

Supporting NHS GPs using Surgery Line in compliance with the contractual requirements for non-geographic telephone numbers

Introduction

The comments which follow are essentially in response to a publication by **Daisy Group**, entitled “**Surgery Line - NHS Regulations – Supporting GPs with Compliance - Effective April 2012**”. I introduce this document in a blog posting - [Supporting Surgery Line](#).

I aim to address the points made by **Daisy** and to offer my own comments on how **Surgery Line** users can continue to honour all of their contractual obligations whilst providing the benefits of “enhanced telephony” in their delivery of NHS services.

I will be pleased to deal with any comments in response to my remarks and to provide additional references and source material. I invite readers to verify all of the content, as necessary. This document applies my current knowledge and understanding of the points covered, as at the date given below. It may be revised and re-issued.

Contents

Throughout this text I provide direct links to an uploaded and annotated copy of the latest version of the **Daisy Surgery Line Support document**. The phrases referred to below are marked with numbered highlights, identified here as [*].

I also refer to relevant parts of §29B of the GMS contract by number [§]. These markings offer direct links to a copy of the relevant text. This text represents the complete definition of the requirements which apply to NHS GPs covering use of non-geographic telephone numbers.
(PMS and APMS contractors may note that the terms of their contracts include identical provisions.)

I address two aspects of the issue, as covered by the **Daisy** document:

1. Compliance with the terms of the contractual requirements introduced on 1 April 2010, covering use of non-geographic telephone numbers by NHS GPs.

[The essential issues raised](#)

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2. The continuing, and increasingly bizarre, attempts to suggest that callers do not pay more to call type g6 and type g11 0844 telephone numbers than geographic numbers.

[The approach to compliance with NHS regulations suggested by Daisy](#)

[The detail of relative call costs](#)

[A selective view](#) and [The wider view \(Looking at the situation widely\)](#)

[Considering inclusive \(unlimited\) and bundled calls](#)

I conclude with a brief summary of what I understand to be necessary for **Surgery Line** users to establish and achieve [Compliance](#).

(see also the navigation ‘Bookmarks’ in the pane to the left of the screen.)

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The contractual requirements

The essential issues raised

For those already using non-geographic numbers on 1 April 2010, the action required depends on the determination of:

“whether, having regard to the arrangement as a whole, persons pay more to make relevant calls than they would to make equivalent calls to a geographical number” [§29B.1] [*11].

If they do not pay more, then no further action is required.

(*Daisy seems to be arguing that no action is required* [*16][*53], *but yet that action is required* [*54]. This serves to highlight the increasingly complex nature of successive attempts to support the bizarre claim that callers do not pay more to call the 0844 numbers used for **Surgery Line**, when this is blatantly untrue.)

If they do pay more, then contractors **must** take “reasonable” steps to **ensure** that this situation ceases [§29B.2.2]. As GPs cannot determine the charges levied by telephone companies for calling particular types of number, this has to involve changing the telephone number used.

(Following *Daisy's suggestion to introduce an alternative number would make no difference to what callers pay to call the original number, if this remains in use*, as suggested by *Daisy* [*54]. It is only if the alternative number **replaces** the expensive number that a practice would **ensure** that callers cease paying more than the cost of an equivalent call to a geographic number [*24].)

Only if no “reasonable” step is available to ensure that callers do not pay more, must contractors **consider** other measures for relieving the situation [§29B.4]. A call back system is the only measure referred to in the actual contractual requirements, however the possibility of considering other measures, such as introducing an additional concurrent line [*54], is not precluded.

(It is important to understand that *Daisy's suggestion of adding an additional concurrent line cannot amount to a reasonable step to ensure that calls do not pay more. It need only be considered if callers do pay more and no reasonable step to prevent this is available. Whilst the former is true (although disputed), the latter is untrue (as I explain below - [Migration to 03 - the reasonable step available](#)).*

The only measure that amounts to complete compliance, if the number currently in use causes callers to pay more, is taking a reasonable step to **ensure** that callers do not pay more, i.e. ceasing use of that number. (It would not be reasonable for a practice to consider negotiating guaranteed special terms for calls to its surgeries with every provider of telephone call services to its callers.)

