

Freedom of Information Request

Ref: 22-058

24 February 2022

By Email

Dear Sir/Madam

Thank you for your request for information under the Freedom of Information Act 2000. The Trust's response is as follows:

- We can confirm that we hold some the information you are requesting

1 Does the Trust use a standard contract for consultants which specifies the number of hours each consultant must work for the NHS?

Yes

2 Are NHS consultants being encouraged to work hours for the NHS which are additional to their contracted hours (in other words overtime) in order to reduce waiting times for medical treatment?

Yes

3 Whether or not NHS consultants being encouraged to work additional hours for the NHS, what proportion are working additional hours for the NHS?

We do not hold this information

4 The understanding of the author of the Guardian article above is that according to the 2003 NHS consultant contract: 'NHS consultants can only do paid work in the private sector with the permission of their NHS employer and only if it does not cause a detriment to NHS care'. Is this statement correct?

Yes . "Where individuals wish to undertake external roles or participate in areas of special interest and undertake private practice they will need to consider their total working hours and the impact this may have upon their wellbeing and service delivery."

5 What are the rules in your trust which govern the amount of time consultants can spend on private work and are these rules embedded in consultants' contracts?

Private Practice and Fee-paying Work - The Code of Conduct for Private Practice sets out the standard of best practice governing the relationship between NHS work, private practice and fee-paying work. There are specific rules around clinicians undertaking private professional services, whether for the NHS, the independent sector or for another party. The Trust will

follow the principles as laid down in the Terms and Conditions of Service¹. A consistent approach across the Trust will be adopted, the principle being that people should not be paid twice for the same work. Where a consultant wishes to undertake remunerated private medical practice then this needs to be registered and approved by the Trust on an annual basis. For individuals wishing to undertake private medical practice there will be an expectation as laid out in the 2003 terms and conditions (Schedule 6) that the clinician would offer an additional PA of DCC per week by mutual agreement. If a consultant declines the opportunity to take up the additional PA of activity but does undertake remunerated clinical work this would be considered grounds for deferring a pay threshold for the year in question. If another consultant accepts the work there will be no impact on pay progression for any consultant or SAS practitioner in the group. LTFT consultants wishing to undertake private practice will not be expected to offer more than one extra programmed activity. The consultant is responsible for ensuring that the provision of private professional services or fee-paying services for other organisations does not: Result in detriment of NHS patients or services; Diminish the public resources that are available for the NHS; Fee-paying work must be detailed in the job plan and reviewed and approved annually. If on occasion private practice impinges on NHS practice then the individual must ensure that NHS work is made up at another time (time shifting work) and that this is clearly recorded in a transparent manner. Agreements about retention of fees will be made on an individual basis at the time of the Job Planning Review. The provisions and principles governing Private Professional Services and Fee Paying Services are set out in Sections 9, 10 and 11 of the new Consultant Contract (England) 2003. Schedule 9 of the New Terms & Conditions of Service details: disclosure of information about private commitments; scheduling of work and Job Planning; scheduling private commitments whilst on-call; use of NHS facilities and staff; patient enquiries about private treatment; Promoting improved patient access to NHS care and increasing NHS capacity. Fee paying services are services that are not part of contractual or consequential services and not reasonably incidental to them. A list of examples of fee-paying work is given under Schedule 10 of the Consultant Contract Terms and Conditions of Service. The list is not exhaustive but gives examples of the more common fee-paying work. It includes fee-paying work that, under the 'old' contract, was described as Category II & Category III work, domiciliary work and Section 12 Mental Health Act assessments. Schedule 11 of the Consultant Contract Terms and Conditions of Services (Appendix J) details a list of services where the consultant will not be paid an additional fee, or if paid a fee, will remit the fee to the employing organisation. The list is not exhaustive but as a general principle work undertaken during Programmed Activities will not attract additional fees. Schedule 11 also details a list of fee-paying services where a consultant can retain any fee that is paid. Again, the list is not exhaustive. The general principle is that the consultant is entitled to retain fees for work done in their own time, or during annual or unpaid leave

6 Are consultants obliged to inform you of their ownership or part-ownership of private health firms and, if so, what proportion of consultants in your trust has such ownership?

Our Register of Interests, Gifts and Hospitality Policy is clear that the following staff groups have a duty to ensure that declaration of interests are made which could materially affect the outcome of decisions made by them:

- (a) Executive and non-executive directors who have decision making roles which involve the spending of taxpayers' money;
- (b) All senior managers and clinicians (at band 8d and above);
- (c) Members of staff who have the power to enter into contracts on behalf of the Trust;
- (d) Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services; and
- (e) Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of good, medicines, medical devices or equipment, and formulary decisions

We are able to obtain this information however we have decided to apply Section 21 of the FOIA as this information is reasonably accessible in the public domain. Our Register of Interests can be accessed live via our website <https://www.uhbw.nhs.uk/p/about-us/reports-and-publications>

Clinicians who have declared any potential conflicts will be visible. There are 693 Consultants registered so will be able to see the proportion

7 Is it your view that over the last, say, five years the amount of private work being done by NHS consultants and the numbers with part-ownership of private health firms has increased?

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Clinicians who have declared any potential conflicts will be visible.

This concludes our response. We trust that you find this helpful, but please do not hesitate to contact us directly if we can be of any further assistance.

If, after that, you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to:

Director of Corporate Governance
University Hospitals Bristol and Weston NHS Foundation Trust
Trust Headquarters
Marlborough Street
Bristol
BS1 3NU

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Publication

Please note that this letter and the information included/attached will be published on our website as part of the Trust's Freedom of Information Publication Log. This is because information disclosed in accordance with the Freedom of Information Act is disclosed to the public, not just to the individual making the request. We will remove any personal information (such as your name, email and so on) from any information we make public to protect your personal information.

To view the Freedom of Information Act in full please click [here](#).

Yours sincerely

Freedom of Information Team
University Hospitals Bristol and Weston NHS Foundation Trust