

**NHS Greater Glasgow & Clyde**

**Medical Private Practice Policy**

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| **Responsible Director:** | Anne MacPherson, Director of Human Resources & Organisational Development |
| **Approved by:** | Medical & Dental Partnership Forum |
| **Date approved:** | May 2024 |
| **Date for Review:** | May 2026 |

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Medical Private Practice Policy

# Definition

* 1. **Private Practice -** Private practice is defined as **“the diagnosis or treatment of patients by private arrangement”**.
	2. **Secondary Employment -** any additional employment, other work, or services provided for which the individual receives any form of remuneration, expenses and/or benefit in kind. Secondary employment can include working for another employer (including other NHS Boards), running a business, providing paid consultancy services, or being involved in a family business (though this is not an exhaustive list). Secondary employment includes casual, part-time, full-time work and shift work, regardless of the duration of the employment.(includes external Bank and Agency work)

# Introduction

* 1. This policy applies to all Medical and Dental career grade practitioners (Clinicians) working for NHS Greater Glasgow and Clyde (NHSGGC).
	2. The document sets out the standards for all doctors within NHSGGC and is about conduct in relation to private practice. This policy covers all private practice, whether undertaken in non-NHS or NHS facilities.
	3. This document outlines Board and National policy and the arrangements to be followed in the provision of private practice. This policy is in line with appendix 8 Code of Conduct for Private practice for Consultants employed under the 2004 consultant contract and Schedule 7; Private Practice, secondary employment and other financial interests for specialty and specialist doctors employed under the 2022 contract.
	4. All doctors are expected to adopt and comply with this policy and the aforementioned Codes of Practice.

# Purpose

* 1. This policy is based on the following key principles:
* Doctors in NHSGGC should work on a partnership basis to prevent any conflict of interest between private practice, and contractual work for the Board. It is also important to minimise the risk of any conflict of interest
* The provision of services for private patients should not prejudice the interest of NHSGGC patients or disrupt NHSGGC services;
* With the exception of the need to provide emergency care; Job planned NHS commitments should take precedence over private work.

# Duties within the Organisation

* 1. Clinicians are required to confirm if they intend undertaking regular private practice or secondary employment i.e. private companies, agencies or other NHS Health Boards on appointment and as part of any job planning review annual or interim, by signing the private practice declaration. Starting new private practice commitment should be a trigger for an interim job plan
	2. Clinicians are responsible for declaring any private practice or secondary employment to their employer
	3. Clinicians are required for the purposes of Medical Revalidation to demonstrate on a regular basis that they are up to date and fit to practice. Accordingly doctors are required to undertake whole practice appraisal, meaning that they must submit supporting information relating to both their NHS and private practice. Complaints or adverse events that arise from all components of their work must be declared and discussed at appraisal

# General Standards of Practice

* 1. **Disclosure of Information about Private Practice.**
		1. Clinicians should declare any private practice, or secondary employment that has any actual or perceived conflict of interest, or is otherwise relevant to the practitioner’s performance of his or her contractual duties.
		2. In accordance with NHSGGC job planning policy, If a clinician wishes to undertake any Private Practice or secondary employment they are obliged to inform their Employer at the time of appointment (or subsequently) of their intentions to do so. Including the timing, location and broad type of activity. This is to facilitate effective planning of NHS work and out-of-hours cover.

This will be submitted in writing to the Clinical Manager (Section 4.4.8 Consultant TCS and 3.6.1 2022 SAS TCS).

Clinicians will also be asked to confirm if they intend undertaking regular private practice as part of the annual job plan review by signing the private practice declaration. Appendix A (1) and A (2) of the NHSGGC job planning policy. <https://www.nhsggc.scot/?post_type=wpdmpro&p=67278&preview=true>

* + 1. Under the TCS clinicians should be appraised on all aspects of their medical practice, including private practice. In line with the requirements of revalidation, clinicians should submit evidence of private practice to their appraiser.
	1. In accordance with the above provisions, NHSGGC will aim to support individuals undertaking work in the above categories, provided that in Directorate Services management team’s opinion this does not interfere with an individual’s ability to discharge their contractual duties and does not breach the provisions and obligations of the employee and employer in relation to the European Working Time Directive.
	2. Concerns of excessive private practice or secondary employment outside of contractual duties, should be dealt with informally in the first instance, by the appropriate medical/clinical manager. In the event of a disagreement between clinicians and the managers the matter should be referred to the Chief of Medicine (COM).
	3. Failure to follow the requirements of this policy may result in investigation and disciplinary action being taken as appropriate. This could include formal action in accordance with the National / Board conduct policy and procedure. Advice from Head of HR or Medical Staffing should be sought if formal action is being considered.