If an expensive number is retained, compliance may only be achieved by demonstrating that following an available step which would ensure that callers cease to not pay “more” is not “reasonable”. Despite claiming to be **“Supporting GPs with Compliance”**, *Daisy* fails to offer advice on whether the terms it offers for migration to 03 are unusual and thereby ‘unreasonable’.

Those not using non-geographic numbers on 1 April 2010 are simply prohibited from entering into an arrangement whereby callers pay more [§29B].

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Adding a concurrent Daisy local rate line

If the original number being used **is not** more expensive to call, then compliance is not in question [*22]. Adding an additional concurrent line [*54] under such circumstances would serve only to complicate the arrangements. **Daisy**'s suggestion that some action is necessary to achieve compliance indicates an admission that callers do pay more, as it would otherwise be a wholly unnecessary expense for the practice and would simply create confusion for patients.

If the original number being used **is** more expensive to call [*23], then it is only if the introduction of "**an alternative geographic rate** (i.e. 01/02/03) **number**" [*24] **ensures** that callers will not pay more, by not calling the original number, that it could have any bearing on compliance [§29B2.2].

If the original number is retained, offering the benefit of a better service alternative at higher cost [*55], this would represent an additional breach of the fundamental principles of the NHS - offering what is known as a 'two-tier' service.

*(The concept of a two-tier service may be quite natural to **Daisy**. PCTs and practices will recognise that it has no place in our NHS, where choice is never linked to price.)*

Daisy claims support for its suggestion that its customers acquire an additional telephone line from the "Further Guidance" recently issued to NHS Managers and contractors by the **Department of Health** [*21]. This refers to the possibility that providing an alternative geographic rate number **may ensure** that persons do not pay more (as quoted by **Daisy** [*24]). Some very particular measures would however be required to achieve this if the original number remained in use, rather than being replaced by the alternative.

The degree of understanding of telephone charges, notably in the context of information previously issued by many practices about what is paid to call 0844 numbers, denies the possibility of **ensuring** that persons do not pay more by simply publishing two numbers. *(The principle that 'choice' in the NHS is never linked to price has recently been strongly re-asserted. This applies whether or not the patient has the information necessary to make the choice.)*

It is vital to understand that the Department of Health "Further Guidance" can only comment on the provisions of the contracts, the terms of which are specified in statute. It cannot revise them, nor can it be considered to form part of the actual contractual provisions, which remain in force.

It cannot provide any authority for interpretation of the terms of the contractual provisions. Its primary function is to correct obvious and specific misrepresentations that have been circulated.

*It is not "New Guidance" [*21] that can alter the position. It is "Further Guidance" on unchanged provisions which came into effect in April 2010, but have been misunderstood and misrepresented. It can only be "new" to those who have misunderstood, or misrepresented, the provisions.*

Reasonable steps that may be taken to **ensure** that callers do not "pay more" **must be taken** to achieve compliance [§29B.2.2]. If callers are not paying more, then no action is necessary. A step that fails to ensure that callers do not "pay more" has no bearing on compliance.

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Migration to 03 - the reasonable step available

In covering this matter, I also address [The effect of migration from 084 to 034](#) and [NHS service providers and their business partners](#).

For those seeking to, or contractually obliged to, retain the features of a non-geographic number (sometimes referred to as “enhanced telephony”), the only way of achieving compliance is by migrating to a 03 number. 03 numbers provide an assurance of compliance, because the charge for calling a 03 number is assuredly no greater than that of calling a geographic number [§29B.2.1]. (*This is confirmed and explained by Ofcom and acknowledged by Daisy.*)

At one time, **Ofcom** was considering the possibility of applying similar charging conditions to 0845 numbers (although never 0844). Some telephone companies, notably **BT**, anticipated this expected move by making calls to 0845 numbers inclusive in packages. The **Department of Health** had to take this possibility into account by not applying an explicit ban on use of 084 numbers in 2009. **Ofcom** has however now abandoned this idea, have made a determination that 03 shall remain as “**the only geographically rated non-geographic number range**”. (*If the contractual requirements were to be re-drafted in the light of this decision, then they could be much simpler - specifying 03 as the only non-geographic range that could be used in the provision of NHS services.*)

Surgery Line is offered on the 034 range of 03 numbers - see [Different Number Ranges](#). This range is reserved exclusively for the purpose of migration from the equivalent 084 number. Migration to 03 is therefore a step that is available to **Surgery Line** customers [§29B2.2][§29B.3.1]. Whether or not it is a “**reasonable step**” depends on whether **Daisy** follows standard industry practice, or if it seeks to exploit or penalise those wishing to follow this obvious path to compliance.

