Response to consultation -
The use of 084 telephone numbers in the NHS

Introduction

These comments are in response to the consultation "***The use of 084 telephone numbers in the NHS - 16 December 2008 - 31 March 2009***".

I present my points in the following sections:

1 - The background to the consultation and the information presented therein.

2 - Answers to the specific questions (slightly modified).

3 - Comments on the way forward for the Department of Health

Footnotes provide URLs referencing material on the internet. Where I provide URLs specifying materials that I have published on the internet in the body of my comments, I wish that material to be considered as being part of my response to the consultation. I can provide copies directly if necessary.

I will be happy to assist the Department in any way I can as it proceeds to deal with these issues after the conclusion of the consultation. The same offer is extended to all other parties.

David Hickson

31 March 2009

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1 - Background and information in the consultation document

In February 2005, the Department of Health (DH) announced[1] "a ban on expensive telephone numbers that charge patients over the odds to call NHS services". This was accompanied by a repeated absurd and erroneous statement suggesting that so-called "lo-call" rate numbers (i.e. revenue sharing 084 numbers) "***offer patients a guaranteed low call rate***".

There never has been any such "guarantee", nor indeed any regulation of any kind covering the rates that all telephone service providers should charge for these calls, neither in absolute, nor relative, terms. The rates charged and deals offered by various providers for various types of call vary over time in the context of a generally competitive market. Charges for calls to 0844 numbers are not even a focus of competitive activity.

Subsequent statements by the DH indicated recognition of concern about the issue[2] and later[3] confirmed that call charges should not be greater than that for a call to a local number and recommending use of 03[4]. Since before 2005, residential telephone tariffs have not charged distinct rates for local, as against national, calls, so this statement is fairly meaningless. Furthermore, neither NHS bodies, nor their contractors, have any control over the rates charged by telephone providers.

The point that was missed in 2005 and is only just coming to light now is the issue of "revenue sharing". Without going into detail, "revenue sharing" applies to all 084 numbers. "Revenue sharing" occurs when there is a transfer of money between the calling and the called party, through their respective telephone companies. **The manner in which the originating telephone company collects the money, and that in which the terminating telephone company distributes it, is irrelevant.**

In a NHS "free at the point of need" there cannot be a transfer of money (no matter how indirectly achieved) between the patient and the NHS provider whom they call to obtain NHS services. Even if the call charge to the caller is included in a package, so that there is no direct surcharge apparent in the fee paid for the call, and the benefit to the NHS provider is seen in the terms of their telephone service, rather than in a direct rebate payment, this is a breach of the fundamental principles of the NHS.

To focus on the fine and changing detail of telephone tariffs and the receipt of cash rebates is to take one's eye off the ball. It is perhaps fair to say that some parties seek to create obfuscation by drawing the eye onto these, not insignificant, but actually irrelevant, factors.

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[1] http://www.dh.gov.uk/en/Publicationsandstatistics/Pressreleases/DH_4104023

[2] http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_4108437?IdcService=GET_FILE&dID=25767&Rendition=Web

[3] http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_064287

[4] http://homepage.ntlworld.com/davidhickson/NHS.Patient/DH%20Statement%20-%20November%202007.htm

In an adjournment debate in parliament on 21 January 2008[5], a DH evidence gathering exercise into this matter was announced. The formal conclusions of that exercise have yet to be declared, however it is probably fair to assume that they formed the basis for the information presented in this consultation.

It is disturbing to find that evidence presented by myself, which could have been confirmed from authoritative sources, was disregarded. Relevant evidence from Ofcom and from many leading and other telephone companies and system providers was either not sought or was disregarded.

The consultation document

The consultation document makes certain assertions, as if of fact, which are either simply false, are widely and fiercely disputed, or are presented in a potentially significantly misleading manner. I quote from the document and comment.

"the extra functions offered by an 084 number can improve access for patients"

This is at best clearly misleading. The extra functions referred to are without question available on all non-geographic numbers, including 03xx. Some would claim that all features that may be relevant to providing improved access could be equally well provided on any geographic number.

The only unique benefit of 084, over 03xx and geographic, numbers is that they provide funding for these features from callers, thus enabling the NHS provider to offer improved access at no greater cost to itself.

"A local call rate is ..."

