

1. Introduction

- 1.1 This document outlines Trust guidance and arrangements to be followed in the provision of private practice and fee paying work for all medically qualified doctors.
- 1.2 This guidance is in line with Terms and Conditions – Consultants (England) 2003, specifically schedules 9 and 10, Department of Health Code of Conduct for Private Practice (2004) and Terms and Conditions of Service for NHS Doctors and Dentists in Training (England) 2016 (version 5). These documents should also be referred to.
- 1.3 The definition of private practice is “the diagnosis or treatment of patients by private arrangement”. Fee paying work is defined as “any paid professional services, carried out for a third party, or for the employing organisation, which are not part of, nor reasonably incidental to, contractual and consequential services”. See Schedule 10 of the Consultant Contract for examples.

2. Guideline Standards and Procedures

2.1 Disclosure of Information about Private Practice and Fee Paying Work

- 2.1.1 As part of the annual appraisal and job planning process, Consultants and Career Grade doctors should disclose details of private practice commitments and fee paying work, including the timing, location and broad type of activity.
- 2.1.2 Junior Doctors must keep their clinical and educational supervisors informed of any commitments in respect of private professional clinical work as part of the initial work schedule discussion and include details of the work involved and when it occurs. Junior Doctors must also provide information in advance about any significant changes to this information.
- 2.1.3 Doctors should declare any private practice or fee paying work which may give rise to actual or perceived conflict of interest, or which is otherwise relevant to the practitioner’s performance of his or her contractual duties, to their line manager immediately.
- 2.1.3 Doctors should inform the CMG Clinical Director of any complaints made against them when undertaking any clinical private practice, in the interest of patient safety and probity. Any serious untoward incident, never event or any issue which occurs in the private sector which may have an serious impact on patient safety must be reported to the Responsible Officer at UHL. For further details please refer to the UHL Incident and Accident Reporting Policy.
- 2.1.4 It is each employee’s personal responsibility to ensure that any potential conflict of interest is both acknowledged and added to the Trust’s web-based monitoring system as soon as a potential conflict is identified and absolutely within twenty-eight days of the potential conflict being identified. The Civica Declare system is available via InSite or via the following website: <https://uhl.mydeclarations.co.uk/>
- 2.1.5 Consultant medical staff are classed as “decision making staff” and have an additional responsibility to make an annual declaration confirming whether or not they have any conflicts of interests. If they have no conflicts of interests to declare, then they must proactively register a ‘nil return’.

2.1.6 For further information please refer to the UHL Managing Conflicts of Interest in the NHS Policy available on InSite or obtain from your manager.

2.1.7 Doctors must not be paid twice for the same work undertaken and must not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines (Private Healthcare Market Investigation Order 2014):

https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf

2.2. Limits to Private Practice and Fee Paying Work

2.2.1 Whilst the Working Time Regulations (WTR) do not apply to self-employed practitioners, as employees of UHL all doctors must comply with the Trusts' Working Time Regulations (WTR) Policy and Compensatory Rest Guidance for Medical Staff to ensure that they are fit and well rested to undertake their duties.

2.2.2 Private practice work must not be undertaken whilst a doctor is unable to fulfil NHS commitments as a result of sickness or during a therapeutic or phased return to NHS commitments from sickness unless agreed by the CMG Clinical Director or Medical Director, following Occupational Health assessment if appropriate.

2.2.3 Questions of excessive hours of work outside of contractual duties should be dealt with informally in the first instance, by the appropriate Head of Service/Clinical Director. In the event of a disagreement between consultant and the Head of Service/Clinical Director the matter should be escalated as appropriate to the Clinical Director/Deputy Medical Director.

2.3 Use of NHS Facilities and Staff

2.3.1 Doctors may only see patients privately within Trust facilities with the explicit agreement of the Trust (written approval from CMG Clinical Director or Head of Operations). It is for the Clinical Director or Head of Operations to decide to what extent, if any, their facilities, staff and equipment may be used for private patient services and to ensure that any such services do not interfere with the organisation's obligations to NHS patients. The use of NHS facilities, staff and equipment could be chargeable and this should be agreed in advance.

2.3.2 Trust secretarial staff may be used for work that falls within this category if this is detailed within the job description of a Trust Medical Secretary.

2.3.3 The responsible practitioner must ensure that any support staff employed by UHL and engaged to support private work are qualified and experienced to undertake the duties required for this purpose.

2.4 Patient Enquiries and Promoting Access to NHS Care

2.4.1 In the course of their NHS duties and responsibilities doctors should not initiate discussions about providing private services for NHS patients, nor should they ask other NHS staff to initiate such discussions on their behalf.

2.4.2 Where a NHS patient seeks information about the availability of, or waiting times for, NHS and/or private services, consultants should ensure that any information provided by them, is accurate and up-to-date and conforms with service guidelines.