It is normal practice in the telecoms industry to offer migration between non-geographic ranges at any point during the term of a contract without penalty. Ownership of the 034 equivalent of every 084 number is reserved to the owner of the 084 number - both the provider and the user. All non-geographic numbers provide identical technical “enhanced telephony” features. Migration from 084 to 034 makes no difference to the operation of the **Surgery Line** system, nor to the balance of the interests of the respective parties to the telephone service arrangements.

Apart from the disruption caused by changing (only the second digit of) the published telephone number, the only implication of a change from 084 to 034 is with the way that the money flows. Revenue sharing (from the originating to the terminating telephone company) is prohibited. The caller ceases to pay more than the cost of an equivalent call to a geographic number and the practice (*consequently*) loses the benefit of the revenue share as a subsidy offsetting its costs.

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The effect of migration from 084 to 034

There is no necessary material effect on the providers. **Talk Talk Business** provides the telephone network service to most, or perhaps all, **Surgery Line** users. I understand that **Daisy** acts as a reseller of this **Talk Talk Business** service, is the provider of some system components (as an agent for equipment providers, notably **Avaya**), provides some services directly and also acts as the agent for a finance company in a leasing arrangement.

For the providers, migration from 084 to 034 causes their variable income from revenue share to fall to zero, so that all costs are simply met by the practice, rather than the practice receiving or paying the balance that remains. Existing arrangements already address the variability of the income from the revenue share, which depends on the volume of calls to the revenue sharing number over the relevant period, i.e. how much premium revenue has been shared, from the additional call charges paid by callers.

On 03 numbers, because call originators cannot charge the higher rates necessary to support revenue sharing, which is prohibited, the full cost of the services must be met by the practice. As with calls to geographic numbers, callers pay their provider only for connecting the call.

The network provider to the practice will normally charge for the additional services ("enhanced telephony") by adding a charge for receiving calls, rather than as a rental addition. This mirrors the way in which network providers cover their costs when revenue sharing is in effect.

This variable charge is applied by the network service provider in place of the variable residual credit that normally remains after the costs of the network services have been met from the revenue share. This residual credit would be used to offset system costs, before the balance (debit or credit) is applied to the **Surgery Line** user's account. With a charge replacing the residual credit, and no relief of the system costs, the full cost of the system and whatever additional network services ("enhanced telephony") are deployed falls on the practice.

On a 03 number, the **Surgery Line** user will therefore be paying the full cost of the **Surgery Line** system, without the benefit of the subsidy derived from the premium charges paid by callers. There is no good reason why **Talk Talk Business** or **Daisy** should take more revenue by charging any more for their services when a 03, rather than a 0844, number is used - they simply have to levy charges on the practice to replace the subsidy received from the revenue share.

Because the charge for "enhanced telephony" is generally variable, being based on call volumes, this variability is likely to remain when the features are delivered through a 034, rather than 084, number.

The value of the revenue share is roughly equivalent to a retail charge (including VAT) of 4p per minute on type g11 0844 numbers, 5p per minute on type g6. This is the additional charge (notwithstanding further additional charges added by their phone providers) which callers are paying to call these numbers.

These values provide some indication of the amount by which practices should expect their bills to increase when migrating to 03.

*(The above comments address the general principles normally followed by the telecoms industry. It is possible for **Talk Talk Business** and / or **Daisy** to offer other arrangements.)*

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NHS service providers and their business partners

Independent bodies contracted to provide NHS services are provided with funding, from which they are expected to be able to meet the associated business costs for the facilities they use in delivering NHS services. (*In some cases, e.g. IT, special arrangements may apply.*)

GPs are renowned for their commercial awareness and expertise, as well as their dedication to the principles of the NHS, which is why they have been chosen to lead **NHS Clinical Commissioning Groups**. I cannot therefore fully understand why any practice should be unaware of how the commercial aspects of **Surgery Line** operates, nor indeed be reluctant to ensure that it carries total responsibility for the cost of its chosen telephone system.

