

## OPEN Letter by email

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To: Dr Lawrence Buckman - Chairman - BMA GPC  
Dr Richard Vautrey - Deputy Chairman - BMA GPC  
Matthew Riley - CEO - Daisy Group Plc  
Pat Gaffey - CEO - Network Europe Group Plc  
George Neal - Sales Director - Network Europe Group Plc

Gentlemen

### Ban on use of 084 telephone numbers by NHS bodies and contracted GPs

In parliament on Tuesday 12 July 2011, it was made clear that widely-circulated comments from the **BMA GPC** and from **Network Europe Group** (now part of **Daisy Group**) show a serious and longstanding misunderstanding of **Department of Health** policy and regulations.

**One must now conclude that no NHS GP (or other NHS body) is permitted to use a telephone number beginning 084.**

I hope that, in both cases, you will now **cease your efforts to secure co-payment** in the NHS by deceit, and work to **assist GPs in providing the best possible service to patients**, UNDER THE TERMS OF THE NHS and **in compliance with their contracts**.

Will you please withdraw your widely-circulated false suggestions that the contractual requirements imposed on NHS GPs do not apply to numbers that are more expensive to call from payphones, mobiles and some landline tariffs. These untrue statements have caused many officers of **PCTs** to be misled in the execution of their duties.

### The myth

You have been perpetuating a myth regarding the statement "**persons will not pay more to make relevant calls to the practice than they would to make equivalent calls to a geographical number**". This is a key feature of clause 29B of the GMS contract and of the Directions to NHS bodies issued on 21 December 2009.

Without foundation, you suggest that "**persons**" means only those calling under the terms of a specific group of landline telephone tariffs. With the NHS as a universal service, this is not only clearly wrong, but deeply offensive to the principles of a valued institution.

In addition there have been further absurd suggestions that the requirements relate only to telephone call charges that are set by the person called (when there are none such), or to what some argue callers "should" be paying, rather than what they actually pay.

## The clarification

All of this nonsense was dismissed by a simple answer to a simple question in parliament last week. This consisted of a series of unequivocal statements indicating that the requirements covering use of telephone numbers by NHS GPs include none of these ridiculous complexities. **They are stated, and are to be interpreted, clearly and simply.**

I quote extracts from Hansard from Tuesday 12 July 2011 – Cols 149/150 ([published here](#))

*"Since April this year, GPs have not been allowed to use a number that charges patients more than the cost of an equivalent geographical call."*

*"It is absolutely clear that there is no distinction between landlines, mobiles or payphones."*

*"The Department is very clear, and the general medical services contract makes it very clear, that GPs are not allowed to do it."*

All were spoken from the Despatch Box by Health Minister, **Anne Milton** MP.

## The implications

I trust that there is no dispute that calls to all 084 numbers are more expensive than equivalent calls to geographic numbers for most landline and mobile tariffs.

The fact that no 084 number may be used under current regulations, as confirmed above, is demonstrated most clearly by reviewing the simple case of calls from **BT Payphones**.

The [published BT tariff](#) shows the times in seconds per 10p to be as shown below,

- Local & National e.g. calls to **01**, **02** & **03** numbers – **900** seconds
- Calls to **0843** numbers – **43** seconds, **0844** – **30** seconds, **0845** – **30** seconds.

Further examples and links to published landline and mobile tariffs are [provided here](#).

**The terms of the GMS contract and the Directions to NHS bodies cannot be understood to permit use of any 084 number, at present.**

## Ofcom regulation of 084 numbers

When setting the terms, the **Department of Health** thought it unwise, given the imminent possibility of revised call charge regulation, to specify the particular ranges of numbers which currently failed the terms of the requirements. It was therefore able to state that, *"Organisations remain free to use non-geographical number ranges such as 084, providing that patients are not charged more than the equivalent cost of calling a geographical number to do so."* The only non-geographical range which guarantees compliance is 03.

If, as some were forecasting, **Ofcom** had proceeded to impose regulations that fixed the charge for calls to 0845 numbers at no more than that for geographic calls (to mirror the regulations covering 03), then use of 0845 numbers would not have been prohibited from the date on which this regulation came into effect. **Ofcom** has however subsequently produced alternative proposals and is no longer considering this possibility.

If the preferred Ofcom proposals come into effect then the unsuitability of "Business Rate" 084 numbers, with a declared "Service Charge" for access to NHS services, will become even more clear.

### The NEG Assurance

The relevant directions and contractual terms have always made “*no distinction between landlines, mobiles or payphones.*” The Department of Health has never indicated that there is any such distinction.

With support from the BMA GPC, NEG has chosen to offer its customers an assurance that all telephone call service providers charge no more for calls to whatever number is used to call the "Surgery Line" system than for an equivalent call to a geographic number. Furthermore, again with support from the BMA GPC, GPs have been encouraged to take no other steps to verify their compliance with the terms of their NHS contract.

The assurance makes reference to what NEG charges for these calls. So far as I am aware NEG does not provide telephone call service to a single NHS patient, nor does it have a role in setting the charge for calls to geographic or any other numbers called by NHS patients.

Unless NEG / Daisy wishes to stand by its position in the light of the clarification and dispute demonstrable truth, one must assume that it will now wish to say that it mistakenly believed that it was only a highly selected group of BT customers who were the "persons" referred to in the terms of the requirements.

The assurance must now be withdrawn, and those who have used it to sustain a claim of compliance with the terms of the GMS contract, must be advised to withdraw their claim.

Perhaps the **BMA GPC** would now wish to disassociate itself from this false assurance and also encourage its members to withdraw ill-founded claims of compliance.