# Private Practice provisions

# Scheduling of Work and On-Call Duties

* + 1. In circumstances where there is or could be a conflict of interest, Job planned NHS commitments take precedence over private work. Clinicians should ensure that, except in emergencies, private commitments do not conflict with any NHS activities included in their Job Plan.
		2. It is recognised that occasionally a private patient may suddenly deteriorate and require review by their Clinician. If this occurs during a NHS Programmed Activity, the Clinician must ensure that the NHS patients being cared for are safe before leaving the hospital.

If private emergency cover is shown to have a regular or repeated pattern impacting on NHS activities then the consultant must make alternative arrangements to change the times of private practice sessions to ensure that future private emergency cover does not impact on NHS activity.

* + 1. Private commitments, should not be scheduled during times at which they are scheduled to be working for the NHS.
		2. Private commitments should not be scheduled while on call for the NHS, including any emergency cover that they agree to provide for NHS colleagues.
		3. Where the service proposes changes to the scheduling of NHS work, this should be agreed via job planning and reasonable notice given to Consultants in order to rearrange private sessions and commitments.
		4. Private work therefore should only be undertaken in defined non-working time or by agreement in up to one session of time shifted non-DCC activity

# Use of NHS Facilities

* + 1. Clinicians cannot use Board facilities e.g. clinics, theatres, IT systems for the provision of private services without agreement of their NHS employer. This applies whether private services are carried out in their own time or during periods of leave.
		2. Private procedures should take place at a time that does not impact on normal service for NHS patients. Private patients should not be booked on routine, elective NHS operating or other procedure lists. Private patients should normally be seen separately from scheduled NHS patients.
		3. Clinicians may only see patients privately within Board facilities with the explicit agreement of the Board. It is for the Board to decide to what extent, if any, their facilities, staff and equipment may be used for private patient services and to ensure that any such services do not interfere with the Boards obligations to NHS patients. This must be discussed and approved with the relevant COM and or Deputy Medical Director.

# Use of NHS Staff

* + 1. Clinicians cannot use NHS staff for the provision of private services without the agreement of their NHS employer.
		2. The clinicians responsible for admitting a private patient to NHS facilities must ensure, in accordance with local procedures, that the responsible manager and any other staff assisting in providing services are aware of the patient’s private status.

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# Medical Indemnity

* + 1. NHS indemnity does not cover private practice.
		2. Clinicians must ensure that any private practice is covered by their Medical Defence Organisation, taking out additional cover if necessary. The Board will not be liable for any private practice.

# Tax Liabilities

* + 1. It is the responsibility of the Clinicians to declare to the HMRC all income in relation to private practice. The Board has no such obligation in this respect.

# Information for NHS Patients about Private Treatment

* + 1. In the course of their NHS duties and responsibilities clinicians should not initiate discussions about providing private services for NHS patients, nor should they ask other NHS staff to initiate such discussions on their behalf.
		2. Where a NHS patient seeks information about the availability of, or waiting times for, NHS and/or private services, consultants should ensure that any information provided by them, is accurate and up-to-date and conforms to local guidelines.
		3. Except where immediate care is justified on clinical grounds, clinicians should not, in the course of their NHS duties and responsibilities, make arrangements to provide private services, nor should they ask any other NHS staff to make such arrangements on their behalf unless the patient is to be treated as a private patient of the NHS facility concerned.
	1. **Referral of private patients to NHS Lists**
		1. Patients who choose to be treated privately are still entitled to NHS services on the same basis of clinical need as any other patient
		2. Where a patient wishes to change from private to NHS status clinicians will help ensure the following principles apply
			+ Any patient seen privately is entitled to change their status and seek treatment as an NHS patient if eligible
			+ Any patient changing status form private to NHS will not be treated on a different basis to other NHS patients as a result of previously holding private status. They will not gain any advantage or disadvantage over other NHS patients by doing so and will not be treated on a different basis.
			+ Referral to NHS following a private consultation or treatment, private patients will join an NHS waiting list at a point determined by their clinical need. Subject to clinical considerations, a previous private consultation should not lead to an earlier NHS admission or earlier access to NHS diagnostic procedures

