

## TOP-UP POLICY: FOR NHS PATIENTS WHO WISH TO PAY FOR ADDITIONAL PRIVATE CARE

<b>Policy author</b>	Cancer Services Manager
<b>Accountable Executive Lead</b>	Chief Operating Officer
<b>Approving body</b>	Governance Board
<b>Policy reference</b>	SWBH/ORG/113

ESSENTIAL READING FOR THE FOLLOWING  
STAFF GROUPS:

**All Employees**

STAFF GROUPS WHICH SHOULD BE AWARE OF  
THE POLICY FOR REFERENCE PURPOSES:

**All Employees**

POLICY APPROVAL  
DATE:  
**October 2013**

POLICY  
IMPLEMENTATION  
DATE:  
**October 2013**

DATE POLICY TO  
BE REVIEWED:  
**October 2016**

## DOCUMENT CONTROL AND HISTORY

<b>Version No</b>	<b>Date Approved</b>	<b>Date of implementation</b>	<b>Next Review Date</b>	<b>Reason for change (e.g. full rewrite, amendment to reflect new legislation, updated flowchart, etc.)</b>
1	May 2010	May 2010	May 2013	No changes
1	June 2013	June 2013	October 2013	Minor changes
2	October 2013	October 2013	October 2016	

### **Top-up policy: for NHS patients who wish to pay for additional private care**

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## 1. Introduction

- 1.1 On 23 March 2009 the Department of Health released final Guidance<sup>1</sup> on NHS patients who wish to pay for additional private care. The document gives guidance on how to proceed when NHS patients request additional treatment or medicines which are not funded by the NHS.
- 1.2 SWBHT (the Trust) is committed to providing high-quality patient care and value for money services. The Trust will provide additional private care in accordance with the recent guidance.
- 1.3 Key Principles of the guidance
- NHS organisations should not withdraw NHS care simply because a patient chooses to buy additional private care.
  - Any additional private care must be delivered separately from NHS care.
  - The NHS must never charge for NHS care and should never subsidise private care.
  - The NHS should continue to provide free of charge all care that the patient would have been entitled to had he or she not chosen to have additional private care.
  - The fundamental principles of the NHS still apply, namely that the NHS provides a comprehensive service available to all, based on clinical need not an individual's ability to pay and that public funds are devoted solely to the benefit of the people that the NHS serves.
  - NHS Trusts should have clear policies in place, in line with these principles, to ensure effective implementation of this guidance in their organisations. This includes protocols for working with other NHS or private providers where the Trust has chosen not to provide additional private care

## 2. Objectives

- 2.1 This policy is intended for use alongside the Department of Health Guidance<sup>1</sup>. It provides guidance for clinicians and managers on how to proceed when a NHS patient chooses to pay for treatment which is not funded by the NHS. The additional private care can be provided within the NHS organisation, being clearly identified as such treatment or by another healthcare provider such as a private hospital or a Home care provider.

## 3. Scope

- 3.1 This policy applies to all clinical staff employed by the Trust, or subcontracted to it.

## 4. Definitions

- **'Additional private care'** - see – **'Top-up treatment'** below
- **'NHS patient'** refers to any person in receipt of services funded by the NHS
- **'Private care'** refers to privately funded care (whether provided as a private service by an NHS body or by the independent sector)
- **'Private patient'** refers to any person in receipt of privately funded services
- **'Patient representative'** refers to any person legally able to act on the behalf of the patient in question
- **'Top-up treatment'** is a treatment which is paid for privately by a patient, in addition, to what they are entitled to receive on the NHS (referred to as **'Additional private care'** throughout this policy)

## 5. Roles and responsibilities

### 5.1 Treating Clinician

It is the treating clinician's duty to provide effective communication with patients and their representatives about available treatment options. This should not include any assumptions about the patient's ability or willingness to pay for additional private treatment.

(Where English is not a patient's first language, professional interpreters should be used, including British Sign Language interpreters. More time should be allowed for patients with learning difficulties to ensure the patient fully understands their options).

- a) They should maintain their professional discretion at all times and should not prescribe any treatments that they do not consider to be in the patient's interests, or that they feel may cause harm.
- b) Clinicians should strive to avoid any actual or perceived conflict of interest and declare business interests to the Medical Director.
- c) Clinicians have a responsibility to adhere to this policy.

### 5.2 Clinical Directorate and Specialty Managers

- a) Managers responsible for clinical services should ensure that this policy is being adhered to through normal governance arrangements.
- b) Managers should ensure that appropriate arrangements are in place for documenting, recording and charging for any additional private care, privately funded treatments given to patients within their directorate.
- c) Managers should assist and work with the treating clinician to seek exceptional sources of funding and work with the commissioning team to gain a timely and comprehensive response from the patient's PCT. If the patient wants to pay privately while waiting for PCT response there would be no refund.

### 5.3 The Trust's Finance Department and the Private Patients (PP) Officer

- a) The PP Officer is responsible for obtaining payment from the patient for all predictable costs of the additional private care treatment before treatment commences.
- b) The PP Officer will liaise with the treating clinician and relevant general manager to identify the 'predictable' costs for patients.
- c) The PP Officer and Finance Dep't. will ensure that any patients attending episodes recorded under the 'additional private care' category are invoiced at the private patient tariff for that attendance and payment is collected.
- d) The Finance Dep't. will be responsible for tracking the income and expenditure of delivering Top-up treatments and for reporting this information as appropriate to the Trust Board and Clinical Groups.

### 5.4 The Trust's Medical Director

The Medical Director (or designated Deputy) will make the decision in respect of treatment which cannot be separated in either time or place from the NHS care when there are overriding concerns of patient safety.

