

## **Schedule 10**

### **Provisions Governing the Relationship between NHS Work, Private Practice and Fee Paying Services**

1. This Schedule should be read in conjunction with the 'Code of Conduct for Private Practice', which sets out standards of best practice governing the relationship between NHS work, private practice and fee paying services.
2. The doctor is responsible for ensuring that the provision of Private Professional Services or Fee Paying Services for other organisations does not:
  - result in detriment of NHS patients or services;
  - diminish the public resources that are available for the NHS.

### **Disclosure of Information about Private Commitments**

3. The doctor will inform his or her clinical manager of any regular commitments in respect of Private Professional Services or Fee Paying Services. This information will include the planned location, timing and broad type of work involved.
4. The doctor will disclose this information at least annually as part of the Job Plan Review. The doctor will provide information in advance about any significant changes to this information.

### **Scheduling of Work and Job Planning**

5. Where there would otherwise be a conflict or potential conflict of interest, NHS commitments must take precedence over private work. Subject to paragraphs 10 and 11 below, the doctor is responsible for ensuring that private commitments do not conflict with Programmed Activities.
6. Regular private commitments must be noted in the Job Plan.
7. Circumstances may also arise in which a doctor needs to provide emergency treatment for private patients during time when he or she is scheduled to be undertaking Programmed Activities. The doctor will make alternative arrangements to provide cover if emergency work of this kind regularly impacts on the delivery of Programmed Activities.
8. The doctor should ensure that there are arrangements in place, such that there can be no significant risk of private commitments disrupting NHS commitments, e.g. by causing NHS activities to begin late or to be cancelled. In particular where a doctor is providing private services that are likely to result in the occurrence of emergency work, he or she should ensure that there is sufficient time before the scheduled start of Programmed Activities for such emergency work to be carried out.
9. Where the employing organisation has proposed a change to the scheduling of a doctor's NHS work, it will allow the doctor a reasonable period in line with Schedule 7, to rearrange any private commitments. The employing organisation will take into account any binding commitments that the doctor may have entered into (e.g. leases). Should a doctor wish to reschedule private commitments to a time that would conflict with Programmed Activities, he or she should raise the matter with the clinical manager at the earliest opportunity.

### **Scheduling Private Commitments Whilst On-Call**

10. The doctor will comply with the provisions in Schedule 9 of these Terms and Conditions of Service.
11. In addition, where a doctor is asked to provide emergency cover for a colleague at short notice and the doctor has previously arranged private commitments at the same time, the doctor should only agree to do so if those commitments would not prevent him or her returning to the relevant NHS site at short notice to attend an emergency. If the doctor is unable to provide cover at short notice it will be the employing organisation's responsibility to make alternative arrangements.

### **Use of NHS Facilities and Staff**

12. Except with the employing organisation's prior agreement, a doctor may not use NHS facilities or NHS staff for the provision of Private Professional Services or Fee Paying Services for other organisations.

13. The employing organisation has discretion to allow the use of its facilities and will make it clear which facilities, if any, a doctor is permitted to use for private purposes and to what extent.

14. Should a doctor, with the employing organisation's permission, undertake Private Professional Services or Fee Paying Services in any of the employing organisation's facilities, the doctor should observe the relevant provisions in the 'Code of Conduct for Private Practice'.

15. Where a patient pays privately for a procedure that takes place in the employing organisation's facilities, that procedure should take place at a time that does not impact on normal services for NHS patients. Except in emergencies, such procedures should occur only where the patient has given a signed undertaking to pay any charges (or an undertaking has been given on the patient's behalf) in accordance with the employing organisation's procedures.

16. Private patients should normally be seen separately from scheduled NHS patients. Only in unforeseen and clinically justified circumstances should a doctor cancel or delay a NHS patient's treatment to make way for his or her private patient.

17. Where the employing organisation agrees that NHS staff may assist a doctor in providing Private Professional Services, or provide private services on the doctor's behalf, it is the doctor's responsibility to ensure that these staff are aware that the patient has private status.

