federation which represents all GP practices in North Staffordshire, and has been a member of GPC since 2012.



Chandra has extensive experience of working to bring investment to general practice, and to improve workload and workforce issues. He is a board member of Staffordshire sustainability

transformation plan transformation board and he a member of his local MCP alliance board which includes all local provider organisations and oversees the development of the multispecialty community provider.

He strongly believes in local medical committees and GPC together driving the agenda of general practice revival, and is an advocate of using the NHS England/LMC reference group to feed in the local views of LMCs about implementation of the GPFV.

Commenting on the challenges ahead, Chandra said: ‘While acknowledging that the GPFV will not by itself solve the crisis in general practice, I want to ensure that every penny promised in it is spent on general practice to help improve the workforce and workload issues which we face, and to bring in much needed investment to general practice. Maintaining the status quo is no longer sustainable and we need to consider working in new ways including adopting different models of care. We are also in the process of developing a number of resources for GPs and practices to help them access the monies released through the GPFV.’

If you are interested in any of the areas of work which the GPFV team is working on please do not hesitate to contact the team at info.gpc@bma.org.uk or [to email](#) Chandra himself directly.

Firearms application guidances

Following a focused piece of work by our firearms task and finish group we issued our updated [guidance](#) on 3 March. This offers doctors a range of safe options, compiled following extensive legal and ethical advice, in response to requests by firearms licensing officers under the current system. We continue to work with the police and Home Office to improve the system for the benefit of all.

For further information on the rationale and reasoning behind this guidance, please see this [blog](#) written by GPC England Executive team member Mark Sanford-Wood who led the work of the task and finish group.

Sessionals subcommittee newsletter

This month’s sessionals newsletter focuses on, among other things, the sessional GPs survey I spoke about above, and provides advice on changes to IR35, which is the legislation which affects how people work through limited companies. You can read the newsletter [here](#)

NHS GP health service

The NHS GP health service is a new confidential NHS service for GPs and GP trainees in England, which was launched on 31 January 2017 as part of the of the GP Forward View programme. It will run in parallel to primary care performer occupational health services commissioned by CCG (clinical commissioning groups) under NHS England’s national service specification.

The NHS GP Health Service can help with issues relating to a mental health concern, including stress or depression, or an addiction problem, where these might affect a GP’s work. Operating on a self-referral basis, it is provided by health professionals specialising in mental health support to doctors and is available in various locations across England.

The service can be accessed by emailing gp.health@nhs.net or by calling 0300 0303 300. Availability is from 8am – 8pm Monday to Friday and 8am – 2pm Saturday. Please note the service is not for emergency or crisis issues. These should be directed to mainstream NHS services.

For further information about the service, [visit the dedicated web page](#)

GP Career Plus scheme

As part of the GPFV commitment to retain GPs who have considerable experience already in general practice, the GP Career Plus scheme will be piloted in 11 areas in England from summer 2017.

NHS England data shows that the number of GPs leaving in most age groups, particularly those aged 55 to 59 and 60 to 64, has risen over the last 10 years. Commissioned research suggests that experienced GPs may remain in practice if they had the opportunities to work more flexibly. The pilot areas are expected to test a range of ways to offer greater flexibility and support for approximately 80 GPs. The intention is to keep hold of the vital skills and experience of GPs on the verge of leaving general practice altogether. The GPs will be recruited into a general practice pool in each area that works across that health system.

GPC has worked with NHS England, Health Education England and the Royal College of General Practitioners to agree the principles behind this pilot.

You can find out more about the scheme and the pilot sites via NHS England's [dedicated web page](#)

Practices urged to seek legal advice before agreeing to NHSPS 'heads of terms'

NHS property services or their agents (which include Montagu Evans LLP) are writing to practices, who occupy their premises without a formal lease, with a set of draft 'heads of terms' to start the process of formalising a lease. It is essential that you seek legal advice before agreeing to any terms, as they will need to be moulded to suit your practice's specific needs. The good news is that, until November 2017, NHS England has agreed to contribute towards practices' legal costs – among other commitments. If you are seeking legal advice, BMA Law offer a fixed-fee service for the negotiation and completion of any new lease. BMA Law assisted the BMA in their negotiations over the template, so are well placed to provide expert advice. Contact them at property@bmalaw.co.uk or on (020) 7383 6119.

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