
The British Orthopaedic Association (BOA) supports transparency and recognises that conflicts of interest may arise from private practice. We are therefore of the view that declaring potential conflicts in an open and standardised way is vital. However, we strongly oppose the intrusive and inequitable proposal which would require clinicians to declare gross private practice income. We have made this clear in our response to NHS England’s consultation.

In addition to opposing proposals on private practice income, we opposed proposals regarding gifts and hospitality, and the aggregation of conflict of interest data. Full details of our responses on these issues are below.

Private Practice Income

Q8: Do you agree with our proposals regarding private practice?
No. The BOA supports transparency and recognises that conflicts of interest may arise from private practice. We are therefore of the view that declaring potential conflicts in an open and standardised way is vital. As such the BOA would support all of the proposals, with the exception of the proposal to declare gross private practice income. Our reasons for this are explained in our response to question 9.

Q9: In particular, do you agree with the proposal regarding declarations of Information about private practice, including information about earnings?
No. Declarations of private practice income are a matter for the tax authorities and not NHS employers, and to single out clinical staff in this way is both intrusive and inequitable. This proposal has created widespread concern among our membership. It sends a message that NHS England does not trust clinical staff, and leads our members to believe they are actively being discriminated against. As such, this proposal has already undermined morale. The deleterious impact will grow if the measure is formally adopted.

The proposal is also unnecessary as the other principles and rules contained in paragraph 50 are more than adequate for conflicts of interest management. In addition, no evidence has been presented to demonstrate how private practice income declarations would enable more effective conflicts of interest management.

With regard to consultants in particular, the proposal conflicts with the intentions of the consultant contract. The contract (Terms and Conditions - Consultants (England) 2003) does not exclude competition or limit the consultant from undertaking private practice on behalf of other parties (NHS employers or otherwise). On the contrary, it expressly contemplates that consultants may engage in private practice and includes provisions to deal with this. NHS consultants have to work within their job plan, terms and conditions of service and have to adhere to the code of conduct for private practice. If employers have evidence that a consultant is in breach of their contract, then they can take disciplinary action against that doctor. In the light of this, we take the view that consultants are within their contractual rights to not declare their private practice income. This view is based on initial legal advice given to the BMA.

Moreover, gross earnings from private practice are completely unrepresentative as they fail to take into account the substantial costs of professional indemnity insurance and essential secretarial support.

Beyond these points, this proposal risks clinicians' ability to practice privately, which would be detrimental to patient choice, NHS waiting times and staff retention. Clinical staff with higher private practice incomes may be encouraged to practice less, leaving patients with fewer private treatment options. This would place more demand on NHS resources, possibly resulting in longer waiting lists. Alternatively, clinicians may conclude that NHS practice is less
attractive and opt exclusively to work in the private sector. This would reduce the clinical resource available to meet demand, again risking longer waiting lists.

In summary, the BOA cannot support the proposal that clinical staff should declare private practice income and we recommend in the strongest possible terms that it be removed.

Q20: Do you agree that information on interests held by senior staff described above should be published?
No. Private practice income should be excluded for the reasons set out in response to Q9.

Q21: Do you agree that information on interests should be published in a consistent way across organisations, using the format described above?
No. Private practice income should be excluded for the reasons set out in response to Q9.

Gifts and Hospitality
Q5: Do you agree with our proposals regarding gifts?
No. A £50 limit on gifts that do not need to be declared may be too low. £100 pounds may be more reasonable.

Q6: Do you agree with our proposals regarding hospitality?
No. A £25 limit on hospitality that does not need to be declared may be too low. £50 pounds may be more reasonable. We would suggest that the exact value of hospitality should be declared, as high value hospitality is a key source of potential conflict.

Aggregation of Conflict of Interest data
Q23: Do you think that further consideration should be given to aggregating returns on MyNHS, or another suitable web portal?
No. This is an unnecessary step and drain on taxpayers’ money as there will be more than enough visibility.

Further information
We supported proposals referred to in questions: one to four; seven; ten to nineteen; twenty-two; and twenty four. These proposals did not pertain to private practice income, or gifts and hospitality.


For any further information, please contact policy@boa.ac.uk.