

Sub-Contracting Arrangements for Primary Medical Services Contracts

GMS/PMS/APMS

Sub-contracting of clinical and non-clinical matters is set out in Schedule 3, Part 5 of [National Health Service \(General Medical Services Contracts\) Regulations 2015](#) and in Schedule 2, Part 5 of the [National Health Service \(Personal Medical Services Agreements\) Regulations 2015](#). APMS Directions are underpinned by the above mentioned PMS Regulations, however the Directions make further provision for subcontracting in the event that a contractor holds a pecuniary interest in the sub-contractor, or where it exceeds certain income levels, see 7A (6) of the [National Health Service, The Alternative Provider Medical Services Directions 2022](#).

The table below sets out the key differences and requirements of each contracting arrangement and what each contract holder is required to do under the regulations to meet their obligations in terms of sub-contracting.

Mandatory Terms regarding Sub-Contracting	GMS	PMS	APMS
Restrictions on sub-contracting of clinical matters apply	√	√	
Contractor may not sub-contract it's obligations to provide clinical services unless it is satisfied that the sub-contractor has an indemnity arrangement that provides appropriate cover	√	√	√
Contractor must not sub-contract any of it's rights or duties under the contract in relation to clinical matters to any person unless it has taken reasonable steps to satisfy itself that: <ul style="list-style-type: none"> - It is reasonable in all circumstances to sub-contract clinical matters, and; - The person to whom clinical matters are sub-contracted is qualified and competent to provide the service 	√	√	
Contractor must give notice in writing of it's intention to sub-contract as soon as reasonably practicable (before the date on which the proposed sub-contract is intended to come into effect)	√		
Contractor may not proceed, if, within 28 days of the commissioner receiving the contractor's notice, the commissioner gives notice in writing of it's objection to the sub-contract on the grounds that the sub-contract would: <ul style="list-style-type: none"> - Put the safety of the contractor's patients at serious risk, or: - Put NHS England at risk of material financial loss 	√		
Contractor may not proceed if the sub-contractor would be unable to meet the contractor's obligations under the contract	√	*	*
Where the commissioner does not give notice of an objection, the parties to the contract are deemed to have agreed a variation of the contract which has the effect of adding to the list of practice premises any premises the address of which was notified by the contractor to the commissioner in it's notice of it's intention to sub-contract	√	√	
Sub-contract entered into by a contractor must prohibit the sub-contractor from sub-contracting any of the clinical services that it has agreed with the contractor to provide under the sub-contract	√	√	
Contractor must not sub-contract any of it's rights or duties under the contract in relation to the provision of essential services to a company or firm which was formed wholly or partly for the purpose of avoiding the restrictions on the sale of goodwill of a medical practice	√	√	

*There is no explicit requirement. However, doing so would place the contractor in breach of contract.

Commissioners have minimal requirements, under the regulations, to have oversight on these arrangements, except for those undertaken under GMS Contracting provisions. Therefore, GMS contract holders must advise the commissioner ahead of undertaken sub-contracting arrangements of their intention to do so and provide such information as to support the commissioner in making decisions on suitability of such arrangements. PMS and APMS Contract holders are only required to inform the commissioner of the sub-contract and to provide any information that the commissioner may reasonably request.

Using Third Parties to Undertake Practice Work

With such a wide range of new enhanced services being available for contractors to sign up to and deliver during 2025/26 and onwards, it is only to be expected that opportunities to sub-contract some of these arrangements may arise.

We are aware that practices in Lancashire and South Cumbria have been approached by pharmaceutical companies offering support to practices in the delivery of the GP LES. To support you in making decisions around this, we would advise:

1. You would need to clarify whether the arrangement is:
 - Sub-Contracting delivery of the LES. The LES sits under the GP contracting arrangements as set out in the table above and as such the requirements on notifying or seeking agreement from the commissioner in advance would apply. You can find further detail on these via [NHS England's Primary Medical Care Policy and Guidance Manual](#), or:
 - Support to the practice. The practice would still be delivering aspects of the LES – the use of a third party usually involves a short number of interactions with the patient and does not provide the ongoing, holistic care for patients, which is an important aim of the LTC LES. Therefore the practice would be expected to have plans in place to ensure the full delivery of the LES requirements in practice.
2. There should be a clinical protocol in place that the practice signs to give consent to undertake the work and how it will be implemented.
3. This protocol should be agreed between the practice and the provider and reference the following:
 - Potential conflicts of interest and how they will be managed, particularly relating to prescribing choices;
 - The protocol should align with ICB pathways specifically in relation to L&SC prescribing guidance;
 - Third party providers implementing the protocol should not influence the choice of product prescribed, based on the pharmaceutical company funding the support.
4. ICB guidance is based on cost effective preferred options and will also support the delivery of the following indicator in the Medicines Optimisation LES:
 - Practices must work towards minimisation of cost growth, measured as % growth in NIC/ASTROPU