

## **Ruling - GPs can subcontract for 'core' opening hours**

### **Landmark ruling gives GPs green light to close within core hours**

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**Exclusive:** The NHS Litigation Authority has ruled *GPs are entitled to subcontract out-of-hours providers to routinely cover core opening hours*, in a key test case.

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South Staffordshire PCT referred a dispute with 12 local practices to the NHSLA after objecting to the practices sub-contracting their services between 6pm and 6.30pm every weekday evening to local out-of-hours provider BADGER.

The West Midlands case comes against the backdrop of a nationwide crackdown by NHS managers on GP practices closing between 8am and 6.30pm, as part of the Department of Health's ongoing drive to improve access.

South Staffordshire PCT had claimed the practices' arrangement to provide cover was 'not appropriate to meet the reasonable needs of their patients', given 'the distances that patients had to travel for an appointment' after 6pm. The trust also argued the lack of a contract between the practices and BADGER made the longstanding deal, originally brought in in 2004, invalid.

But the NHSLA rejected the claim patients were not being properly served and questioned why the PCT had launched the challenge after several years.

In the summing up, NHSLA appeals manager Lisa Hughes said: 'I question how the arrangements could now become unreasonable.

'Where there have been no changes to the site and scope of the services and the services delivered are the essential and additional services in accordance with clauses 46 and 54 of the contract, I do not determine that the arrangements must cease. The arrangements must however be documented in writing.'

GPC negotiator Dr Chaand Nagpaul said: 'This test case legitimises our interpretation of the GP practice contract. The practice needs to provide essential services for its population between 8am and 6.30pm, but the contract does not require a practice to be open every minute of their opening times.'

South Staffordshire LMC declined to comment, but a spokesperson for South Staffordshire PCT said: 'It is the practices' responsibility to send the PCT a signed

agreement with their GP out-of-hours provider. The PCT understands the practices and GP out-of-hours provider are discussing the agreement and signed copies will be sent to the PCT within the next month.'

Dr Grant Ingrams, a GP in Coventry and former secretary of GPC West Midlands, added: 'The NHSLA quite rightly found in [the GPs'] favour. If you are trying to micromanage how many minutes a practice is open for, you are missing the point.'

### **The NHS Litigation Authority ruling**

'Insofar as the arrangement has been in force since 1 April 2004 and has not changed...I question how the arrangements could now become unreasonable for the Contractor's patients...I do not determine that the arrangements must cease.'