

Outline proposal covering the steps required to resolve the problem of NHS GPs continuing to use 084 telephone numbers in breach of their contracts

These comments are prepared ahead of the Westminster Hall adjournment debate at 12:30 on Tuesday 24 January.

Notes

1. I focus on the situation as it relates to GPs. Other NHS providers are in a similar position and may be addressed by some elements of what follows.
 2. I have not sought to labour this document with references and sources for my comments. I will however be very happy to provide these to cover every one of the points that I make.
 3. I make a number of factual assertions. I must urge notice of any dispute on these points.
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I outline the actions that I see as being necessary to bring this matter speedily to an effective resolution.

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Clarify the position

It is for the government and the Department of Health to provide advice on the practical effects of the contractual terms that are in place. This is not in any way to vary, or add formal "guidance" to existing provisions. Those who are required to comply with and enforce the provisions simply need to understand how they relate to objective facts in the present world.

(I would be happy to accept evidence to show that my assertions are mistaken or false - this section is not simply expression of a personal opinion.)

084 numbers are "banned"

It must first be established beyond doubt that there is no 084 telephone number which enables GPs to meet the requirement to ensure that "*having regard to the arrangement as a whole, persons will not pay more to make relevant calls to the practice than they would to make equivalent calls to a geographical number*".

My published [table of call charges](#), linked to published tariffs for the purpose of verification, demonstrates that there are sufficient examples of widely used tariffs to show that, if "having regard to the arrangement as a whole", no 084 number could withstand the test quoted above.

Whilst it is possible in theory that all callers to a practice are subject to tariffs which pass the test, I do not think it conceivable that any practice could provide the necessary evidence to demonstrate that this has been true at any point since 1 April 2010, and will remain so.

It is possible that future regulatory changes introduced by Ofcom, perhaps in respect of 0845 numbers, could alter this position. It should however be noted that Ofcom has indicated a likely three year implementation timescale for possible revisions that it has not yet even firmly proposed. It was right that the drafting of the contractual terms took account of this possibility. **For the time being however, 084 numbers must be seen as having, in effect, been banned.**

Sadly a commentary, which was intended to demonstrate that the terms of Directions to NHS Bodies would not need to be revised in the event of such a change by Ofcom, has been misrepresented. Some have falsely suggested that this comment grants licence for the use of numbers (e.g. all 084 numbers) which are effectively banned under present conditions.

The terms of existing arrangements may be varied to enable compliance

Many GPs are using 084 numbers to provide funding for a lease on telephone equipment at their surgery. Complete early termination of an arrangement which includes repayment of a lease would inevitably be subject to significant immediate costs and penalties.

Examples of such costs have been offered to support false suggestions that the cost of the action necessary to achieve compliance is "unreasonable". Such comments are of no relevance to the matter in question, as it is only reasonable and necessary steps that must be considered and taken.

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Furthermore, the requirements do not address equipment leasing arrangements made by GPs, they only relate to the cost of calling the type of non-geographic telephone number that has been chosen. The use that is made of the revenue derived is irrelevant.

All telephone service providers offer their customers the option of migration from one type of non-geographic number to another. Such migration makes no difference whatsoever to the services available, however it would be expected to change the funding arrangements.

Ofcom introduced the 03 range to enable utilisation of the features uniquely available with all non-geographic numbers, but without the option of "revenue sharing". 03 call charges are set to be no greater than that of "an equivalent call to a geographic number". This applies across the board ("the arrangement as a whole") covering landlines, mobiles, payphones and the terms of call plans and inclusive call packages. The relevant regulatory provision is seen to have 100% compliance.

(It may be of no coincidence that the call cost assurance provided by use of a 03 number matches precisely the requirements which GPs have to meet.)

To enable ease of migration by those currently using 084 (and 087) numbers, the respective equivalent 034 (and 037) numbers are reserved for use by the owner (both user and telephone service provider) of the 084 / 087 number. This not only eases the process of advising a change of number, but also ensures that any interest in ownership of the respective number(s) is retained.

Migration from 084 to 034 is therefore the obvious option to be considered by those GPs who wish, or are contractually obliged, to retain a non-geographic number as they comply with the terms of their NHS contract.