It cannot be said that it is 'unreasonable' for a practice to meet, in full, the costs of a telephone system it has chosen to use. This is what applies in the case of all practices using geographic (or 03) numbers. It is however 'unreasonable' that **Surgery Line** users have been benefiting from a subsidy at the expense of patients and other callers up to date, by using 0844 telephone numbers.

Varying their telephone service arrangements (not their systems) by migrating from 084 to the equivalent 034 number must be seen as a "**reasonable step**" [§29B2.2][§29B.3.1]. Only if **Daisy** applies unusual conditions to inhibit such migration, could this step be seen to be unreasonable.

I have long argued that **Talk Talk Business** and, what is now, **Daisy** should be in a position to assist existing **Surgery Line** users in migrating to 034 numbers for the remainder of their existing contracts. Whilst both are entitled to maintain their charges, simply transferring the burden thereof from the patient to the practice, they could find ways to relieve some of this burden.

One would hope that care would be taken to ensure that that the best possible terms are applied, and the potential for sacrificing some revenue be considered, as a gesture of goodwill. In the light of what has gone before, it would not be absurd to think that major companies with valued public reputations may be keen to do all they can to help ease their customers into compliance with the principles of the NHS, as now explicitly reflected in contractual conditions.

Daisy is seeking to sell extra services [*54], as an alleged support for compliance, rather than providing financial assistance for migration. This indicates that such help is unlikely to be forthcoming. **Daisy**'s failure to offer 030 numbers for new **Surgery Line** customers (the 034 range is exclusively available for migration), suggests that it believes the full cost of the **Surgery Line** system to be unaffordable for new customers.

It could appear that **Daisy** is seeking to squeeze every last drop of revenue out of a dying product, which was never properly sustainable. I have been disappointed to find that, on acquiring and adopting the **Surgery Line** product, **Daisy** has not sought to secure renewed business from those who are ending their contracts and new business from those who are not interested in wriggling around the edges of compliance with their contractual duties and the principles of the NHS.

If **Daisy** wishes to assist **Surgery Line** users in achieving formal compliance with their NHS contracts without migrating from 084 to 034, then it could do so very effectively. It simply needs to openly and clearly show that taking on the cost of the **Surgery Line** system would not be a "**reasonable step**", if the cost had to be met without subsidy at the expense of callers. This would provide the only compliant basis for continuing use of a number which callers pay more to call, by eliminating the option of migrating to 03, through failure of the 'reasonableness' test [§29B.4].

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The approach to compliance suggested by Daisy

I comment on the general approach offered to the issue of the assessment of relative call costs.

I do so expressing some surprise that this rather silly argument continues, despite it being suggested [*54] that **Surgery Line** users need to take some action in order to achieve compliance with their NHS contractual obligations. Action is only necessary if callers pay more than the cost of an equivalent call to a geographic number [*22].

I offer [my own publication of relevant relative call costs](#), by simply quoting from (and linking to) the published tariffs for widely used telephone services. These show what persons pay.

This table indicates that unless callers to a practice can be shown to use only a very narrow range of telephone services, then they pay more to call the type g6 and type g11 0844 numbers currently used for **Surgery Line**, than for equivalent calls to geographic numbers.

(*I do not believe that the necessary evidence of such restricted use of telephone services could be assembled - nor does Daisy [*15].*)

"The arrangement as a whole"

Daisy offers its commercially based view of the requirements, as they would apply to a business in the consumer marketplace [*12]. **Daisy** is not a NHS body, nor a contracted provider of NHS services. Perhaps this is why it fails to understand the NHS and appears to be unaware of the statutory duty to "**have regard to the NHS Constitution**" ([Health Act 2009 - Section 2](#)). This duty applies to NHS-contracted GPs and Primary Care Trusts and determines the way in which they have to consider the interests of patients.

The opening paragraph of the NHS Constitution (the first of the 7 [key principles](#)) states:

"The NHS provides a comprehensive service, available to all ..."

