

DISCLAIMER

This Model Contract has been prepared by the BMA to be used by self-employed Forensic Physicians (FPs). When using this Model Contract members should also refer to Accompanying Guidance available on the BMA website www.bma.org.uk

This documentation is for information purposes only. FPs using this document should seek their own independent professional advice and/or contact your medical defence organisation.

MODEL CONTRACT

FORENSIC MEDICAL SERVICE PROVISION IN POLICE CUSTODY

1. PARTIES

The parties to this Agreement are:

Police Force / Private Company *(*where this appears throughout the document delete as appropriate)*

and

Registered Medical Practitioner _____, ('You').
[insert Practitioner's name]

2. DATE AND DURATION OF APPOINTMENT

You are appointed as a Forensic Physician ('FP') with effect from _____ and this Agreement shall continue in force for a period of _____ years.

3. BASIS OF APPOINTMENT AND YOUR STATUS AS FP

3.1 You undertake to carry out duties as specified in clause 5 below when and if required to do so by the Police/Private Company.

3.2 You understand and agree to the following:

- (i) you are a qualified and fully registered medical practitioner, bound by the Codes of Practice of the General Medical Council ('GMC'), providing services as a professional and exercising independent clinical judgement;
- (ii) you agree to comply as far as practicable with any instructions given by officers or employees of the Police/Private Company;
- (iii) you shall not obstruct officers or employees of the Police engaged in the investigation of crime, the protection of life or property and/or the obtaining and preserving of evidence; and
- (iv) you shall not act in such a way as might result in the loss or destruction of forensic evidence or prejudice the evidential value of any such evidence or prevent or interfere with the obtaining of evidence by the questioning of any person who is medically fit for questioning.

3.3 The basis of this Agreement is that you are self-employed, and are and remain responsible for income tax and National Insurance as a self-employed person. Nothing in this Agreement is intended to constitute or create a relationship of employment between the parties. Accordingly, you accept the responsibilities of a self-employed person under the Health and Safety at Work Act 1974 and related legislation and Codes of Practice.

3.4 No undertaking or guarantee is given to the amount of work that may from time to time be available to you under this Agreement.

4. YOUR GENERAL UNDERTAKINGS

- 4.1 It is an express condition of this Agreement that you are, and will throughout the duration of the Agreement remain, registered and licensed to practice with the GMC and authorised to practice as a medical practitioner.
- 4.2 It is also an express condition of this Agreement that you are, and will throughout the duration of the Agreement remain, at your own expense, either:
- (i) a fully subscribed member of a recognised professional medical defence organisation, or
 - (ii) covered by current, adequate and appropriate indemnity acceptable to the Police/Private Company (which shall at their request be produced for inspection and confirmation of payment of premiums due) providing insurance against any liability you may incur as a result of your appointment or the performance of or failure to perform any duty or any act or omission connected to your appointment.
- 4.3 If you are new to clinical forensic medicine you will have undertaken a training course approved by the Royal College of Physicians' Faculty of Forensic & Legal Medicine ('**FFLM**') and will have evidence of having shadowed an experienced FP in accordance with the FFLM quality standards.
- 4.4 You duly complete any official documentation required as part of your FP duties and provide any professional witness statement when required. You must promptly make and retain a full and contemporaneous note of the duties performed and relevant findings. These notes will remain your property or as agreed by the parties. You should ensure there are clear procedures in place for sharing confidential information.
- 4.5 You hereby undertake, within each year of this appointment (and any renewal) calculated from the date shown in clause 2 above:
- (i) To attend meetings and courses designated or approved by the Police/Private Company and/or the FFLM for the training or further training of FPs, and to complete at least 50 hours of Continuing Professional Development ('**CPD**') (to ensure compliance with GMC Revalidation requirements) in a manner recommended by the FFLM in each year; and
 - (ii) To undergo an annual appraisal (separate to an appraisal of any other role that is outside the sphere of clinical medicine of a standard recommended by the FFLM and conducted by an FFLM-approved appraiser).
- 4.6 The following qualifications shall be acquired:
- (i) For FPs - You shall seek to obtain membership of the FFLM within five years of the commencement of your Clinical Forensic Medicine career. Should the MFFLM not be obtained you shall undergo any training course considered necessary by the Police/Private Company, your lead FP or your appraiser, for the purpose of maintaining and developing your FP skills. Exceptionally an extension of the period indicated for undergoing particular training or obtaining a qualification may be given for causes acceptable to the Police/Private Company.
 - (ii) For Sexual Offence Examiners ('**SOEs**') – You shall seek to obtain the Diploma in the Forensic and Clinical Aspects of Sexual Assault ('**DFCASA**') within two years of the commencement of your Sexual Offence Medical career. You shall also seek to obtain membership of the FFLM ('**MFFLM**') within five years of the commencement of your Sexual Offence Medicine career.
- 4.7 You must perform your duties in accordance with FFLM's guidance on clinical and forensic standards, as they are updated from time to time.
- 4.8 Insofar as possible, you must seek to provide, as a minimum, 'equivalence of care' for patients, that is on a par with standards in the National Health Service ('**NHS**').