### The future for systems such as “Surgery Line”

If systems such as “**Surgery Line**” need to exploit the benefits of features such as network waiting and these cannot be provided on local geographic numbers, the option to migrate to a 03 number is available in every case, at any time.

There is therefore no good reason why any practice has to continue with use of a 084 number. There is also no good reason why it should have to terminate its contract for “**Surgery Line**”, nor fail to renew. All that is required is that the system be funded properly, i.e. **not at the expense of NHS patients accessing NHS services.**

I fully recognise that the cost of the advanced network features has to be paid for somehow. The same has to apply to service charges levied by the telephone system provider and the lease payments on telephone equipment installed at the surgery. On 03 numbers the former cost is typically imposed as a "per minute" charge on each incoming call, the other two would typically be applied as recurring charges.

These costs have been masked from the practice, being offset by the revenue share benefit from use of a 084 number. Practices have been used to only seeing the balance as a small charge or perhaps as a credit. With the benefit of this subsidy at the expense of patients removed, the practice will have to meet the full cost of its chosen telephone system, in the same way as it meets other costs incurred in providing NHS services.

All NHS GPs should be in the same position, funding the expenses they incur in delivering providing NHS services from the money provided for the purpose.

## **Easing the transition from use of revenue sharing**

I have long argued that companies such as **Daisy/NEG, Talk Talk, CF Asset** and **Avaya**, who have benefitted from the past improper arrangement, should be ready to do all they can to ease the burden on GPs as an unhappy and hidden truth dawns. I have suggested that the possibility of extending the term of the lease and thereby the contract may be offered as an option, without severe penalty, for those practices who would find that they cannot readily afford the ongoing periodic payments to which they are committed.

Where a **PCT** can be shown to have recommended funding a system improperly, I suggest that a practice may have a strong case for arguing that the **PCT** should take a role in easing the burden that is found to be felt when the impropriety is removed.

**There can however be no case where patients are left to continue bearing the burden of paying for the system through premium telephone call charges.**

## **Co-payment in the NHS**

For it to be permissible for patients to provide subsidy to NHS providers through premium telephone call charges, or any other charge incurred as they access NHS services, explicit sanction is required from **Parliament**. The terms of the **Health Act 2009** require GPs, PCTs and other NHS bodies to have regard to the rights under the **NHS Constitution**.

You both advanced a strong argument for **co-payment** in response to the **Department of Health** consultation. There is room for such a debate as we consider the future of the NHS. I have however always wished that we could engage in this debate openly and honestly. You made your respective cases to the **Department of Health** and they were rejected.

You welcomed the outcome as perhaps you saw an opportunity for your desired position to be achieved by promoting a misunderstanding of the terms of the Directions and contract revisions. This tactic has enabled your desired position to be maintained for a little longer, but now is surely the time to call a halt.

## **Moving forward**

Should you wish to continue to press for **co-payment** to be permitted, you must seek for **Parliament** to provide the necessary sanction or amend the **NHS Constitution**.

I hope that you will both now engage positively with the practices that need to change their arrangements to comply with current regulations. This must be achieved conveniently, but with no undue delay. I would be delighted to assist this process in any way I can.

## **Steps for NEG and Daisy**

I genuinely hope that it will be possible for **NEG / Daisy** to find a way of presenting the "**Surgery Line**" system in a manner that is affordable for practices operating within the NHS. I have never had any issue with the "**Surgery Line**" system and its use of advanced network technology, given that this can be configured in a way that users can afford.

Many argue that this technology cannot be cost justified for so small a business as a GP surgery. Its apparent reliance on improper subsidy from revenue sharing suggests that this may be true. This presents a challenge to which **NEG** and **Daisy** should be able to rise.

## Steps for the BMA GPC

I have been dismayed and confused to find the **BMA** adopting the policy position in support of patients bearing the cost of improved NHS services. Telephony is but one of many incidental costs incurred by GPs in serving their patients. Even if this policy position is restricted to incidental costs, as against the cost of medical services, it demonstrates a most uncharacteristic disrespect for the principles of the NHS from a body that is frequently heard as a strong defender of those principles.

The manner in which the **BMA GPC** has gone about seeking to have this position secured, after it was explicitly rejected, by promoting a misunderstanding / misrepresentation of the relevant regulations causes the **BMA** to be viewed in a most unsatisfactory light.

I hope that the **BMA** will be able to recover its position, reflecting the views of the majority of its members, most of whom in General Practice do not rely on subsidy from 084 telephone numbers and are able to serve their patients well.

## My general position on 084 telephone numbers

Unlike some fellow campaigners, I have no general issue with the use of "Premium Rate" (09) or "Business Rate" (084/087) numbers. It may be convenient for call recipients to levy a charge on callers through their telephone bill. I see it as vital that the level of this charge is **clearly declared** and seen to be **applied equally** regardless of how the call is originated.

The **Ofcom** proposals for "unbundling" meet these two objectives. They have my full support and I hope that the Autumn announcement will indicate that they are to be taken forward to implementation (subject to consultation).

I think it unlikely that many existing users of 084 numbers would find it worthwhile to suffer the reputational damage associated with being seen to impose a charge on callers when this represents such a tiny proportion of the cost of handling a call. Obviously NHS providers cannot be seen to be imposing a charge, and similar considerations apply to other providers of public services.

I am delighted that the **Department of Health** has sought to get "ahead of the game" by imposing these requirements now, before we have to consider the possibility of **Hospitals**, **GPs** and **NHS Direct** being required to publish a "Service Charge" alongside their telephone numbers.

I would be delighted to engage in further discussion with you on these matters, in public or in private.

Yours

David Hickson