"It has a duty to each and every individual that it serves".

This key principle is tied to the [value](#) that "**We ... make sure nobody is excluded**", and the [right](#) "**to receive NHS services free of charge**".

Because they must have regard to the NHS Constitution, those providing NHS services, and those charged with enforcing compliance with the contractual conditions relating to that provision, are unable to follow **Daisy** in dismissing consideration of the relevant interests of each and every patient [*14]. (*There is no need to consider "all of their individual arrangements" [*15]*)

The "**arrangement as a whole**" does indeed refer to "**the surgery as a whole**" [*13], [including](#) each and every patient that it serves. It also includes other callers [[§29B.5.2.2](#)].

The right to access NHS services without incurring a charge to the benefit of the provider is not conditional upon one's choice of telephone service arrangements. It is neither necessary nor appropriate to consider these arrangements in detail [*15]. One must simply consider what callers pay to call the surgery as against what they pay to make equivalent calls to geographic numbers. If at least a significant number of them pay more, then "reasonable steps" must be taken.

*(By suggesting an approach that is fundamentally incompatible with the NHS Constitution, it would seem that **Daisy** either does not understand the NHS, or seeks to change or undermine it.)*

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Relative call costs

The analysis undertaken and reported is irrelevant to the issue in question, not least because it seems to be attempting to find some “majority” position [*18]. It chooses however to focus instead on carefully selected “samples” of call costs [*17]. I address the ‘selectivity’ [below](#).

It would appear that this switch takes place because the analysis would be unable to deliver the desired conclusion if it addressed the vast majority of calls to geographic numbers, which are made under the terms of inclusive packages. This applies to both landlines and mobiles, although it is only discussed in the context of the latter [*41-43]. I cover this issue [below](#).

Payphones

These are disregarded [*31], although the “Further Guidance” points out that there is nothing in the requirements to permit them to be ignored. They were mentioned in the Westminster Hall Debate on 24 January 2012 referred to by **Daisy** [*27], at [column 55W](#) - “**The regulations cover landlines, mobiles and payphones equally**”. This point has been made many times.

(*It may be recalled that, at one time, **Daisy/NEG** claimed that the requirements did not require consideration of calls from mobile phones - see [these comments to the media](#) [*41]. **Daisy** confirms this point In [these “facts”](#), where it also suggests that landline calls from providers other than BT need not be considered.*)

A call of more than 30 seconds costs vastly more to a 084 number than to a geographic number.

Landlines

“**Anomalous outliers**”, e.g. callers who incur a penalty charge for calling a geographic number outside the terms of their chosen call plan, could perhaps be disregarded by some [*25].

Rather than disregarding this example of an anomalous (*and, in the case of **BT**, wholly perverse*) situation, **Daisy** uses this case as its only example for **BT** [*32], suggesting that “**this is the most comprehensive and best possible comparison for GP surgeries**” [*33].

The analysis does disregard the most widely-used landline tariff - **BT Unlimited Anytime**.

It is only in one case that the analysis addresses a particular type of number and gives a specific call charge - 0844 call type g11 for **Virgin Media** at 8.16 ppm [*34].

It however disregards the type most widely used by Surgery Line customers - 0844 call type g6. At 12.41 ppm for **Virgin Media** callers, this is seen to be more expensive than the comparative geographic call cost used (*the ‘out of plan’ penalty charge*).

Again the most widely-used **Virgin Media** tariff - **Talk Unlimited** is disregarded.

75% of calls made by **Virgin Media** residential customers are covered by inclusive packages. In this sizable majority of cases the customer pays nothing for the call if calling a geographic number, not 9.94 ppm [*35] plus 14.94p (*the connection charge is only paid once, not every minute*) [*36].

As is also true for **BT** and other providers, **Virgin Media** is increasing these penalty charges for ‘out of plan’ calls to geographic numbers at a rate well above inflation. This both reflects and encourages a high rate of take up for the most inclusive package that matches the pattern of calling. Calls that are always excluded (e.g. to 0844 numbers) are not covered by this move, although they are affected by the parallel increases to the connection charge / call setup fee.