5. YOUR RIGHTS AND OBLIGATIONS

- 5.1 You will be assigned to District/Custody Suite/Geographical area _____ for the Police

- 5.2 You will fully cooperate with the Lead FP and other FPs within your District/Custody Suite/Geographical Area, to devise (if it is not already in existence), and operate a roster under which at least [] FP(s) is on duty at any time (24 hours a day and all the days of the year). You will agree to participate in effective roster backup procedures. You will adhere to the turn-out times given in the Service Level Agreements ('SLAs') in the Schedule, and as may be updated from time to time. "On duty" means immediately contactable if required and available to attend as soon as reasonably practicable on being requested to attend any police station or other place within the area described in clause 5.1 above.
- 5.3 Where the service is not within the NHS You agree, on request, to perform any of the following duties on behalf of the Police/Private Company, applying 'equivalence of care' principles (on par with the NHS):
- (i) to examine and if necessary render medical assistance to any person in police detention;
 - (ii) to obtain forensic evidence from, to examine, and if necessary, tender medical assistance to, both complainants and suspects of crimes;
 - (iii) to examine and if necessary render medical assistance to any Police employee(s) injured in the course of his/her duty;
 - (iv) to examine any person whose detention is being contemplated by the Police in order to ascertain and certify their fitness for detention and/or interview and to examine any person who is detained by the Police in order to ascertain and certify their fitness or continued detention and/or interview;
 - (v) in any case where you consider a person is unfit to be detained or interviewed, or an officer to continue on duty, to take any steps you consider necessary for the medical well-being of that person or officer;
 - (vi) to examine any person in order to ascertain whether or not that person is or is not dead, and if so requested to provide an opinion as to whether or not he or she died of natural causes;
 - (vii) to examine any remains which are believed to be human remains and to give an opinion (if possible) as to whether they are;
 - (viii) to provide a professional witness report or statement concerning the exercise of your Duties and containing forensically relevant content only, if required to do so by an officer of the Police for legitimate purpose(s) in the performance of his/her duty.
 - (ix) to attend any court of law or tribunal when required to do so (whether by an officer or employee of the Police, solicitor acting for the Police, or by the Crown Prosecution Service) in order to give evidence in connection with any matter with which you have been involved in the course of your duties; and for these purposes any disciplinary tribunal under the Police Discipline Regulations is to be regarded as a tribunal under this paragraph;
 - (x) to attend court to provide medical assessment, as to whether a defendant is fit to remain at the trial or whether a witness is to give evidence, at the request of the Police, Crown Prosecution Service, the Magistrate or Judge.
- 5.4 Any reference in clause 5.2 above to an examination includes, subject to appropriate consent, the taking in a form suitable for preservation and/or analysis of any samples that may be required, including intimate samples within the meaning of the Police and Criminal Evidence Act 1984 as amended by the Criminal Justice and Public Order Act 1994 and any future legislation. Samples should be taken both if you consider it appropriate as a matter of clinical forensic judgement to do so and, subject to any clinical judgement as to the well-being of the person concerned, if you are requested to do so and advised that the sample is or may be relevant to any criminal investigation or proceedings.
- 5.5 Although primarily your duties shall be performed within the assigned District/Custody Suite/geographical area as shown in clause 5.1 above, you shall from time to time, if required by an officer of the Police/Private Company, and if you are at the time on duty, attend to your Duties in any other adjacent District of the Police

- 5.6 You shall ensure that your lead FP is kept informed of the dates when you are not available for the performance of your Duties and in respect of those times when you are available should ensure that the said Lead FP is informed of the address and telephone number of the place at which you may be contacted.
- 5.7 Duty to decline work - you will advise the Police/Private Company promptly if a case contains work for which you are not competent.
- 5.8 Conflicts of interest - you confirm that if you have an actual or potential conflict of interest in entering this Agreement and You will notify the Police/Private Company know, without delay.

