



# NHS Regulations – Supporting GPs with Compliance

## Effective April 2012

### Background

In April 2010, the National Health Service (Primary Medical Services) (Miscellaneous Amendments) Regulations 2010<sup>1</sup> (the “Regulations”) came into force for NHS bodies. The Regulations provide 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.”

Our interpretation of the Regulations has always been that the “arrangement as a whole” must be a reference to the arrangements relating to a surgery as a whole, rather than the individual arrangements “as a whole” of each and every single patient of the surgery. We have taken this view because it is impossible, in our opinion, for GP practices (or Surgery Line on behalf of its customers) to make an informed assessment of each and every individual patient’s own arrangements and circumstances.

With that in mind, and in order to help GPs satisfy themselves that Surgery Line is compliant with the Regulations, we have undertaken an extensive analysis and comparison of what we consider to be a suitable sample of the geographic and non-geographic call costs from a range of mobile and landline providers. This analysis is intended to reflect the arrangements of the majority of patients and is summarised below.

### New Guidance

Further guidance regarding the use of 084 numbers in the NHS was published in February 2012. This guidance is, in our opinion, at times unclear and still leaves the “taking the arrangement as a whole” test open to interpretation. The new guidance does, however, helpfully provide that:

- (i) if evidence demonstrates that a specific number is not charging callers more than the cost of a call to an equivalent geographical number, then that number can be used; and
- (ii) where there is evidence that persons are being charged more than the cost of an equivalent geographical call, then all reasonable steps must be taken to ensure this does not continue, and such steps may include providing an alternative geographic rate number for patients to call. Separately, the Department of Health has also confirmed to Surgery Line its view that where there are “anomalous outliers”, “it would be reasonable for these to be discounted” in analysing compliance.

From the February 2012 guidance it is clear that the final decision on compliance rests with GP practices and NHS bodies and it is down to each GP practice and NHS body to satisfy itself that its arrangements are compliant.

<sup>1</sup> The National Health Service (Primary Medical Services) (Miscellaneous Amendments) Regulations 2010

<sup>2</sup> Hansard, Westminster Hall, 24th January 2012

## Our Analysis

**Calls from Landlines & Payphones:** OFCOM data demonstrates that 51% of total calls made and received in Q1, 2011 were from landlines and only 1% of calls made and received were from "public payphones or other" (Quarter 1, 2011, OFCOM Survey). For one of BT's most popular call plans, the BT Unlimited Weekend plan, individuals that call surgeries between 7 am and 7 pm Monday to Friday will pay 7.95 pence per minute to a local rate number, as opposed to 084 numbers called between the same times that are charged at 4-5.1 pence per minute. We believe this is the most comprehensive and best possible comparison for GP surgeries. A call set up charge of 13.10 pence (also known as a connection fee) applies to ALL calls, whether they are to a geographic or to a non-geographic number.

Currently, callers using Virgin's standard tariffs will be charged 8.16ppm to call some 084 numbers, compared with 8.68ppm to call a local rate number during daytime hours. All calls, both geographic and non-geographic, also include a connection fee of 13.24ppm. From April 2012, daytime calls costs to local rate numbers will increase to 9.94ppm, whilst the cost of calls to some 084 numbers will remain at 8.16ppm with a connection fee of 14.94ppm for both geographic and non-geographic numbers.

**Calls from Contract Mobile Phones:** OFCOM data demonstrates that calls from mobile phones accounted for 46% of total calls made and received in Q1, 2011 (Quarter 1, 2011, OFCOM Survey). In 2011, for the first time, the majority of call minutes originated from mobile phones.

**Comparing "in bundle" calls:** The mobile phone market as a whole is a complex and difficult area to unravel. Due to the complexity of call/text/data bundles/packages, it is virtually impossible to ascertain the exact cost of making a call to a surgery as part of these bundles/packages. In fact, ascertaining the cost of a mobile "in-bundle" call is near impossible, since the true cost per minute depends on the extent to which users utilise their phone voice allowance – a call cost for using 100 out of 600 in-bundle minutes will not be the same as the cost per minute of using all 600 minutes provided. It is therefore critical to highlight that contract mobile phone bundles/packages, as well as landline, broadband and television bundles provide inclusive allowances in return for a monthly fee. In-bundle calls are therefore NOT free and it is important that patients understand this point when discussing costs of calls.

**Comparing "out of bundle" calls:** We have therefore sought to clarify the comparative costs of calling geographic and non-geographic numbers outside of bundles/packages as this provides the most objective comparison. Our analysis from data provided by Pure Pricing, a consultancy used by OFCOM, shows that on average between November 2010 and November 2011 (inclusive) the cost of a 3 minute call (being the average length of a call to a surgery with Surgery Line from the point of connection with the surgery) to an 084 number from a contract mobile phone, on average, was equal to or less than calling a local rate number at the same time and for the same duration using standard tariffs from all major providers from the same phone (Mobile Network Operators including Tesco, Everything Everywhere and Vodafone, representing 93% of the market).

**Comparing Pay As You Go (PAYG) Mobile phones:** On average, PAYG owners use their phone significantly less frequently than contract users. The number of PAYG connections is reducing in favour of mobile contracts as consumers realise that it is more cost effective to use contract mobile phone packages, where usage costs are typically much lower. Our analysis of the standard tariffs used by leading providers (who between them have a 55% market share) shows that in November 2011, on average, calls using those tariffs were either the same price or less expensive to call non-geographic numbers on than equivalent local rate numbers for a 3 minute call (from the point of connection with the surgery).

We will of course continue to monitor the marketplace on behalf of our GP customers to support them in making a decision about their compliance.

## Conclusion

The analysis set out above is provided to help GP's to satisfy themselves that Surgery Line is compliant with the Regulations. Even if GP's are unable to satisfy themselves on compliance based on this analysis, the new guidance indicates that the installation of a concurrent Daisy local rate line alongside an 084 line will ensure compliance and allow both patients and staff to continue to benefit from the enhanced telephony system (although patients calling the Daisy local rate line will not receive the enhanced features available on the 084 number).

For further information, call us on 0800 988 33 33 or visit our website <http://www.networkeuropegroup.com/gps.html>

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