



**fair telecoms campaign**

**open message**



**To Jeremy Hunt MP, Secretary of State for Health -  
NHS GPs using 'Surgery Line'**

From: David Hickson - **fair telecoms campaign**

To: Jeremy Hunt MP, Secretary of State for Health (also distributed and published)

The **fair telecoms campaign** has, for many years, been aiming to see the principles of the NHS restored to cover access to GPs by telephone. Many GPs use "**Daisy Surgery Line**" and subsidise the cost of this system by use of 0844 telephone numbers. The source of the subsidy is the "Service Charge" of around 4/5p per minute incurred by every caller to the selected number types.

This, indirect, imposition of a charge for access to NHS services is a breach of the fundamental principle that NHS providers may not fund their services by charges on users. It was not until April 2010 that this improper activity was explicitly outlawed by revisions to the GP contracts.

The Service Charge inevitably creates a total call cost in excess of that to call a geographic rate (01/02/03) number. There are a few landline callers who incur an even higher "penalty charge" for calling geographic numbers outside the terms of their chosen Call Plan. (The present asymmetric regulation of BT causes this perverse effect for a small proportion of its customers.) These few exceptional cases should not distort assessment of the "arrangement as a whole".

## **Contract revisions**

Revisions to the NHS contracts held by GPs were introduced from 1 April 2010, to cover both new and existing telephone arrangements. (In the GMS contract, these appear as clause 29B).

- With effect from 1 April 2010, a NHS GP may no longer ***"enter into, renew or extend a contract or other arrangement for telephone services unless it is satisfied 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"***.
- Those who had entered into arrangements whereby persons do ***"pay more"*** before 1 April 2010 were required to ***"take all 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 to make equivalent calls to a geographical number"***.

The obvious "reasonable step" for those committed to continue using the **Surgery Line** system is to migrate from their 0844 number to the equivalent 0344 number. This ensures that callers no longer incur a "Service Charge", paying only the geographic rate, with no effect on the commercial interests of **Daisy Surgery Line Ltd** and the operation of the **Surgery Line** system.

No evidence has been provided to show that this step was or is unavailable or unreasonable. Further provisions in the contract terms, to cover cases where no "reasonable step" could ensure that callers did not "pay more", are therefore irrelevant.

Given that ***"satisfied that"*** precludes acceptance of false advice and a need for evidence that an apparently ***"reasonable"*** step could not be taken, this is **a ban on use of 0844 numbers**.

## **Guidance**

In February 2012 your Department issued Guidance on this matter. Regrettably, this failed to refer to the ***"reasonable step"*** of migration to 0344, which is available to all users of 0844 numbers. Neither did it refer to any exceptional unreasonable terms which **Daisy Surgery Line Ltd** may apply to those requesting such migration, in contrast to the policies of other telephone companies.

**David Hickson**



Tuesday, 26 March 2013

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The Guidance also failed to point out that the requirement to “**ensure that ... persons will not pay more**” cannot be met by retaining such a number whilst offering an alternative inferior means of contacting the practice. Breaches of the terms of the contract have been aggravated by breaches of the principles of the NHS. Many practices have introduced a “two tier” service offering an inferior access option on a geographic telephone number, whilst retaining the normal access through an expensive 0844 number. Some claim that this in line with the Guidance.

It is my understanding that your officials cannot use Guidance to remove explicit requirements from contract terms sanctioned by Statutory Instrument (i.e. that to “**ensure ...**”).

## Your position

In reply to parliamentary questions addressed to yourself, your minister Dr Dan Poulter has provided a number of written answers on the subject, all of which make the same points as contained in the following extract from that given on 27 November 2012 - [[Col 212W](#)]

**“084 numbers ... may only be used when they do not charge patients more than the cost of an equivalent call to a geographic number. ... it remains the responsibility of primary care trusts to ensure that general practitioner practices are compliant with these directions.”**

*(Charging for telephone calls is of course done, not by numbers or GPs but, by telephone companies, all of which recover the “Service Charge” component of their cost in placing calls to 084 numbers.)* **There is no telephone service provider which does not charge more for calls to 0844 numbers than for equivalent calls to geographic numbers.**

## The position of PCTs in the South East of England

PCTs across the country have offered a variety of reasons for their failure to discharge their responsibility “**to ensure that GPs are compliant**” with the terms of their contracts. I could offer an extensive list of comments I have received from PCTs throughout England.

