



Implementing the ban on use of expensive telephone numbers (i.e. ALL 084 numbers) by NHS GPs

When the **Department of Health** first announced the provisions covering use of telephone numbers by GPs and NHS bodies, in [a news release of 14 September 2009](#), its intentions were made very clear:

“We want to reassure the public that when they contact their local GP or hospital, the cost of their call will be no more expensive than if they had dialled a normal landline number.”

Because of continuing confusion regarding the status of 084 numbers, and the possibility that future **Ofcom** provisions would change that of the 0845 range, use of 084 numbers was not explicitly prohibited (as it should have been in 2005). This lack of clarity sadly caused many to fail to recognise that under current conditions, which still prevail, **there is no 084 number which can meet the condition of not being more expensive to call than a geographic number**, assuming that consideration is made “having regard to the arrangement as a whole”.

Even though not explicit, there is a ban on use of 084 numbers, by NHS bodies and GPs, from which **NHS Direct** has been exempted and dentists, ophthalmologists and pharmacists excluded.

The exceptions from the ban on use of 084 numbers (which never apply!)

There are some perverse cases where callers incur a 'penalty charge' for an 'out of plan' call to a geographic number that is greater than the premium for calling a 084 number. In some cases the premium for calling 0845 (but not 0844) numbers is collected through Call Plan subscriptions, paid by all subscribers, rather than the call charge imposed on those which call these numbers. These however apply only to **some groups of callers**, NOT to **some 084 numbers**, all of which are more expensive to call for a large proportion (generally an overwhelming majority) of callers.

Understanding the ban, and the exceptions

The **Department of Health** sadly failed to take responsibility for noting and advising this reality, which applies at the point where telephone tariffs are set - i.e. for the UK as a whole. It is left to each practice, PCT and now PCT Cluster to work this out for itself. One hopes that as the **NHS Commissioning Board** takes responsibility for this matter it will be able to recognise that, under the terms of the Directions to NHS Bodies and the revisions to the GP contracts, **use of 084 numbers in the provision of NHS services is, in effect, banned**.

As a single body, one hopes that this determination will be able to be made once, not by each Local Area Team. As we are currently in a stage of transition, one hopes that it may be possible for the potential for co-ordinated central thinking to be applied through the existing separated structure. The fine detail of how enforcement action is conducted must be determined locally, but essential common underlying determinations, with no local component, have to be made for England as a whole. This is especially true when, as in this case, **the relevant provisions enact the fundamental principles of the National Health Service and the terms of its Constitution**.

Because of the failure to recognise that only certain groups of callers, rather than particular numbers, could give rise to an exception, there has been a foolish focus on the characteristics of the numbers themselves, rather than those who call them. This has enabled wholly false expressions of opinion about particular numbers to override proper consideration of the issue.





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Reasons for the failure by PCTs

PCTs, in general, have failed to enforce the terms of the GP contract revisions for a number of spurious reasons. I have encountered the following cases.

Misreading the contract

There are some who suggest that if a practice has been misled into a subjective belief that no caller pays more than the cost of a call to a geographic number, and can provide evidence of this error, then it is compliant with the terms of its contract in law. I personally find it unthinkable that parliament would approve so flawed a provision, and am at a loss to understand how this could be recognised without drawing attention to it, assuming that this is a valid legal opinion.

Taking advice from an interested party

It is perfectly reasonable for an existing provider of telephone service to seek to defend its position. It is obviously foolish to think that it is thereby best placed to offer objective advice about the call charges levied on callers by other telephone companies. It is clearly absurd to believe that the provider of service to the practice is able to offer an accountable assurance about the call charges set, both for geographic calls and calls to the practice, by providers to callers.

It cannot be seen as wise for a PCT to follow absurd suggestions made by those who represent the party at the “other side” of a contract, and openly responded to the public consultation by declaring their opposition to the principle of the provisions that were adopted.

Failing to note that GPs serving out systems contracts may still comply “reasonably”

Some have suggested that GPs under contract for provision of telephone service on a non-geographic number are unable to take the “reasonable step” of varying their arrangements by migrating to the 034 equivalent of their 084 number for the remaining period, and perhaps beyond. By regulation and in fact, calls to all 03 numbers cost no more than the cost of an equivalent call to a geographic number.

It is standard procedure in the telecoms industry to permit such migration, without penalty, at any point during the term of an arrangement. I have sought, but failed to find, evidence that some telephone service providers deviate from this industry standard policy; indeed there is no good reason why any provider would, as their interests are fully protected when this specially prepared migration path is followed.

Those who have argued that it is acceptable for a GP to benefit from subsidy at the expense of patients as they access its NHS services cannot be expected to draw attention to a potential remedy that may not be widely known. Likewise, the provider of the system funded by this subsidy is unlikely to encourage its customers to incur higher costs by foregoing this subsidy.

Inability to distinguish between “reasonable steps” and mitigating action in default

The terms of the contract make it very clear that practices MUST take reasonable steps to *“ensure that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls than they would make equivalent calls to a geographical number”*. Mitigating actions, such as a “call back” arrangement should only be considered where this is not possible.





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Failure to understand the essential and fundamental principles of the NHS

Perhaps the worst error being made is adoption of the principle that if patients have an alternative means of contacting the practice by telephone, then it is acceptable for a premium access option to be offered, at a premium cost. This is a classic case of offering a “Two Tier NHS”.

There is nothing in the relevant terms of the GP contract which makes reference to any alternative means of contacting the practice. Use of relatively expensive telephone numbers is prohibited, regardless of whatever other contact options (e.g. in person, online, by fax, by SMS or by an alternative telephone number) are available.

Patients are not simply being protected from having to call an expensive number; the NHS is being protected from premium services being offered.

I cover the detail of this in a separate briefing - [“Two Tier Telephone Access to NHS GPs”](#).

It is disturbing that PCTs are not only permitting GPs to use expensive telephone numbers if they offer a cheaper alternative, but in some cases **PCTs are actively promoting, or demanding, two-tier access to the NHS, at its very front door.**

Systems are typically configured to maintain a queue of callers on the (expensive) non-geographic number, chosen in favour of the 03 number which would enable precisely the same function. A concurrent geographic number enables access, but not to the queue.

At busy times, only those who call the expensive number get through. Other callers are simply denied access. This is why those who offer this two-tier service insist that callers use the expensive number in cases of emergency!

Premium access at a premium price may be seen as good value for money in a consumer setting, but for those who have the slightest comprehension of what the NHS is about, this is wholly unacceptable.

As stated above, there is nothing in the GP contracts to permit use of an expensive number where there is an alternative means of contact by telephone, it is simply prohibited.

Practices committed to continue paying off a lease on equipment installed at the surgery need not fund these payments at the expense of telephone callers. If they are able to provide telephone access for which callers pay no more than the cost of a call to a geographic number, then other means of telephone access must be withdrawn. (Migration to the 034 equivalent number is however a far better option than leaving the advanced facilities unused.)

As the NHS undergoes “reform”, I do not believe that we want to see it being characterised at its “front door” by two-tier access arrangements. This is now providing the model for new users of expensive numbers - see [“Two new cases”](#).