The issue of "local rate" is irrelevant. "Local rate" is still a feature of fixed-line business telephone tariffs; however NHS services are not available to businesses. The suggestion that 0207 is an area code indicates a total misunderstanding of telephony, as does the failure to recognise that "local rate" has always applied across contiguous charging zones, not simply within each one. (I make these latter comments having no professional knowledge of the issues; these are just "schoolboy errors".)

"084 numbers allow the organisation receiving the calls to generate revenue from those making the calls"

This represents a common misunderstanding and misrepresentation of how "revenue sharing" works. There is no opportunity for someone using a 084 number to decide whether or not to generate revenue from it. The flow of money between the respective telephone companies and the consequent recovery from the caller happens regardless of what arrangement the user of the number has with their telephone service provider.

Some may say, indeed many do, "we do not receive any revenue share from this 084 number". This has no effect whatsoever on the cost of calling them. The only response is to ask, "So where does the money go then?". One would hope that it is taken into account when setting the fee for their telephone service. If not, then it is being retained as unearned profit by their telephone company.

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[5] http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080121/debtext/80121-0023.htm#0801223000005

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"Is there another way to provide the extra functions?"

Notwithstanding the content, the placing of this paragraph in relation to those that precede and follow it falsely implies that there is something different about the features available with 084, as against 03, numbers, even though the paragraph clearly states that there is not. Any reference to the features of 084 numbers that does not also refer to 03 (and there are many) is clearly creating a false impression.

"Why are GP practices increasingly using 084 numbers?"

There is nothing in the reasons given that separates the use of 084 numbers by contractors from that by NHS bodies themselves. There is no reference to the fact that GPs are subject to marketing by companies that advertise "self funding" systems, which rely on use of 084 telephone numbers. Despite the fact that use of terms such as "self funding" is usually a clear indication of a scam, many are drawn in.

"The cost of calls to 084 numbers varies according to the supplier of the 084 number"

This is not the point. There is a series of agreed call types, which apply across suppliers.

"What is a supplier?"

This misses the point by referring to names that are known as those of the suppliers of retail personal telephone services. 084 numbers are provided by the business services divisions of the respective companies.

VirginMedia has only a very small business services division. Cable & Wireless and NTL retain the business services operations from the companies that existed before the formation of VirginMedia. BT Retail and BT Global Services are quite separate companies. I am not aware of the name of the division of Orange that provides business landline services.

The primary supplier of 084 numbers to GPs is Opal Telecom, a division of the TalkTalk Group, part of the Carphone Warehouse Group. One of these names would have provided a more useful example (especially if one of the latter, as this is not generally known).

"Does this mean that GPs make a profit from 084 numbers?"

For a trading business that produces profit (such as a GP partnership or a commercial holder of a GP contract) any reduction in the costs of providing the service contributes to the bottom line. Unless the payments made by the NHS are reduced to take account of the cost saving gained by use of revenue sharing numbers (as against the cost of providing the same service without funding from patients) then this must contribute towards the level of net profit achieved. If the NHS payments are reduced, then it could be said that the NHS profits.

I understand that many drew the Department's attention to these points at the commencement of the consultation in the hope of having the document re-issued. I hope that there has been, and will be, due recognition in response.

I believed that the issues were sufficiently well understood, despite all of the above, for these errors not to have a significant effect on the consultation process. **If I find that I was incorrect in this assumption, then this could become a serious issue.**

2 - Answers to the specific questions

I address the questions in Annex A. My slight (highlighted) re-phrasing of some of the questions is necessary so as to permit an honest answer. I trust that there will be no problem in aggregating my simple responses with the answers from those who have not adjusted the question.

Q1 Do you agree with the principle that people should not be charged more than the cost of a ~~local~~ UK rate call to access NHS services by telephone - YES

(Ofcom offers the term "UK rate" to cover the cost of calls to 01 / 02 / 03 numbers). For callers from any telephone to incur any premium charge to the benefit of the NHS provider (such as that which may be involved when a revenue sharing number is used) is a simple breach of the principle of "free at the point of need". The fact that some networks may offer some calls to some revenue sharing numbers without applying a surcharge is irrelevant.

Q2 As a patient or carer calling the NHS, would you prefer to call a telephone number that has ~~extra~~ all functions thought necessary and appropriate by the provider in order to give the best service? - YES

(In each case the provider must decide, as necessary in consultation with service users, how best to provide the service in the context of available NHS funding.)