2.5 Scheduling of Work and On-Call Duties

2.5.1 Doctors will not undertake private professional services or fee-paying services when they are scheduled to be working for the Trust. There are two exceptions to this:

- i. The consultant's rota frequency is 1 in 4 or more frequent, their on-call duties have been assessed as falling within category B (as described in Schedule 16 of the Consultants' Terms and Conditions Handbook) and the CMG Clinical Director has given prior approval for undertaking specified private professional services or fee-paying services;
 - ii. Consultant is required to provide emergency treatment or essential continuing treatment for a private patient. If such work regularly impacts with their NHS commitments, they must make alternative arrangements to provide emergency cover for private patients.
- 2.5.2 In circumstances where there is or could be a conflict of interest, programmed NHS commitments should take precedence over private work. Consultants should ensure that, except in emergencies, private commitments do not conflict with Trust activities included in their job plan.
- 2.5.3 Where the Trust proposes changes to the scheduling of NHS work, reasonable notice will be given to doctors in order to rearrange private sessions and commitments.
- 2.5.4 It is recognised that occasionally a private patient may suddenly deteriorate and require review by their Consultant. If this occurs during a NHS Programmed Activity, the Consultant must ensure that the NHS patients being cared for are safe prior to leaving the hospital. The time involved must be declared on a monthly basis and the Consultant will make himself or herself available for additional NHS work up to the same duration without additional payment.

2.6 Time-shifting

- 2.6.1 Time-shifting occurs when fee-paying work is undertaken in place of scheduled Direct Clinical Care activities. When this happens, the equivalent amount of Direct Clinical Care activity is built back into the job plan and undertaken without additional payment. Before time-shifting, consideration should be given as to when the displaced activity will be carried out to avoid use of extra resources.
- 2.6.2 Any time-shifting should be agreed in advance, where practicable and there should be a clear written record (which could be an email) of agreement to time-shift any affected activity. Doctors must keep good records to evidence how time has been repaid and be prepared to discuss this if the quantity of such work appears to impact on NHS work.

2.7 Payment for Fee-Paying Activities

- 2.7.1 Doctors must remit the fee to the Trust for fee-paying work undertaken during Programmed Activities if NHS time is not being repaid.
- 2.7.2 Doctors are entitled to retain any fee that is paid for fee-paying services carried out in their own time or during annual leave or unpaid leave, or where agreed time shifting has taken place.

2.8 Other Work Outside the Trust

- 2.8.1 There are many other situations where doctors are required to perform certain tasks for the benefit of the wider NHS rather than the Trust itself. For example, College Assessor at Consultant Appointments Committees in other Trusts, participating in external reviews in other Trusts, etc.
- 2.8.2 It is recognised that there is value to the Trust in having staff who participate in such activities, and provides useful professional development and representation for the Trust at national committees, however, the nature and amount of such work must be agreed as part of the job planning review to ensure that Trust priorities are not adversely affected.
- 2.8.3 It is expected that any such externally paid work undertaken during Programmed Activities should be done by time-shifting or taking annual leave.

3. Education and Training

- 3.1 There are no education and training requirements for the implementation of these guidelines.
- 3.2 Queries in relation to this guidance should be initially through the relevant CMG People Services Lead

4. Monitoring Compliance

What will be measured to monitor compliance	How will compliance be monitored	Monitoring Lead	Frequency	Reporting arrangements
Compliance of the private practice being declared and Job Plans revised accordingly	Ensure all private practice work declared on the job planning questionnaire has been translated into the Consultant Job Plans	Medical Job Plan Manager	Annually	Variances reported back to the Consistency Committee

5. Supporting References

- Schedules 9, 10 and 11 of the Terms and Conditions - Consultants (England) 2003
- "A Code of Conduct for Private Practice – Recommended Standards of Practice for NHS Consultants" 2004
- Managing Conflicts of Interests in the NHS UHL Policy (A1/2017)
- UHL Framework for Medical Job Planning 2014
- Terms and Conditions of Service for NHS Doctor and Dentists in Training (England) 2016
- UHL Working Time Regulations Policy (B19/2014)
- Compensatory Rest Guidance for Medical Staff (B8/2014)
- Private Patient Procedures

6. Key Words

Private practice, fee-paying services, private professional services, Consultants, Senior Medical Staff, Career Grade Doctors, Junior Doctors, Payment, Additional Payment, Private Work.

CONTACT AND REVIEW DETAILS	
Guideline Lead (Name and Title) Vidya Patel, Medical Human Resources Manager	Executive Lead Andrew Furlong, Medical Director
Details of Changes made during review: Updates resulting from implementation of the UHL Managing Conflicts of Interest in the NHS Policy and some clarification. Corrections where Policy/Guideline Names have changed Reformatting of the policy in line with the Policy for Policies.	