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Mobiles

The analysis considers the cost of calling a group of types of number (all 084 numbers) [[*45](#)], including types (0845) that are much cheaper to call than the numbers in question (and are more widely used). It therefore provides no useful information, as it fails to address the point at issue.

Special conditions currently apply to charges for calls to 0845 numbers from all mobile phones due to an ongoing commercial dispute between the mobile operators and **BT**. Whilst this continues, the mobile operators have been obliged to reduce their rates for 0845 calls. Although the effect of this is seen in the figures used in the analysis [[*45](#)][[*52](#)] it has no bearing whatsoever on the cost of calling the 0844 numbers used for **Surgery Line**. (*This point applies to both Contract and PAYG.*)

PAYG phones are rarely used for calls to non-geographic numbers, due to the considerable additional expense [[*51](#)]. One notable exception is the special 080 helpline and DWP numbers that are free to call from mobiles. By selecting calls to all non-geographic numbers [[*52](#)] in the analysis of costs in this case, **Daisy** ensures that the ‘cost’ of these calls is also included.

A selective view

Since 2004, **Surgery Line** has been promoted on the basis that it costs callers no more to call a 0844 number than to call a geographic number, even though this has never been true.

*(It is only since the recent marked increase in the unregulated penalty charges for out of plan landline calls to geographic numbers that any call to a geographic number has been more expensive than the regulated cost of a call to a 0844 number through **BT** and those who follow its perverse pricing structure. Three years ago it was possible to say that every call to a 0844 g6 and g11 number was more expensive than a call to a geographic number.)*

Having been required to cease considering only **BT** and then to cease considering only landlines, it is quite remarkable to see attempts to maintain this fiction continue. As indicated above, some very particular approaches have to be taken to achieve the desired result [[*16](#)][[*53](#)].

This latest effort is characterised by considering only Out of Plan and Out of Bundle penalty charges for calls to geographic numbers [[*32](#)][[*35](#)][[*44](#)], even though they only represent a small proportion of calls made. It could be fairly argued that these are the “anomalous outliers” [[*25](#)].

In the case of Mobile Phones it has also been necessary to use aggregated figures [[*45](#)][[*52](#)], including numbers that are cheaper to call than those used for **Surgery Line**.

The wider view

The vast majority of calls to geographic rated numbers made today are covered by a bundle or “unlimited” package. That is how all landline and contract mobile services are sold; bundles are also increasingly being used with PAYG deals. Calls to 0844 numbers are invariably excluded from such arrangements (apart from some high cost ‘premium only’ bundles).

(The situation with 0845 numbers is more complex for a variety of reasons and should not be used to confuse the much simpler position with 0844, and 0843, numbers.)

Originating call providers have to pay on a revenue share equivalent to 4p or 5p per minute in the case of the 0844 numbers used by **Surgery Line. It is natural and inevitable that this cost is passed on to callers and that these calls cannot be covered by packages.** Many in the telecoms industry think it bizarre that there is seen to be any grounds for discussion of this issue.

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Looking at the situation widely

The one [Surgery Line customer case study](#) that remains linked to the [website](#), [others](#) having been de-linked following [intervention by the ASA](#), includes a notable quotation.

"I've met a number of practice managers who think that Surgery Line sounds almost too good to be true," says Chapman [Richard Chapman, then CEO of NEG], "but after it's been installed, they realise that NEG delivers everything we promise, and more."

Whether or not **NEG / Daisy** can deliver the apparently impossible at its own expense, practice managers could do well to consider whether the suggestion of what telephone companies do sounds too good to be true. Practices are being asked to believe that call originating telephone companies deliver a 4p or 5p per minute equivalent revenue share benefit to subsidise the surgery telephone service and system, via **Talk Talk Business** (probably) and **Daisy**, without recovering this money from the caller.

When someone promises something that sounds too good to be true, one is generally best advised to look carefully and take independent advice. If they claim that they have delivered it, when doing so depends on the commercial decisions of others, over whom they have no control, one should be especially careful.