Q3 YES

To permit use of revenue sharing telephone numbers under the terms of the NHS Constitution[6], shortly to be made enforceable under the terms of the Health Bill[7], would require explicit parliamentary sanction. Such sanction should not be sought, and would be unlikely to be granted if it were.

I refer to the first of the "Rights and Pledges" detailed at section 2a of the Constitution. Once the Health Bill is enacted, there will be many who will seek to have the relevant action taken against NHS providers who intend to continue using revenue sharing telephone numbers.

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[6] http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_093419?IdcService=GET_FILE&dID=182347&Rendition=Web

[7] http://www.publications.parliament.uk/pa/ld200809/ldbills/031/09031.i-iii.html

3 - The way forward for the Department of Health

The delay preceding the point where, as stated in the consultation document, "***it is not an option to leave things as they are***" is clearly to be regretted.

Had the error in 2005 not been made, or had it been corrected as soon as it was discovered, then the difficulty of implementing the change would have been much less.

Although described as having been introduced in 2007, 03 numbers were first announced in February 2006[8]. Given the long lead time involved in planning and implementing changes from 084 to 03, the necessary arrangements could have been put in place long before now. Certainly all further adoption of 084 numbers could have stopped from the day when 03 became available (given that the "extra functions" argument is technically valid and relevant in principle, although both are open to strong challenge).

Providers and users of systems that will need to change from 084 numbers have been aware of the Department's intentions, or at least its interest in this issue, since the evidence gathering exercise began in January 2008. **The Secretary of State is quoted as announcing to his local newspaper in March 2008 "*I'll end GP call charges*"[9].**

Despite all the activity and publicity around this issue, there has been little serious public debate. This has even extended into the consultation period.

It is much to be regretted that no representative of any NHS 084-using body has made any public statement either in defence of the practice, or about their plans to abandon it, during the consultation period. A representative of NEG, a major provider of GP systems using 084 numbers, commented on BBC television, alongside myself, that the start date of the consultation was not the time to discuss changing to 03 numbers. When faced with another potential "encounter" with myself, at a DH organised event shortly before the end of the consultation period, representatives of NEG who had registered to attend the meeting decided to absent themselves after I had been seen to arrive to attend it.

Potential respondents therefore reach the deadline for responding with no clear indication of what may happen if the obvious ban goes ahead, or of any solid reasons why it should not. The presentation in the consultation document may have led some to falsely believe that there would be an inevitable diminution in the quality of telephone access to NHS services if the ban went ahead. They may have responded accordingly, or found themselves unable to respond due to uncertainty.

If this misunderstanding is found to have had a significant effect on the volume and balance of responses, then the consultation exercise would have to be dismissed as a waste of time. I suspect however that, even without making the appropriate allowance for this, the outcome in terms of a vote in favour of the ban will be found to be overwhelming.

[8] http://www.ofcom.org.uk/consult/condocs/numberingreview/numbering.pdf

[9] http://www.thisishullandeastriding.co.uk/environment/JOHNSON-8217-LL-END-GP-CHARGES/article-174646-detail/article.html

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It is necessary to draw the attention of the consultation team to a parallel exercise (which commenced around the same time as the consultation quite by chance). A petition to the Prime Minister[10] has attracted over 11,000 signatures. After due allowance has been made for potential double counting, every one of these should be registered as a "Yes" in answer to consultation question #3.

It is plainly obvious to anyone that NHS services should not be funded by subsidy derived from revenue sharing telephone numbers. All of the counter arguments fall in a heap under even the mildest scrutiny. This must be why their proponents are seen to withdraw from engagement in any serious discussion of the issues.

3.1 How the ban may be put into effect

The only questions relate to how the ban may be put into effect.

I refer the consultation team to information published on my resource website at http://homepage.ntlworld.com/davidhickson/NHS.Patient.

NHS bodies

(http://homepage.ntlworld.com/davidhickson/NHS.Patient/NHS%20Hospitals.htm)

Each of the NHS bodies using 084 numbers should have already made the necessary arrangements to change to either 03 or local numbers. In many cases 084 numbers were introduced, in part, to allow those calling from a wider area to benefit from the lower rate (equivalent to "local rate"), which applied up to 2004. This is now five years out of date. Unless there is good purpose in having a non-geographic (03) number, these should now be ready to be converted back to local numbers.