There is no evidence of any provider of telephone service to GPs failing to offer migration to 034 numbers. (This is clearly offered by the alleged largest provider of surgery telephone systems - see [this note](#).)

Because of the withdrawal of revenue sharing, a GP migrating from 084 to 034 would expect to incur additional costs. This should however simply amount to the full, unsubsidised cost of the services to which the GP is contracted. There is no rational reason why any provider would seek to take more from the arrangement when the cost is being met in full by their customer than when it is partly subsidised through the revenue sharing arrangement.

The full cost of its chosen telephone system, without the benefit of subsidy at the expense of patients, must be considered to be a "reasonable" cost for a NHS General Practice to bear. The step of migration from 084 to 034 must therefore be deemed to be a "reasonable step" to take, in order to comply with the NHS contract.

Whilst it may be fair for a provider to impose a modest administration charge to cover costs incurred in the process of migration, the imposition of any further charge, so as to make the cost incurred by the GP "unreasonable", would be a significant cause for concern. If a GP were able to provide evidence to show that its costs on migration were thereby "unreasonable", then the unusual practices of the provider would have to be revealed and made subject to public comment.

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Remind (clustered) PCT Chief Executives of their statutory duty

The GP contracts remain with the individual Primary Care Trusts, even though executive responsibility and formal accountability now rests with the 50 Cluster Chief Executives. The task of managing the relationship with GPs, including enforcement of the terms of these contracts is devolved to managers at a Cluster or PCT level, or to a regional agency.

Whatever the arrangements, there must be proper accountability, including that for the statutory duty to have regard to the NHS Constitution in exercising NHS functions.

GPs and the BMA

A close and mutually supportive relationship between PCTs and the GP community is a vital strength of the NHS. When, as is the case here, the interests of patients and GPs are set in opposition - and very directly, when it is simply financial interest - PCTs must recognise that they represent those of patients.

On this issue, the BMA GPC has declared its continuing policy in unequivocal terms - "***calls to NHS services should incur as low a charge as possible, but that this must be balanced by the quality of communications service that the patients are accessing***". This declaration is found in the preamble to [Guidance to Members](#) on how they should address the contractual requirements.

In my recent correspondence with PCT Chief Executives, many have quoted, and referred me to, the BMA GPC Guidance as if this were their authority for the policy they have adopted. The BMA is fully entitled to form whatever view it wishes in advancing the interests of its members. PCTs are required to form their own policy representing the interests of the patients whom they serve.

The Department of Health

Subsequent to guidance issued over the years, the DH had no imperative need to go beyond the terms of the contract revisions which it drafted.

The content of [a "Dear Colleague" letter](#) which was seen by PCTs with reference to the parallel Directions to NHS bodies was however most unfortunate in the way that it highlighted the fact that no specific number range was addressed by the Directions or the contract revisions. Many were misled by the statement that use of 084 numbers was not explicitly banned, when the current reality is that there is none that can meet the requirements.

It was also unfortunate that a decision was taken to disband the team of officials dedicated to this issue as soon as the Directions to NHS bodies had been issued and the GP contract revisions agreed. This meant that there has been little support for PCTs who have sought further advice and no effort whatsoever to ensure that implementation of the Directions and the contract revisions has been carried out effectively.

Many PCTs have been led to believe, since April 2011, that further guidance from the Department will be issued "shortly", despite the fact that no such action is specifically planned.

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Ensure that the will of parliament and government policy is carried out

The revisions to the GP contracts were, as is necessary, approved by parliament. They have not been effectively applied and enforced. Formal responsibility for this failure must rest with the PCTs. Many of them would argue that they have not been adequately equipped with the objective information and understanding necessary for them to carry out their role using their available resources.

Despite my considerable personal efforts to correct this failing, many have drawn on information and understandings offered by those who continue to oppose the intentions of the contract revisions. This is naturally slanted and incomplete, as it reflects a desire for the use of 084 numbers to continue. It is, of course, presented as if reflecting support for compliance and having appropriate authority.