Daisy is very right to now encourage caution [*26] on the part of those who may have been previously misled into believing that ***"the Department of Health would be happy for an NHS body such as yours to get this reassurance in the form of this letter from NEG to you confirming that the cost of calls via the Surgery Line solution is no higher".***

As [stated above](#), it is right that independent and commercially aware businesses make their own judgements about how to apply the principles of the NHS and deploy their resources interacting with other businesses of which they are the equal. As providers of public services, they can answer for themselves to those who hold them to account for compliance with their contractual duties.

Considering inclusive (unlimited) and bundled calls

Daisy rightly makes the point that it is not a simple matter to compare the economic cost of calls invariably excluded from packages with those which are included [*42].

It therefore totally ignores landline calls made under the terms of inclusive packages [*32][*35] and mobile calls made under the terms of bundles [*45][*52], even though these represent the overwhelming majority of calls made by residential customers. It is possible that some may be misled into believing that the penalty charges incurred for making 'out of plan' calls are intended to be representative of the cost of inclusive calls. The use of selected cases is acknowledged [*17], but the conclusions fail to indicate that the very limited nature of the analysis renders it worthless.

If one were conducting a study into the economic **cost** of telephone calls, it would indeed be necessary to consider all factors, but it would be improper to ignore the majority case.

This is however not what is required in this matter, which is about whether or not callers **pay** more to make one type of call as against another. The contractual requirement is simply to consider what "persons pay" to make calls to a GP surgery **[§29B.2.1]**.

When calling their GP surgery, patients have already chosen a telephone calls package. They **pay** extra to make some calls, but not to make others.

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Nothing is totally “free” [*43]; one should factor in an element of the line rental and handset cost, as well as considering many other issues, if seeking to determine the true economic cost of a hypothetical telephone call.

It is however simply and absolutely true to say that a caller pays nothing for a call that is covered by an unlimited package, or a limited bundle that will not be fully used.

If anyone wishes to engage in a debate about the relative economic cost of calls to 0844 as against geographic numbers, then I would be ready to join them, if it were deemed to be relevant. It would be interesting to hear justification for an argument that call originators invariably absorb the cost of revenue sharing, rather than passing it on to callers. **Daisy** does not!

I do not believe that this is necessary in relation to this matter. I do however see it is as necessary not to wholly disregard the majority case, simply because it is inconvenient.

A determination of “what persons pay” should be very clear for any practice as they consider compliance with the terms of their NHS contract ...

Compliance

I believe that every practice will have a significant number of patients and other callers who subscribe to **BT Unlimited Anytime** - the most widely used residential landline tariff, its equivalents from other landline call service providers (e.g. **Virgin Media Talk Anytime, Talk Talk UK Talk Anytime**), or a mobile contract call bundle that they do not exceed.

For all of these callers, they pay no call charge to call a geographic number. They pay a call charge from over 4p up to 41p per minute to call a type g6 or g11 0844 number. That is “more”.

There are also many cases where callers pay for calls to geographic numbers and pay more for calls to type g6 or g11 0844 numbers.

These cases cannot be dismissed as “outliers”, these persons pay more to make relevant calls than for an equivalent call to a geographic number [§29B.2.1], so a “reasonable” step that is available must be taken to ensure that this ceases [§29B.2.2].

Where it is reasonable for a practice to terminate its arrangement for the supply of network telephone service on a 0844 telephone number, it may chose to do so [§29B.3.3]. In the case of **Surgery Line** however, this arrangement is linked to other services and (in particular) leasing agreements, and so is likely to cause sizeable early termination penalty charges to be incurred.

The obvious variation to the arrangement [§29B.3.1] is to migrate from 084 to the equivalent 034 number, as is offered by Daisy, retaining the existing arrangements in all other respects. Even though the deadline for this action (31 March 2011) [§29B.2.1/2.2] has passed, I see no reason to continue in possible breach of contract.

If **Daisy** deviates from the standard industry practice by imposing ‘unreasonable’ penalty charges for migration from 084 to 034, in a situation where **Talk Talk Business** (along with other telecoms companies) would impose no penalty, then it is for **Daisy** to confirm this and explain why.

Only if migration can be clearly shown to be ‘unreasonable’, i.e. the practice would incur costs over and above those of maintaining its chosen telephone system at its own expense (e.g. on a 03 number), may the 0844 number remain in use [§29B.4].