Intense interest from both local supporters and the media has led the **fair telecoms campaign** to focus its attentions on the adjacent “Areas” of **Kent and Medway** and **Surrey and Sussex**, including the **Downing Street Practice** in your own constituency.

I quote recent comments from those responsible for these NHS Commissioning Board Areas.

1. **Amanda Fadero, Local Area Team Director for Surrey and Sussex** in an email of 20 March 2013:

**“the Regulations and Contract Terms are not sufficiently clear in this matter to warrant formal contractual action against those practices that retain 084 numbers”**

*(I am sure that Ms Fadero will be happy to provide you, and others to whom this is distributed, with an authorised copy of her full message to me, along with any necessary justification for this most powerful statement. Such justification may be set against my earlier comments. )*

One hopes that “**formal contractual action**” would never be necessary, however I understand that no effort to demand compliance is made unless this could be contemplated.

**Ms Fadero’s** assertion represents a most serious accusation of incompetence on the part of the officials in your Department who drafted the contractual terms, negligence by the NHS representatives who agreed them and a slur on the parliament which sanctioned them.





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2. A statement was recently provided by an authorised representative of **NHS Kent and Medway**, and accurately reproduced by the **Isle of Thanet Gazette** in the article *“Doctors’ surgeries to drop premium-rate tariff on phone lines”*, [published online](#) on March 15 2013. This article covered a number of surgeries which have been permitted to retain 0844 numbers past the 1 April 2011 deadline.

***“NHS contracts place conditions on call rates, but do not ban above-local-call rate levels.”***

*(I am sure that **Stephen Watkins**, who issued the statement including this phrase on behalf of **Felicity Cox, Local Area Team Director for Kent and Medway**, will be happy to provide you, and others to whom this is distributed, with an authorised copy of the statement. I trust that **Ms Cox** will be able to provide any necessary justification for this most powerful statement.)*

Since 2004 there has been no distinction between the rates charged for local and national calls. In respect of charges, the words “local”, “national” and “Geographic” are interchangeable.

Both of these cases present a direct challenge to the accuracy of the quoted answer provided by **Dr Poulter** and many other statements by Ministers. Furthermore, by the open distribution of assertions that there is no effective prohibition on use of expensive telephone numbers, these NHS bodies declare that they are unable to apply the terms of the NHS Constitution.

## **Action required**

I am personally motivated in this matter by a passionate concern for the preservation of the principles of the NHS. The role of the **fair telecoms campaign** can only be to draw attention to a clear discrepancy between what is happening and both specific statements by Ministers and general declarations by the government regarding the NHS and the preservation of its principles.

I believe it is fair to ask a simple question of yourself: **“Are GPs (and others) permitted to use telephone numbers that include a ‘Service Charge’ for access to NHS services?”**

I sincerely hope that our parliament, to which you account, has not determined that publicly funded healthcare providers in England may indirectly levy charges on patients (abusing the **“NHS”** banner). If you believe that the financial terms under which NHS services are provided to patients may be determined locally, then we do not have a “National” Health Service.

I present this question on behalf of the **fair telecoms campaign**. By publishing and distributing this open message, I invite those to whom it is copied, and others who may read it, to echo that question, and any of the material contained above, to you. I specifically refer to those who may press you for a meaningful reply more strongly than I.

The integrity of our **National** Health Service matters deeply to me. I hope that you will be able to demonstrate that you share my concern, or perhaps something similar.

I repeat my personal offer to support your officials and officers of the NHS Commissioning Board in any way I can to assist with a resolution of this matter.

(N.B. This message explicitly addresses the use of 0844 numbers, in association with the **Surgery Line** system, by GPs. It is however part of a wider issue also involving 0845 numbers and the use of 084 numbers by all NHS bodies and other contracted NHS providers.)

**David Hickson**



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