

POLICY FOR PRIVATE AND INDEPENDENT PRACTICE FOR MEDICAL STAFF

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AUTHOR	Head of Medical Workforce	
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POLICY SUMMARY		
The Trust monitors the implementation of and compliance with this policy in the following ways;		
Services	Applicable	Comments
Trustwide	✓	
Essex MH&LD		
CHS		

The Director responsible for monitoring and reviewing this policy is the Executive Medical Director

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

PRIVATE AND INDEPENDENT PRACTICE FOR MEDICAL STAFF POLICY

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PRIVATE AND INDEPENDENT PRACTICE FOR MEDICAL STAFF POLICY

Assurance Statement

The Trust has an obligation to ensure that recommended standards of private practice for NHS Medical Staff in England are followed in line with agreements between the BMA's Central Consultants and Specialists Committee and the Department of Health.

Failure to implement this policy and associated procedures will place the Trust in breach of its corporate obligations for professional and organisational governance and could place individual practitioners at risk of informal or formal processes.

1.0 INTRODUCTION

- 1.1 This policy sets out the position relating to private practice under National Terms and Conditions and other national agreements and should be read in conjunction with the allied procedure. The right to undertake private practice remains an essential part of the flexibility and freedom built into national contracts.
- 1.2 This policy has been developed in partnership with the Trust's LNC and Medical Management.

2.0 AIMS AND OBJECTIVES

- 2.1 To ensure professional and ethical standards of private medical practice are conducted by Trust medical staff in line with National and General Medical Council requirements.

3.0 SCOPE

- 3.1 This policy applies to any member of the medical staff carrying out duties which can be deemed private practice

4.0 ELIGIBILITY

- 4.1 The general guidance and principles refer specifically to Consultants and other medical practitioners, full or part time including locums. This policy does not cover clinical academic medical staff holding University appointments.
- 4.2 The NHS Indemnity Scheme does not cover private work, either in the NHS or in private hospitals. Consultants and other medical staff should ensure that they have appropriate indemnity with their Medical Insurance to cover them for private practice.

- 4.3 In private practice, a direct contractual relationship exists between the doctor and the patient; and not normally the employing organisation (EPUT).
- 4.4 Arrangements for admitting rights to a private hospital are a matter between the Consultant and the hospital concerned. The renting of Consultant rooms at a hospital or private premises are similarly a matter for the doctor and the landlord and may or may not be subject to contract or written agreement.
- 4.5 The provisions in this policy and associated procedure are not exhaustive and independent sector treatment centre programmes which primarily focus on acute trust surgical procedures are not covered in this policy.
- 4.6 The GMC advises doctors that treating patients in an institution in which they have a financial or commercial interest may lead to serious conflicts of interest. If such an interest exists, patients and anyone funding the treatment must be made aware of it; similarly, if they plan to refer patients to an organisation in which they have an interest, the patient must be informed. In the case of NHS patients, the healthcare purchaser must be notified. As a general principle, financial or commercial interest in organisations providing healthcare must not affect the way patients are prescribed for, treated or referred.
- 4.7 Medical staff are 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

5.0 DEFINITION OF PRIVATE PRACTICE

- 5.1 Private Practice is defined for Consultant and other hospital doctors in the Terms and Conditions of Service (Version 9, 31 March 2008) as “the diagnosis or treatment of patients by private arrangement”.
- 5.2 The private patient is defined in the NHS and Community Care Act (1990) and Health & Medicines Act (1988) as a patient who gives (or for whom is given) an undertaking to pay charges for accommodation and services.

6.0 CODE OF CONDUCT

- 6.1 A Code of Conduct for Private Practice was agreed as part of the 2003 Consultant contract negotiations. The aim of the code is to minimise the risk of a conflict of interest arising between a Consultant's private practice and their NHS commitments. While part of the 2003 negotiations, the standards of best practice are designed to apply to all Consultants working within the NHS whatever their contractual arrangements and, by implication, medical staff under the supervision of consultants.
- 6.2 Adherence to the standards in the Code forms part of the eligibility criteria for Clinical Excellence Awards.
- 6.3 The Code states that Consultants should conform to any local guidelines.

- 6.4 The Code states that Consultants should disclose details of private commitments, including planning, timing, location and broad type of activity as part of the job planning process.
- 6.5 If any private practice is perceived as a conflict of interest the consultant should declare this information
- 6.6 Programmed NHS commitments should take precedence over private work and private commitment should not be scheduled during times that a Consultant is scheduled to be working for the NHS. Private commitments must be rearranged if there is a regular disruption to the NHS work and private work should not stop a consultant from being able to attend NHS emergencies whilst on-call. However, the Code recognises that there will be circumstances when a consultant may need to provide emergency private care when working for the NHS.
- 6.7 With the agreement of the Trust, some private work may be undertaken alongside NHS duties providing there is no disruption to NHS services, although private patients should normally be seen separately. Consultants can only see private patients in NHS facilities with the Trust's agreement. The Trust can determine the use of staff, facilities and equipment and any relevant charges.
- 6.8 Consultants should not, while on NHS duty, initiate discussion about providing private services to NHS patients.
- 6.9 Where a patient chooses to change from private to NHS status, they should not be treated any differently because of their former private status and should join the NHS waiting list at the same point as if the consultation or treatment was an NHS Service. Patients cannot routinely be treated as having both NHS and private status at the same time.

7.0 DEFINITION OF FEE PAYING SERVICES (CATEGORY 2 WORK)

- 7.1 Consultants and other medical staff may receive fees and payments in addition to their NHS salaries and discretionary points/CEAs or merit awards; which are quite separate from private practice. Fee paying services are services that are not part of contractual or consequential services and not reasonably incidental to them. These are referred to in Schedule 13 and 14 of the New Consultant; and Schedule 10, 11, and 12 of the new Speciality Doctor contract. These fee paying services are fully described in the Procedural Guidelines.

8.0 IMPLEMENTATION

- 8.1 This policy and related procedure will be available on the Trust's Intranet.
- 8.2 The process for the management of private practice will follow the procedure guidelines and be the responsibility of the senior medical managers (Deputy Medical Director and Medical Director) of the Trust in consultation with the Joint Local Negotiating Committee (JLNC)

9.0 MONITORING AND REVIEW EFFECTIVENESS OF THIS POLICY

- 9.1 It is the responsibility of individual doctor to disclose all aspects of Private Work to the Appraiser; and this should form a part of the Appraisal discussion. The appraisal document should include a summary of discussion related to all aspects of Appraisee's Private Practice.

10.0 ASSOCIATED DOCUMENTATION AND REFERENCES

10.1 References

Terms and Conditions – Consultants (England) 2003
A Code of Conduct for Private Practice – January 2004
Private Practice – BMA

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