6. OBLIGATIONS OF THE POLICE/PRIVATE COMPANY

- 6.1 Examination Facilities – the Police/Private Company will provide adequately cleaned, furnished, heated and illuminated examination facilities at each place where you are normally required to perform examinations and will provide all equipment, medications and sample containers required for any purpose connected with your duties.
- 6.2 Payment of fees – the Police/Private Company will pay you by the due date for payment as outlined in the Schedule.
- 6.3 Professional witness reports or statements – an officer of the Police must only use and disclose such documents for legitimate purpose(s), necessary in the performance of his/her duty.
- 6.4 The Police/Private Company shall make available funds for training each year and the Police/Private Company will cooperate with the GMC revalidation process.

7. FEES

- 7.1 In consideration of you performing and observing obligations imposed by reasons of your appointment as FP by this Agreement the Police/Private Company shall pay you the fees as applicable under the Sessional or Retained agreement, as appropriate and outlined in the attached Schedule.
- 7.2 You will keep a note of the time that you spend on this matter on [a half-hourly basis].
- 7.3 All expenses will be reimbursed. These will include (but are not limited to) travel, photocopying and paperwork time, medical equipment and medication. Rail will be standard class and car mileage will be charged at [£]¹ per mile). You will provide receipted invoices in respect of all expenses claimed.
- 7.4 Payment will be due within [] days of the date of submission of the invoice. The Police/Private Company will arrange for these to be paid promptly. If there is any reason that the fees are unable to be paid to You, You will be notified immediately. The Police/Private Company's Finance Department will ensure payment is made within [] days of due date for payment (Due Date).
- 7.5 Late payment - if any payment due to you under the terms of the Agreement is not paid by the Due Date, interest shall accrue on the overdue amount at the statutory rate. Such interest shall accrue on a daily basis from the Due Date until the date of actual payment, whether before or after judgment.
- 7.6 In the event of any work being cancelled, for whatever reason, the full fee shall be paid unless the FP receives notification 2 days in advance.
- 7.7 If you are called out to a case but your patient fails to attend or refuses to attend the consultation, the Police/Private Company shall pay you the full amount owed for the work you would ordinarily have completed.
- 7.8 Where the Lead FP specifically requests that you devise the roster then you shall be entitled to additional pay for this additional responsibility.

¹ Insert the appropriate rate approved by the Inland Revenue (dependent on size of car engine).

8. MATERNITY AND OTHER TYPES OF LEAVE

- 8.1 If applicable, you are entitled by mutual agreement to a period of maternity leave, that is, the suspension of your duties herein, in the event of your pregnancy. The duration of such leave shall be by mutual agreement. Where retainers/availability fees are paid, no payment is due during maternity leave save for the availability fee which remains payable in respect of the first three months of leave.
- 8.2 Your obligations with respect to availability for duty and training will be suspended during any period of maternity leave and any period of maternity leave will be disregarded in calculating the periods within which the training and qualifications specified in clause 4 above are to be completed and obtained.
- 8.3 The provision of paternity and adoption leave is subject to mutual agreement.
- 8.4 Unpaid sabbaticals – FPs who are not GPs and/or long-serving doctors who are GP partners and have GP sabbaticals written into their GP contracts are permitted to go on sabbaticals without breaching this Agreement providing
- (i) adequate notice is given and;
 - (ii) there is agreement with the Lead FP about the timing of it and the maximum length of leave that could be taken before the Police/Private Company remove the FP from their books.