18. The doctor has an obligation to ensure, in accordance with the employing organisation's procedures, that any patient whom the doctor admits to the employing organisation's facilities is identified as private and that the responsible manager is aware of that patient's status.

19. The doctor will comply with the employing organisation's policies and procedures for private practice.

### **Patient Enquiries about Private Treatment**

20. Where, in the course of his or her duties, a doctor is approached by a patient and asked about the provision of Private Professional Services, the doctor may provide only such standard advice as has been agreed with the employing organisation for such circumstances.

21. The doctor will not during the course of his or her Programmed Activities make arrangements to provide Private Professional Services, nor ask any other member of staff to make such arrangements on his or her behalf, unless the patient is to be treated as a private patient of the employing organisation.

22. In the course of his/her Programmed Activities, a doctor should not initiate discussions about providing Private Professional Services for NHS patients, nor should the doctor ask other staff to initiate such discussions on his or her behalf.

23. Where a NHS patient seeks information about the availability, or waiting times, for NHS services and/or Private Professional Services, the doctor is responsible for ensuring that any information he or she provides, or arranges for other staff to provide on his or her behalf is accurate and up-to-date.

### **Promoting Improved Patient Access to NHS Care**

24. Subject to clinical considerations, the doctor is expected to contribute as fully as possible to reducing waiting times and improving access and choice for NHS patients. This should include ensuring that patients are given the opportunity to

be treated by other NHS colleagues or by other providers where this will reduce their waiting time and facilitating the transfer of such patients.

### **Increasing NHS Capacity**

25. The doctor will make all reasonable efforts to support initiatives to increase NHS capacity, including appointment of additional medical staff and changes to ways of working.

## **Terms and conditions of service for associate specialists – England (2008)**

### **Schedule 11**

#### **Fee Paying Services**

1. Fee Paying Services are services that are not part of Contractual or Consequential Services and not reasonably incidental to them. Fee Paying Services include:

- a. work on a person referred by a Medical Adviser of the Department for Work and Pensions, or by an Adjudicating Medical Authority or a Medical Appeal Tribunal, in connection with any benefits administered by an Agency of the Department for Work and Pensions;
- b. work for the Criminal Injuries Compensation Authority, when a special examination is required or an appreciable amount of work is involved in making extracts from case notes;
- c. work required by a patient or interested third party to serve the interests of the person, his or her employer or other third party, in such non-clinical contexts as insurance, pension arrangements, foreign travel, emigration, or sport and recreation. (This includes the issue of certificates confirming that inoculations necessary for foreign travel have been carried out, but excludes the inoculations themselves. It also excludes examinations in respect of the diagnosis and treatment of injuries or accidents);
- d. work required for life insurance purposes;
- e. work on prospective emigrants including X-ray examinations and blood tests;
- f. work on persons in connection with legal actions other than reports which are incidental to the doctor's Contractual and Consequential Duties, or where the doctor is giving evidence on the doctor's own behalf or on the employing organisation's behalf in connection with a case in which the doctor is professionally concerned;
- g. work for coroners, as well as attendance at coroners' courts as medical witnesses;
- h. work requested by the courts on the medical condition of an offender or defendant and attendance at court hearings as medical witnesses, otherwise than in the circumstances referred to above;
- i. work on a person referred by a medical examiner of HM Armed Forces Recruiting Organisation;
- j. work in connection with the routine screening of workers to protect them or the public from specific health risks, whether such screening is a statutory obligation laid on the employing organisation by specific regulation or a voluntary undertaking by the employing organisation in pursuance of its general liability to protect the health of its workforce;
- k. occupational health services provided under contract to other NHS, independent or public sector employers;
- l. work on a person referred by a medical referee appointed under the Workmen's Compensation Act 1925 or under a scheme certified under section 31 of that Act;

m. work on prospective students of universities or other institutions of further education, provided that they are not covered by Contractual and Consequential Services. Such examinations may include chest radiographs;

n. examinations and recommendations under Part II of the Mental Health Act 1983 (except where the patient is an in-patient), where it follows examination at an out-patient clinic or where given as a result of a domiciliary consultation:

