

5<sup>th</sup> October 2017

Dear Colleagues

## **Health Body Status**

The BMA has published the following advice in response to queries about whether a GP practice should opt to have health body status or not in terms of their contract:

## **GP practices**

### **Focus on health service body status**

The GPC receives a number of enquiries about whether practices should opt to become a health service body.

If a practice opts to become a health service body, contract disputes will have to be dealt with through the NHS dispute resolution regulations. There is no alternative. If a practice holds a private law contract i.e. does not elect to become a health service body, it can choose to use either the NHS dispute procedure or use the Courts in relation to any particular dispute.

In making the decision between the NHS dispute resolution procedure and going to the Courts, a number of factors have to be borne in mind:

- how long each process will take.
- that costs can be awarded against the unsuccessful party in court proceedings but not in the NHS dispute resolution procedure
- the fact that the NHS procedure is private but that Court proceedings, or at least the outcome, are generally public.
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Health service body status does not affect any other aspect of practice. It does not affect access to the NHS Pensions scheme, the ability to enter into other contracts, and partnership changes will not affect health service body status.

Other NHS bodies include NHS England, NHS Trusts and most PMS providers. The decision is ultimately for the practice about whether it wishes to be part of this 'NHS family' or whether it wishes to keep open the option of using the Courts for resolving disputes under the contract. Practices can, at any stage, opt to become, or cease to be, a health service body, by requesting a variation of their contract with NHS England. NHS England cannot force practices to become health service bodies or relinquish their health service body status.

## General or Limited Partner

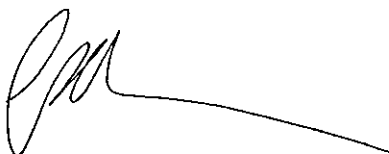
Almost all GMS Contracts are held either by single-handed contractors or by partnerships. However, it is possible for GMS Contracts to be held by a company limited by shares, with the following restrictions:

GMS contracts may be held by a **company limited by shares** as long as at least one share in the company is legally and beneficially owned by a qualifying general medical practitioner and any other share or shares in the company that are legally and beneficially owned by a medical practitioner are owned by a qualifying general medical practitioner or by a medical practitioner who is employed by a PCT, a Local Health Board, an NHS Trust, an NHS foundation trust, a Health Board or a Health and Social Services Trust. It is also a condition that the company, any person legally and beneficially owning a share in the company and any director or secretary of the company must not fall within paragraph 2 of the regulations (e.g. be subject to a national disqualification, bankrupt or convicted of murder etc). It must be remembered that legally a person includes an entity with a separate legal identity such as a body corporate. Any company limited by shares must have appropriate clauses in its memorandum and Articles of Association which ensure that shares are not acquired by disqualified individuals, and which has arrangements for the surrender of shares held by an individual who becomes unqualified; without these restrictions the company may be able to hold a contract, but would lose it on such a transfer or incident.

If this is the case, then you should tick the 'limited partners' box, however, please note this does not apply to a situation where there are limitations in partners' entitlements that are the result of restrictions in the Partnership Deed, such as 'fixed share', as opposed to 'equity' partners.

With best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to be 'JP', followed by a long horizontal line extending to the right.

Dr Julius Parker  
**Chief Executive**