In the absence of truly authoritative information and clear understandings delivered directly by those who genuinely support the intentions of the contract revisions, it is easy to see how implementation will fail.

This imbalance needs to be corrected.

At the core of government policy to reform the NHS is a repeated affirmation that the principles of the NHS, notably access to NHS services without charge to the benefit of the provider and the universal application of this right, are retained. It is therefore imperative that the necessary central control and monitoring of local activities be retained also.

For government policy to be seen to be effective in this respect, this present indication that the principles of the NHS are being set aside to support the interests of commercial telephone system providers and independent contracted providers (albeit of the special status held by GPs) must be clearly be seen to have been effectively dealt with. If not, then those who claim that the NHS is being privatised will have a powerful argument to deploy.

The government will surely wish to remove doubt about the extent of its commitment to the principles of the NHS and the effectiveness of measures taken to ensure adherence.

Engage opponents who are able to assist

Whilst some are known to believe that patients should pay for access to NHS services under certain conditions, they must set aside that view as they work to support compliant GPs.

The threat of enforcement action cannot bear directly on these parties, however a recognition that this is faced by their members and customers, respectively, should help to secure their proper engagement. It is my belief that proper engagement of all parties must be secured to ensure a most speedy resolution of the problem.

They are free to retain their position of opposition to the principles of the NHS and the government policy which affirms them. They should not be able to continue to promote and seek to enact this under the mask of agreement and the pretence of formal approval.

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GP representative groups

Local and national GP representative groups play a major role in the success or failure of measures such as these. The political arguments in favour of co-payment for access to NHS services advanced by the BMA were clearly rejected, although its policy position is retained. The BMA is currently seen to be seeking to achieve this objective by underhand means, including advice to its members that statements by Ministers are untrue.

On noting changes in position, I believe that the BMA and the LMCs are now ready to withdraw their misrepresentations of the terms of the contracts and of objective fact and support those GPs who wish to remain within the NHS and thereby comply with the terms of their contracts. I see no evidence of GPs wishing to accept the government's offer to serve NHS patients as "willing providers", but operating outside the NHS.

Telephone network and system providers

I have always argued that telephone service providers, both the big principals such as Talk Talk, and also their system provider agents, could well be in a position to ease the financial impact of migration to 03 by offering the best possible terms to GPs as customers. This would apply in particular to those GPs who may have not fully understood the implications of using 084 numbers when they first adopted them.

I believe that many system providers, such as the Daisy Group, wish to continue to provide telephone systems to the NHS and other elements of the public service. They must therefore be ready to ensure that they can do so with proper regard to the terms governing provision of public services, regardless of their own political views.

Companies in this position will undoubtedly be anxious to ensure that their reputation is not sullied by association with "hit and run" providers, who may have made large sums of money from the GP market, whilst making no attempt whatsoever to secure renewal of their arrangements beyond the initial term.

Ensure a mechanism is in place to protect the principles of the NHS

It is proposed that the function of commissioning primary care services, which is presently exercised by PCTs, will pass to the National Commissioning Board. This is proposed to be a national body, operating through local offices based on the present structure of PCT clusters, within a regional structure reflecting that of the current 4 "clustered" SHAs.

In addition to specific executive functions, the National Commissioning Board will have a key role in ensuring the integrity of the NHS as a national service, including application of its essential principles.

Under such a clear hierarchical structure it would perhaps be easier for the necessary action to be taken in a case such as this, where the function of enforcement is presently devolved to PCTs, which have a high degree of autonomy but very unclear lines of accountability.

Whatever the means used, action is necessary immediately, as the deadline of 1 April 2011 for the removal of use of expensive telephone numbers from the NHS (notwithstanding dentistry, pharmacy and ophthalmology) has long passed.

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My role

As a passionate supporter of our NHS and its principles, I have dedicated my talents and recently acquired knowledge and understanding of this matter to efforts focussed on an attempt to ensure that implementation of the provisions for which I have campaigned is effective. I have done so as a private individual with no professional or other interest in the matter, purely in the role of a "concerned citizen".

I stand ready and available to take on any suitable formal role in support of, or conducting, efforts to take this matter forward.
