

NHS CONSULTANTS' NON-CONTRACTED HOURS

Possible recommendations

In response to this consultation by the Co-operation and Competition Panel the National Health Service Consultants' Association wishes to make the following points:-

1. Significant work for other NHS providers in non-contracted hours would in most cases require a consultant to make a voluntary opt out from the EWTD.

However, the total of medical work carried out would have to stay within the overall maximum allowed under the opt out arrangements

It would remain the responsibility of the consultant to ensure that within these limits the total workload did not have an adverse effect on patient safety.

2. In a system where NHS providers are expected to compete with each other on a commercial basis, it is surely inevitable that managers would wish to ensure that their employees do not also work for rival organisations whose success might affect the financial status or even viability of the Trust they manage. Is this not in line with normal commercial practice?

It applies not only to strategic management roles, preparation of tenders and financial interests, for which you propose an exception (7c) but to general work for an organisation which is in direct competition with the main employer for finite NHS funds. Any employee has some knowledge of their main employer's future plans, strategy, strengths and weaknesses which could be very useful to a competitor.

3. Could not prohibiting managers from safeguarding the interests of their organisations in this manner and thus allowing fair competition be seen in itself as anti-competitive?

4. If there are to be any such prohibitions, they should make a distinction between working for another NHS Trust and for a provider in the independent sector such as an ISTC.

5. In summary, it is difficult to see how under a commercially competitive system the rights of consultants to use their non-contracted time as they wish can be reconciled with those of managers to protect the interests of the organisation they manage, whose failure could have serious implications for the population served.

6 . The problem would be resolved if competition were again based purely on reputation rather than on financial gain. This would allow NHS provision to be seen as a whole with the opportunity for full cooperation between units and freedom for staff to do NHS work in other settings during their non- contracted hours without conflict of interest.

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