

Trust Headquarters  
Darlington Memorial Hospital  
Hollyhurst Road  
Darlington  
DL3 6HX

RMc/mc

18 May 2009

Denise Kelly  
Cooperation and Competition Panel  
1 Horse Guards Road  
London  
SW1A 2HQ

Dear Ms Kelly

Study of restrictions placed on NHS consultants in relation to work they undertake for other Providers during non-contracted hours

I am pleased to have the opportunity to assist the Panel in its consideration of restrictions Trusts place on their Consultants working for other Providers during their non-contracted hours. I hope my comments prove helpful.

As background, our local PCT is one of the most vigorous in my experience in pursuing the tendering of services, and has already issued service specifications and tenders if necessary for the majority of community services, many of which we currently supply. We have been actively engaged in this process for the last year, and have a partnership board with our local community provider and very good working relationships with ASSURA who have several GPco's in the county.

We are also partners in the Dales Integrated Care Organisation, part of the national pilot programme for ICOs, and one of the strands of work is how we manage competition and collaboration in the ICO. You may be aware that the FTN has a group that meets monthly looking into policy and practice issues surrounding IPR, which touches on some of the issues you are concerned with. I can forward contact details if you are interested.

CDDFT has a tradition of Consultants in a small number of Specialties (mostly the surgical Specialties or Radiology) working with local private sector providers. For the most part, this has worked reasonably well, and our attitude is that broadly, it serves our interests as a trust for our consultants to work in other settings, potentially broadening their skills and understanding of the local health market and bringing additional work to the Trust.

We have relied on the national private practice code of practice for Consultants, MHPS, and the terms of the consultant contract to govern these arrangements, and have not developed any supplementary local policies. We very occasionally have problems where it is suspected that a Consultant's work in the private sector has an adverse impact on his/her performance and conduct in the Trust, and we tackle this quite robustly under local conduct or performance policies.

Latterly, we have taken a slightly harder line when we are competing with other providers for new services or to hold on to services we currently provide in response to PCT tenders. If a Consultant or other employee wishes to enter a formal business partnership with a private health care provider to help them to compete with us directly, we have dissuaded them from this pointing out that it represents a potential conflict of interest for them. We have also discussed and agreed this with other local providers like ASSURA and our local provider PCT, who understand and agree this line. So far, this has been handled with the agreement of all parties including the consultants involved.

Where consultants propose to work for another organisation to provide a service other than in competition with the Trust, this is a perfectly acceptable and recognised practice, provided we know about it and the work is done outwith agreed Job Plan time with the Trust, and does not impact adversely on their performance in the Trust.

I would be happy to discuss these or other issues to do with competition and collaboration with you.

Yours sincerely

**Robert McEwan**  
*Executive Director of Operations &  
Business Development*