#  Fee Paying Work

* + 1. Although not defined under the TCS as private practice. Fee paying is defined as work that arises when individuals, employers, courts or the Department of Work and Pensions (DWP) request medical examinations, reports and associated diagnostic services from practitioners directly e.g. court reports, DVLA reports, Court of Protection Orders,

# One of the key principles of the medical contracts is that an individual cannot be paid twice for the same work. Time-shifting therefore needs to be explicitly agreed with service management and occurs when fee-paying work is undertaken in place of scheduled Clinical Care activities. When this happens, the equivalent amount of Direct Clinical Care activity is built back into the job plan and undertaken without additional payment.

* + 1. Appendix 2 is the guidelines on *fee-paying work* in Mental Health Services
1. **FAQ’s**

**Appendix 1**

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| **Frequently Asked Questions Private Practice** |

The provision of private practice is governed by the code of conduct (appendix 8 of the New Consultant TCS, Appendix 2 of the Specialty Doctor and Specialist Doctor TCS). There have been some recent questions and queries around the provision of private practice by Medical Staff. The following FAQ’s have been developed for future reference.

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| **Disclosure of information** |

1. **Do I need to inform my employer that I intend undertaking private practice?**
2. Yes a consultant who working either full time or part time who wishes to undertake private practice, they must inform the employer in writing of their intention.
3. **Do I need to inform my employer that I intend undertaking Secondary employment?**
4. Yes a consultant who working either full time or part time who wishes to undertake secondary employment, they must inform the employer in writing of their intention. This also applies to work with another NHS Health Board or any external employment by private companies e.g. Medinet or Synaptic.
5. **Do I need permission to undertake private practice?**
6. No a clinician will be free to undertake private practice without seeking formal approval but it is their responsibility to ensure this does not impact on their NHS commitments.
7. **Do I need to disclose details of private practice in my job plan?**
8. Clinicians must disclose details of regular private practice commitments including the timing, location and broad type of activity, to facilitate effective planning of NHS work and out of hours cover.
9. **Should I refer to my private practice at my appraisal?**
10. Yes NHS clinicians should cover the whole scope of their practice including private work.

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| **Scheduling of work and on call duties** |

1. **Can a clinician schedule private commitments including on call duties during the period scheduled to be working for the NHS?**
2. Private commitments including on call duties should not be scheduled during times at which they are scheduled to be working for the NHS (2.4) TCS. It is NHSGGC’s interpretation that private work should not be undertaken at the same time as an NHS activity including on call.

There is provision in TCS that NHS employers may at their discretion allow some private practice to be undertaken alongside a clinician’s scheduled NHS duties, provided that they are satisfied that there will be no disruption to NHS services e.g. Where it is possible for a clinician to time shift their non-direct clinical care time, to allow private practice to take place. Written permission would be required from the Clinical Director.

1. **Is it a clinician’s responsibility to ensure that their private commitments do not disrupt their NHS commitments?**
2. Yes private commitments should not cause NHS activities to either be cancelled or delayed, nor prevent the clinician from being able to attend an NHS emergency whilst on call for the NHS. This includes any emergency cover that they agreed to provide for NHS colleagues. Private work therefore should only be undertaken in defined non-working time or by agreement in up to one session of time shifted non-DCC activity.
3. **What happens if a clinician requires to provide emergency treatment to a private patient during the time a clinician is scheduled to be working or on call for the NHS?**
4. In this circumstance it would not be unreasonable to prioritise the treatment of the private patient. Where emergency work of this kind regularly impacts on NHS commitments the consultant will be responsible for making alternative arrangements to provide cover for the future emergency work TCS.
5. **Does a clinician require to sign a waiver where private practice commitments take average working time over 48 hours in breach of the limits in place of the European working time regulations’**
6. Yes but Clinicians who undertake private practice which impacts on hours of work, should note that the waiver only allows opting out of the ‘hours’ constriction but it does not indemnify them for the rest requirements of ‘European Working Time Regulations’.
7. **Does NHS indemnity apply to practitioners working in the private sector? (even when treating NHS patients).**
8. No. Practitioners require to take out their own Medical Defence cover.

**Appendix 2**

MHS Guidelines agreed in 2022

