

Andrew Taylor  
Director, Co-operation and Competition  
Panel  
1 Horse Guards Road  
London SW1A 2HQ

York House  
18-20 Massetts Road  
Horley  
Surrey  
RH6 7DE

Tel: 01293 778899

Fax: 01293 778888

[www.southeastcoast.nhs.uk](http://www.southeastcoast.nhs.uk)

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Dear Andrew,

**NHS Consultants' Non-Contracted Hours: Notice of Possible Recommendations**

I am writing further to your request for comments on the 'Notice of Possible Recommendation' in relation to NHS consultants' non-contracted hours.

Having reviewed the information provided we would strongly support the prohibition of any action (direct or indirect) by a Trust to restrict its consultants from providing fee paying services or private professional services during non-contracted hours for other NHS-funded service providers. The on-going development of acute care outside of hospital and an increasing in the range services and pathways delivered by independent sector providers are reliant on the clinical capacity offered by NHS consultant in their non-contracted sessions.

We do have concerns that prohibiting NHS consultants:

- holding strategic management roles within other providers of NHS funded services;
- having any involvement in the preparation of tender bids for the provision of NHS funded work for competitors of their employing NHS Trust; and
- having any financial or equitable interest in other providers of NHS funded services in competition with their employing trust

may restrict independent sector providers, and particularly joint ventures between local consultants and GPs, from developing and delivering new and innovative models of service delivery. Often these smaller providers are reliant on the clinical expertise of NHS consultants to support them to develop their business and clinical models, and to respond adequately to tender processes. If this opportunity were denied to them, it is difficult to see how they could access the most up-to-date specialist clinical knowledge they require to function effectively in a market for healthcare.

As an alternative to this approach, the prohibitions could be applied to those consultants who have strategic management responsibilities included within their contracted programmed activities (PAs) for their NHS employer (such as Clinical and/or Medical Directors of NHS Trusts). This would allow other consultants to hold strategic management and/or service development roles outside their contracted PAs with other local providers.

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Please do not hesitate to contact me should you wish to discuss these issues in more detail.

Yours sincerely,

Dave Morgan,  
Interim Director of Commissioning and System Development

Cc Louise Parker



