



## South Gloucestershire

South Gloucestershire Primary Care Trust

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Date: 22<sup>nd</sup> June 2009

Mrs Maggie Abou-Rizk  
Manager  
Cooperation and Competition Panel  
1 Horse Guards Road  
London  
SW1A 2HQ

Dear Ms Abou-Rizk

### Re: Cooperation and Competition Panel – Non Contracted Hours

Thank you for the opportunity to comment on the options being developed by the Cooperation and Competition Panel in response to the recent study into restrictions on consultant's non contracted hours.

NHS South Gloucestershire has a relatively small provider 'arm', and does not currently directly employ medical consultants. The response set out below is therefore based on the PCT's role as a commissioner, which includes a lead commissioning role for a large mental health trust, and for a second wave NHS Treatment Centre scheme.

In general we do not support restrictions being placed on consultants wishing to apply to use non contracted hours with another organisation in the delivery of NHS commissioned services, assuming of course that 'spare' hours have initially been offered to the employing organisation in line with contractual requirements and that working time directive requirements are not being breached. We see this flexibility bringing considerable advantages to the wider NHS and to the public in terms of making the best use of clinical skills, maximizing capacity and integration, and spreading innovation and best practice.

The prohibition of restrictions on offering non contracted hours to other NHS commissioned providers (helpfully expanded into three main categories within your option paper) is probably therefore the correct guiding principle, but may be too extreme if applied on a blanket basis. There may for example be legitimate public / patient interest concerns that an employing organisation could cite in restricting non contracted hours (e.g. occupational health or performance concerns if a consultant worked under significantly different regimes / clinical protocols, or the reputation or clinical practice of the other organisation impacting indirectly on the host/employing organisation by association). In limited circumstances, there could potentially be conflicting issues of competition (inability to create a 'Chinese wall' between bidders which could compromise or reduce competition). These would be dependent on individual circumstances and we feel that it would be for the employing / restricting Trust to justify that any restrictions were in the public interest.

With best wishes

Penny Harris  
Chief Executive

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Chairman: Sir Chris Clarke OBE  
Chief Executive: Penny Harris