There is no reason why the effect of a ban could not be achieved by each of these bodies properly applying the principles that should underlie all of their decision making as part of the NHS. If a "ban" needs to be imposed from Richmond House then this indicates that the devolution of decision making does not protect the principles of the NHS. This point applies across the NHS outside England as well.

Given that a ban will be imposed as a policy edict to NHS bodies in England, I hope that the opportunity will be taken to remind all the bodies having devolved authority of their duties in respect of the principles that must be common across the National Health Service. Contrary to the implication in the Prime Minister's response to the e-petition that concluded last year[11], these issues of principle have nothing whatsoever to do with local circumstances.

It will be necessary and useful for some assistance to be provided to all local bodies for their contract re-negotiation and perhaps new procurement processes to ensure that the changeover is as speedy and effective as is possible. Some such assistance is available from public sector bodies outside the NHS and DH.

[10] http://petitions.number10.gov.uk/Healthtelephone/

[11] http://www.number10.gov.uk/Page15215

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GPs

(http://homepage.ntlworld.com/davidhickson/NHS.Patient/0844%20GPs.htm

http://homepage.ntlworld.com/davidhickson/NHS.Patient/0845%20GPs.htm)

GPs, typically those using the Surgery Line system from NEG, with telephone lines provided by the TalkTalk Group, should have already approached their provider to see how their telephone service could continue in the event of a ban on use of 084 numbers. My own attempts to discover how the TalkTalk group is intending to assist have left me with the impression that it has no plans to assist whatsoever. It certainly declined the opportunity I offered for it to comment otherwise.

My attempts to engage in constructive conversation with NEG have been declined. It appears, in most extraordinary fashion, to have been ready to engage in discussion, under conditions of strict confidentiality, alongside its commercial competitors, but not with myself present.

The General Practitioners Committee of the BMA has taken quite a strong position on this issue, even though the vast majority of its members have not adopted 084 numbers, many of them steadfastly refusing to do so. I have been in discussion, but was most disappointed to read a published comment indicating the nature of the response that will have been provided to this consultation.

The GPC reports that the response, on behalf of the BMA as a whole, promotes the concept of patients paying for access to NHS services according to the quality of the service provided. Furthermore it suggests that in the event of a ban, some of its members should receive subsidy from the NHS towards the cost of their telephone systems whereas others should not.

It is greatly to be regretted that there is no body ready to represent the common interests of those GPs who are currently using Surgery Line and other such systems in negotiation with the providers. Some would see the DH as having to take this role (as it appears to have done in the past). Whilst this is perhaps neither proper nor appropriate, its past activities seem to have lumbered the DH with this role.

I am keen for a solution to be found, bit do not wish the DH to approach such a negotiating position with only public money in its hand. I strongly believe that the public reputation of companies such as TalkTalk should play a part in these negotiations. It is also vital that the need for equity in the treatment of all contractors (GPs) is seen to be paramount.

Some time ago I published, and distributed to all parties, my thoughts on how this aspect of the situation could perhaps be moved towards an equitable resolution - http://homepage.ntlworld.com/davidhickson/NHS.Patient/Surgery%20Line%20Solution.pdf . (I now refer to "TalkTalk" as the parent of Opal Telecom. The organisational and branding structure of the Carphone Warehouse group appears to be different now to when I prepared these thoughts.)

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To the best of my knowledge, there has been no serious work undertaken during the consultation period to bring the parties together to work out how GPs may continue to provide the quality of service that they seek to provide to NHS patients, under proper financial arrangements. As an outsider, it appears that the parties are simply adopting negotiating positions - firm, in the case of NEG and TalkTalk, and somewhat absurd, in the case of the GPC representing only the minority of its members.

I remain keen to make any useful contribution to assist with the ban going ahead with the fairest impact and best possible outcome for all. I must stress the need for equity amongst GPs. A simple "pay off" for those who have entered foolish contracts, even if with encouragement from the DH and NHS bodies, would be most unjust to those who have avoided such contracts and pay for their surgery facilities properly.