☐ if given by a doctor who is not on the staff of the hospital where the patient is examined; or

☐ if the recommendation is given as a result of a special examination carried out at the request of a local authority officer at a place other than a hospital or clinic administered by a NHS organisation;

o. services performed by members of hospital medical staffs for government departments as members of medical boards;

p. work undertaken on behalf of the Employment Medical Advisory Service in connection with research/survey work, i.e. the medical examination of employees intended primarily to increase the understanding of the cause, other than to protect the health of people immediately at risk (except where such work falls within Contractual and Consequential Services);

q. completion of Form B (Certificate of Medical Attendant) and Form C (Confirmatory Medical Certificate) of the cremation certificates;

r. examinations and reports including visits to prison required by the Prison Service which do not fall within the doctor's Contractual and Consequential Services and which are not covered by separate contractual arrangements with the Prison Service;

s. examination of blind or partially-sighted persons for the completion of form CVI, except where the information is required for social security purposes, or an Agency of the Department for Work and Pensions, or the Employment Service, or the patient's employer, unless a special examination is required, or the information is not readily available from knowledge of the case, or an appreciable amount of work is required to extract medically correct information from case notes

2. Fee Paying Services may also include work undertaken by public health doctors, including services to a local or public authority of a kind not provided by the NHS, such as:

a. work as a medical referee (or deputy) to a cremation authority and signing confirmatory cremation certificates;

b. medical examination in relation to staff health schemes of local authorities and fire and police authorities;

c. lectures to other than NHS staff;

d. medical advice in a specialised field of communicable disease control;

e. work for water authorities, including medical examinations in relation to staff health schemes;

f. attendance as a witness in court;

g. medical examinations and reports for commercial purposes, e.g. certificates of hygiene on goods to be exported or reports for insurance companies;

h. advice to organisations on matters on which the doctor is acknowledged to be an expert;

i. examinations and recommendations under Part II of the Mental Health Act 1983.

## **Schedule 12**

### **Principles Governing Receipt of Additional Fees**

1. In the case of the following services, the doctor will not be paid an additional fee, or - if paid a fee - the doctor must remit the fee to the employing organisation:

- any work in relation to the doctor's Contractual and Consequential Services;
- duties which are included in the doctor's Job Plan, including any Additional Programmed Activities which have been agreed with the employing organisation;
- Fee Paying Services for other organisations carried out during the doctor's Programmed Activities, unless the work involves minimal disruption and the employing organisation agrees that the work can be done in NHS time without the employer collecting the fee;
- domiciliary consultations carried out during the doctor's Programmed Activities;
- lectures and teaching during the course of the doctor's clinical duties;
- lectures and teaching that are not part of the doctor's clinical duties, but are undertaken during the doctor's Programmed Activities.

This list is not exhaustive and as a general principle (save as set out in paragraph 2 below), work undertaken during Programmed Activities will not attract additional fees.

2. Services for which the doctor can retain any fee that is paid:

- Fee Paying Services carried out in the doctor's own time, or during annual or unpaid leave;
- Fee Paying Services carried out during the doctor's Programmed Activities that involve minimal disruption to NHS work and which the employing organisation agrees can be done in NHS time without the employer collecting the fee;
- domiciliary consultations undertaken in the doctor's own time, though it is expected that such consultations will normally be scheduled as part of Programmed Activities;§
- Private Professional Services undertaken in the employing organisation's facilities and with the employing organisation's agreement during the doctor's own time or during annual or unpaid leave;
- Private Professional Services undertaken in other facilities during the doctor's own time, or during annual or unpaid leave;
- lectures and teaching that are not part of the doctor's clinical duties and are undertaken in the doctor's own time or during annual or unpaid leave.

§ And only for a visit to the patient's home at the request of a general practitioner and normally in his or her company to advise on the diagnosis or treatment of a patient who on medical grounds cannot attend hospital.

### **Terms and conditions of service for associate specialists – England (2008)**

This list is not exhaustive but as a general principle the doctor is entitled to the fees for work done in his or her own time, or during annual or unpaid leave.