9. TERMINATION OF AGREEMENT AND SUSPENSION

- 9.1 This Agreement may be terminated by either party giving the other party three months written notice.
- 9.2 The Police/Private Company may terminate this Agreement at any time without notice, and without liability in respect of any period of time after such termination, in any of the following circumstances:
- (i) You are convicted of a criminal offence (other than a road traffic offence not involving disqualification from driving);
 - (ii) You are convicted of impairment of fitness to practise by the General Medical Council;
 - (iii) You lose your Licence to Practise and/or are erased, or otherwise cease to be on, the Register of Medical Practitioners maintained by the General Medical Council;
 - (iv) You cease to be covered (whether by reason of ceasing to be a member of a medical defence organisation or otherwise) by insurance as required by clause 4.2 above;
 - (v) You commit an act of bankruptcy, are adjudged bankrupt or enter into an individual voluntary arrangement under the Insolvency Act 1986;
 - (vi) You repeatedly fail to make yourself available as required during periods when you are “on duty” as defined in clause 5.2 above, without good reason or repeatedly fail to perform any of the duties listed in clause 5.3 above competently and diligently in accordance with this Agreement, or fail to complete any training required under clause 4.5 above within the time appointed or allowed under that clause; or
 - (vii) The Police/Private Company are satisfied that you are guilty of serious misconduct in the performance of your duties, or that by reason of any other matter or circumstances you have shown yourself not to be fitted for the FP post.
- 9.3 In relation to clause 9.2 above and before terminating this Agreement under paragraph (vi) or (vii) the Police/Private Company will inform you of the complaint against you and will give you an opportunity to make representations in writing to a person designated by the Police/Private

Company to consider them, and will consider the representations and the recommendations of the person designated to consider them. In all cases advice may be sought elsewhere.

- 9.4 If you are unable through illness or incapacity to perform your duties for a continuous period of six months or more or periods totalling in the aggregate six months or more in any twelve consecutive months, this Agreement may be terminated by the Police/Private Company, by giving one month's notice in writing, not without prejudice to your re-appointment thereafter on satisfactory evidence of your medical fitness for the duties required and subject to the availability of a mutually acceptable post.
- 9.5 Rights following termination / continuing obligations - Termination will not affect your entitlement to payment of any fees for work conducted or invoiced before the date of the termination. Upon termination, all non-clinical documents and materials provided to you for the purpose of this Agreement must be returned promptly to the Police/Private Company save for one copy that you may retain for your records. The FP shall be paid an additional fee for reports and or attendance at Court required following termination of this Agreement.
- 9.6 The FP may be suspended from your duties under this Agreement in any of the following circumstances:
- (i) you become or are subject to disciplinary, health or performance proceedings before the General Medical Council, whether or not arising out of your work pursuant to this Agreement;
 - (ii) you are arrested, charged, summonsed or reported to any criminal offence (other than a road traffic offence for which you are served a fixed penalty notice); or you become the subject of any criminal investigation;
 - (iii) the Private Company / Police have reason to believe (whether as a result of a complaint or otherwise) that you may have committed serious misconduct in the course of your duties hereunder.
- 9.7 In the event of suspension you will cease to be entitled in respect of the period of your suspension, to payment, but you will be entitled to payments up to the date of suspension.
- 9.8 In the event of reinstatement following a period of suspension the Private Company / Police can consider representations as to whether you should be paid an amount for loss of work.

10. GENERAL

- 10.1 Governing Law - This Agreement is subject to English law and the parties hereto submit to the exclusive jurisdiction of the English courts.
- 10.2 Force Majeure – You shall not be liable for any delay in the performance of any obligations under this Agreement (and the time for the performance of any obligations under this Agreement shall be extended accordingly) if such delay arises from or is attributable to acts, events, omissions or accidents beyond your reasonable control including but not restricted to, ill health, acts of God or of the public enemy, fires, floods, epidemics, riots, quarantine restrictions, strikes, freight embargoes, earthquakes, electrical outages, computer or communications failures, severe weather, and acts or omissions of subcontractors or third parties.

THIS AGREEMENT IS EXECUTED AS FOLLOWS:

Signed for and on behalf of the Police/Private Company:

Signature: _____

Print Name: _____

Rank: _____

Date _____

Signed by the FP:

Signature: _____

Print Name: _____

GMC Number _____

Date _____

SCHEDULE: Fees

Note: FPs may wish to consult the British Medical Association Fee Guidance Schedules.