

Response from South Essex Partnership University NHS Foundation Trust

26 June 2009

Dear Ms Abou-Rizk

Further to previous correspondence from South Essex Partnership University NHS Foundation Trust, we have now had an opportunity to read the two consultation papers published.

It does seem to us that it is questionable whether the Trusts have the authority to impose restrictions on Consultants non-contracted hours and on fee paying services within contracted hours for the Trust which could be counterproductive. Most of our full time Consultants are on an 11 PA contract and there is limited scope for private psychiatric practice. We allow some fee paying services for consultants up to 8 hours per month in which Solicitors reports and domiciliary visits can be carried out. The remuneration for Domiciliary Visits was historically available in the pre-2003 contract and was funded by a Social Services department but now the remuneration for this fee for service work is paid by another NHS organization – local Primary Care Trusts. Solicitors reports on patients they are looking after in the NHS are carried out within the 8 hours available in the month and a separate fee can be claimed and retained by the Consultant who is also responsible for paying for NHS secretarial assistance on a fee for service using their medical secretary. A similar arrangement exists for specialty doctors where up to four hours per month for fee paying service activities that could be for both other NHS organizations and for the independent sector. The administrative procedures necessary to insist that this work is not carried out in NHS time and/or the fees are payable to the Trust is not worth setting up the costs of managing the process. Requests for domiciliary visits are gradually declining and are mainly in the specialty area of old age psychiatry.

Given that our Consultants work an average 44 hour week we have discussed an allowance of 4-6 hours of non-contracted work for other organizations or independently that keeps within the spirit of the European Working Time directive. This has been agreed in principle through the Local Negotiating Committee but is not and cannot be mandatory. It is, of course, mandatory for trainee staff in the Trust from the 1st August 2009 to not work more than an average of 48 hours per week. It has been pointed out that it is hypocritical for trainee doctors to be legally restricted from working longer on the basis of Health & Safety but for Consultants to opt out and work an average of 60 hours per week which the employing Trust ratifies by accepting an opt out declaration. This actually makes no logical sense. Consultants are supposed to be the role model for trainee practice. We are beginning to see examples of the Corporate Manslaughter Act being considered against Trusts where there has been a failure of clinical governance. Clinical governance failures of Consultants looking after NHS patients in our Trust would not necessarily guarantee full organizational support if the Consultant had opted to not abide by the European Working Time directive by opting out. We hope a situation never arises but it is worth considering the hypothesis and there has been at least one GMC case that became public knowledge where the busyness of the doctor including private practice was a factor in a failure of care to an NHS patient in the Trust. Whereas our Trust would not support the restrictive measures tried by organizations to deal with Consultants conflicts of interest, cooperation and competition is likely to be much more manageable if there was an agreement about how many hours a week a Consultant can contract to work.

Yours sincerely,

Dr. Mike Lowe
Medical Director