In [October 202](https://digital.nhs.uk/data-and-information/data-collections-and-data-sets/data-collections/general-practice-pay-transparency)2, the Government amended the NHS GMS and PMS Regulations to include obligations around GPs disclosing their earnings to NHS Digital. This formed part of the 5-year framework for GP contract reform. That agreement included that GPs would not be singled out, that this would apply to “all independent contractors in the NHS”. However, there are currently no similar proposals for other contractors in the NHS, or anywhere else in the UK. The BMA has been clear about our significant concerns about this change throughout and will continue to do so.

Despite this, [the regulations](https://www.england.nhs.uk/publication/general-practice-pay-transparency/) set out obligations for the categories of GPs listed below in relation to disclosing earnings exceeding a certain level to NHS Digital so that they can be published. The threshold for the financial (NHS) year, 1 April 2021 – 31 March 2022, is £156,000 and the deadline for disclosure for GPs to whom the obligation applies is  **30 April 2023.**

* Partners of clinical sub-contractors and sub-contractors who are an individual (including: partners of any onward clinical sub-contractors, and any onward clinical sub-contractor who is an individual) - see paragraphs 3.8 to 3.9
* individuals who work for (are engaged by) either a contractor or clinical sub-contractor (including any onward clinical sub-contractors) under either (see paragraphs 3.11 to 3.14):
	+ a contract of employment
	+ a contract for services
	+ or as a company officer (directors and any company secretary).
* Individuals engaged by a third party to provide clinical services (e.g. a locum engaged via an employment agency) - see paragraphs 3.15 and 3.16.

Where the relevant obligations in the regulations have been incorporated into contractors’/practices’ (‘practices’) GMS/PMS contracts, they will be required to “use reasonable endeavours” to pass on the self-declaration obligation term to their employees and to third party providers such as locums who they have already contracted with. NHS England have not defined what a ‘reasonable endeavour’ is.

**Existing contracts with salaried GPs**

Practices will be required to "use reasonable endeavours” to amend their existing employment contracts with salaried GPs to include the same obligation to self-declare earnings as set out in the regulations. Practices can only amend existing employment contracts with the salaried GP’s agreement. If a salaried GP refuses to allow their terms to be changed, they will not be under an obligation to self-declare. If a salaried GP does agree to the change, the obligation to self-declare their earnings is theirs and the practice has no obligation to monitor or enforce compliance; although the salaried GP’s obligation is in the employment contract, it is an obligation to NHS Digital, not the practice.

**Existing contracts self-employed locums or locum agencies**

Practices are also required to “use reasonable endeavours” to amend their existing contracts with third party providers, such as self-employed locums and locum agencies, to require that any locums engaged are under an obligation to self-declare under the contractual terms of their engagement

**New contracts with salaried GPs**

When practices enter into new employment contracts with GPs, the employment contract must include the obligation to self-declare.

**New contracts with self-employed locums or locum agencies**

Similarly, when they enter into new contracts with other third party providers and sub-contractors the contract or terms of engagement between the practice and the provider must include an obligation that any GP supplied to the practice to work is themself placed under a contractual obligation to self-declare in accordance with the regulations.

Again, practices are not under any legal obligation to monitor or enforce compliance by their salaried GPs or locums.

To contact your employees or third-party providers to request amendments to their contracts to include the self-declaration obligation term, contractors can use the letter in **Annex A.**

If you are a BMA member and would like additional advice on the contacting of your employees or third party providers, please contact the BMA’s first point of contact team via email, telephone 0300 123 1233 or [webchat](https://www.bma.org.uk/about-us/contact-us/get-in-touch/contact-us).

The letter in **Annex A** of this document may be sent to your existing employees or third-party providers. By contacting your existing employees and third-party providers to seek their agreement to change their contract, you are fulfilling your contractual obligation to make reasonable endeavours to have the self-declaration obligation terms included in their existing contracts with you.

Existing employees and contractors can choose whether to accept the addition or reject the addition to the contract. No amendments can be made to employee contracts without mutual agreement between you, as the employer, and the employee. Alterations can only be entered into without threat, for example a requirement to accept altered terms or else be dismissed would be unacceptable.

The BMA has created corresponding guidance for salaried GPs and a standardised response letter, which can be found here.

For contacting salaried GPs, delete option 2 in annex A.

For contacting third-party provider, delete option 1 in annex A.

For contacting self-employed locums, delete option 1 and 2 in annex A.

N.B. we would also recommend deleting this covering note prior to sending the letter.

**Annex A**

Name Surname

Job title

Company Name

Address

General practice pay transparency

Dear [NAME OF EMPLOYEE/THIRD PARTY PROVIDER]

We are writing to you about regulations which seek to place GPs under various obligations in relation to pay transparency. Apart from requiring GMS and PMS contract holders to declare their earnings if they have exceeded a threshold for any given financial year, the new rules also require them to pass on self-declaration contract terms to their employees and third-party providers.

[OPTION 1 for salaried GP employees

As your employer, I am required to ask you to agree to an amendment to your contract of employment to include a self-declaration obligation term which will make you responsible for informing NHS Digital if your NHS earnings in any given year are above the threshold as determined by NHS England.

The wording of the term which shall be added to your contract, if you agree, will be words to the effect of:

You agree to comply with the ‘disclosure obligation’ set out in [regulation 27A(3) National Health Service (General Medical Services contract) Regulations 2015] OR (delete as appropriate) [regulation 21A(3) National Health Service (Personal Medical Services Agreements) Regulation 2015].

Please confirm, by return letter, whether you accept the addition of the above clause to your existing contract.]

[OPTION 2 for 3rd party providers

As an employer who engages with your organisation as a third-party provider, I am required to request that you include in your terms of engagement an obligation which will require the locums engaged through your company to work for our practice, to declare their earnings to NHS Digital in certain circumstances. . The term should state that they are required to comply with the ‘disclosure obligation’ set out in [regulation 27A(3) National Health Service (General Medical Services contract) Regulations 2015] OR (delete as appropriate) [regulation 21A(3) National Health Service (Personal Medical Services Agreements) Regulation 2015].

Please confirm, by return letter, whether you agree to the addition of the above clause to your existing contract.]

[OPTION 3 for individual self-employed locums

As your employer, I am required to ask you to agree to an amendment to your contract to include a self-declaration obligation term which will make you responsible for informing NHS Digital if your NHS earnings in any given year are above the threshold as determined by NHS England.

The wording of the term which should be added to your contract, if you agree, will be words to the effect of:

You agree to comply with the ‘disclosure obligation’ set out in [regulation 27A(3) National Health Service (General Medical Services contract) Regulations 2015] OR (delete as appropriate) [regulation 21A(3) National Health Service (Personal Medical Services Agreements) Regulation 2015].

For more information about ‘the disclosure obligation’ please see [INSERT LINK TO NHSE GUIDANCE?]

Yours sincerely

Signatory

Job title