The mechanics of a ban may be seen to require revisions to the GMS, and other contracts. I have always held the view that clause 483 of the present GMS contract, and its equivalents, provided sufficient support for a prohibition on use of revenue sharing telephone numbers for contact by NHS patients.

The additional clause added to effect the ban on use of 0870 and other numbers was a mistake as it aimed at the detail of particular types of telephone number, rather than the essential issue of principle. That is how 084 came to be missed out.

Whilst it appears that 084 will simply be added to the list of proscribed prefixes, I would urge careful consideration to be given to simply prohibiting use of revenue sharing numbers, using some appropriate form of "future-proof" specification. This would confirm the matter of principle that is being applied, thus avoiding the playing around with points of detail that has been used to undermine that principle.

NHS Direct Trust

(http://homepage.ntlworld.com/davidhickson/NHS.Patient/NHS%20Direct.htm)

The NHS Direct Trust represents a special case with reference to the need to change swiftly from 084 to 03.

It is known that plans were put in place for the main NHS Direct telephone number (used for its non-urgent information and advice service), 0845 4647, to change to 0345 4647. These plans were halted somewhat abruptly after BT Wholesale released this news formally last summer. I understand that these plans remain suspended.

The whole issue of telephone access to primary care services alongside those offered directly by GPs is under some state of review at various levels.

This covers the 999 emergency service, as well as many new local arrangements that cover urgent, but non-emergency access to health and social care in conjunction with normal GP out-of-hours services. NHS Pathways has now been approved as a way of offering a top-down, rather than bottom-up approach to the problem of patients being unable to determine the proper status of their need for care.

Alongside this is the need to fulfil the promise in the Darzi review to look at an alternative way of dealing with the same problem, perhaps from the middle out.

The headline NHS Direct service is part of any consideration of these issues. It is supposedly only for advice and information, but is proudly configured to address both urgent and emergency needs, as if this were a significant part of its role.

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(As I write this I read the legend on a paper bag used by my pharmacist, which happens to be sitting on my desk. It says, "***For life's little health emergencies - dial 0845 4647***". Clearly, trying to get patients to distinguish between emergency, urgent and other needs, so that they may be met most effectively and economically, is not being helped by statements of this kind. My GP, pharmacist, polyclinic as well as NHS Direct online would also wish to bid for a role in helping with "life's little health emergencies", as would many sources outside the NHS.

This clearly indicates that inviting different providers to compete for the provision of services and leaving patients to choose, is not the best way to provide a National Health Service in all, if indeed any, situations.)

The NHS Direct Trust also serves as a contracted provider of many out of hours telephone services and has a significant role in respect of secondary care and preventative services. It is quite extraordinary that its attempt to recruit "members" and prepare to apply for Foundation Trust status was allowed to progress for as long as it did before being halted, given the obvious strategic national importance of its role and it therefore having a constituency that is clearly all NHS patients.

Concern has been expressed in parliament over the cost of the basic "information and advice service" where the average contact appears to be more expensive to the NHS than a GP appointment. This means that careful consideration must now be given to the underlying reason for its existence, which was initially said to be to take pressure off GP services.

My contacts with the Interim Chief Executive have drawn out a repeated assurance that the estimated one million pounds a year revenue share received by BT Global Services from calls to 0845 4647 does not provide any direct or indirect benefit to the NHS Direct Trust. If taken seriously, this serious accusation of negligence by those who negotiate the relevant contracts warrants investigation. In truth, it is surely the basic accuracy of the comment that should be challenged.

There is clearly much going on at NHS Direct, which may well mean that now is not the time to consider undertaking the lengthy and expensive process that would be involved with even so modest a change as a switch of the second digit of the main telephone number.

In trying to help patients to know who to contact when and in configuring services so as to best be able to respond to those contacts, there is clearly a lot of work for the DH to do. The cost of re-printing masses of literature to present a clearer message will be part of this. Whilst the need to cease revenue sharing is pressing and vital, a simple number change for an otherwise unchanged service, that would have to take place over a long period, would perhaps cause an unwarranted detriment to the important cause of getting this mess sorted out.

The situation with the NHS Direct Trust is also different, as some of what it does is under direct contract to the DH. Implementing a ban on use of 084 numbers, would therefore bear on the DH itself, rather than external bodies under its direction. This fact may also influence how the department is able to deal with this issue.