## **6. Implementing the guidance**

- 6.1 The following steps and considerations must be taken into account when implementing the guidance at the Trust.
- 6.2 Consider all funding options
  - 6.2.1 The treating clinician, working with their general manager, should ensure that all reasonable avenues for securing NHS funding have been explored.
  - 6.2.2 Reference should be made to the Drug and Therapeutic Committee for all medicine requests and to the Trust's policy on the '*Introduction of new procedures*' for new treatment requests.
  - 6.2.3 If the medicine or treatment is NICE approved or there is a local policy agreed with the PCT to fund the treatment, then it will be available on the NHS. Funding may also be requested from the patient's PCT via the exceptional funding procedure.
  - 6.2.4 Where funding has not been found from any of the above routes and the patient wishes to proceed with the treatment, the patient will be liable for the additional private care treatment either in the NHS organisation or in another provider, in accordance with this policy.
- 6.3 The principle of separation – time and place
  - 6.3.1 In order to ensure clarity of funding arrangements it must always be possible to distinguish the private care episode from any NHS treatment. New patient category codes will be introduced to ensure the additional private care treatment is distinguished from NHS and normal private treatment.
  - 6.3.2 The additional private care should be delivered at a different time and place to NHS care. A different place could include another healthcare provider but can also be part of the NHS organisation (the Trust) which has been permanently or temporarily designated for private care.
  - 6.3.3 Putting in place arrangements for separation does not necessarily mean running a separate clinic or ward. As is the case now, specialist equipment such as scanners may be temporarily designated for private use as long as there is no detrimental effect to the NHS patients. It must always be possible to identify the costs of the NHS and additional private treatment separately. The Guidance<sup>1</sup> document and the attached patient's guide (appendix 2) offer good examples of the various situations which may occur.
  - 6.3.4 If it is not possible to deliver private care at a different time and place, for example in the case of overriding concerns for patient safety, the decision to treat in normal NHS facilities and time should be referred to the Trust's Medical Director or appropriate delegate. A written record must always be kept of all such decisions and approvals. If the decision is made to continue treating in the NHS facilities, the patient will have to pay for the full cost of the private treatment unless the costs can be separately identified.

## **7. Recording attendances**

- 7.1 It should be clearly documented in the patient's records that they have opted to pay for additional private care treatment. All patients receiving additional private care treatment will be recorded under their clinician's specialty code (e.g. Oncology) and under a new patient category of additional private care.
- 7.2 Using an additional private care category code rather than recording the patient as private will ensure that patients can pay for aspects of their care whilst continuing to receive NHS care free of charge under the same clinical specialty. Recording the new patient category will ensure that all appointments, tests and scans can be readily identified and charged to the patient as if they were private episodes of care.

## 8. Charging for the treatment

- 8.1 When a clinician has agreed to provide additional private care treatment **at the Trust** he/she should inform the Trust's Private Patient (PP) officer and provide brief details of the treatment. The PP officer will collect costing for the additional private care treatments and prepare an invoice for the patient to pay **before** treatment commences.
- 8.2 All appointments relating to additional private care should be recorded on the hospital Lorenzo system under the clinician's specialty code and the new patient category.
- 8.3 Any medicines, scans or tests required as part of this appointment should be clearly marked 'additional private care'.
- 8.4 Where a patient is being treated at another healthcare provider, the patient will be invoiced accordingly by that provider. This must be made clear to patients when they are referred.

## 9. What to tell patients who opt for Additional Private Care

- 9.1 Once a patient has opted to top-up their NHS care with additional private care at the Trust, it should be made clear to them that they will be liable for the full 'predictable' costs related to the treatment, including the preparation, administration and recording of that treatment before the treatment commences.

They should sign a standard Trust private patient form to confirm that they are aware that they will be liable to the Trust for these costs and accept to pay them when invoiced and before treatment commences.

For patients whose first language is not English or those with learning difficulties, the treating clinician should ensure that the patient, or their representative, is clear as to what they are consenting to.

- 9.2 Patients will not be liable for any unpredictable costs. At the Trust, this will include any unscheduled admissions, even if they are due to complications relating to the additional private care provided. Patients should note that any unpredictable costs incurred by another private healthcare provider maybe charged by that provider.
- 9.3 Patients should be given a copy of the guidance sheet: A guide for NHS patients at SWBHT who wish to pay for additional private care (**See appendix 2**).

## 10. Clinical Accountability

- 10.1 Effective communication with patients and their representatives about treatment options should be maintained at all times. Section 5 of the DoH Guidance<sup>1</sup> refers to the clinician's responsibilities and covers any potential conflict of interest between their NHS and private work. Reference to existing GMC guidance is made and all treating clinicians are expected to adhere to this.
- 10.2 Treatment which is currently unfunded by the NHS maybe raised either by the patient or by the treating clinician. Clinicians should comply at all times with existing GMC guidance which states 'You must give patients the information they want or need about any treatments that you believe have a greater potential benefit for the patient than those you or your organisation can offer'.
- 10.3 Clinicians should not make any assumptions about the patient's ability or willingness to pay when considering what information to provide on available treatment and medicines.
- 10.4 GMC guidance is also referred to in terms of providing the patient or their representatives with the full information about the potential benefits and risks of treatment before being asked for consent to treatment. The treating clinician should not agree to request additional private care that they do not consider to be in the best interests of the patient.
- 10.5 The treating clinician requesting or prescribing the additional private care treatment is clinically accountable for that treatment.  
Clinicians are advised, as good practice, to keep a record of all discussions with patients about care provided at private providers not routinely funded by the NHS in the patient's NHS medical notes.

## **11. Transferring care to another provider**

- 11.1 A patient may be referred outside of the Trust to receive additional private treatment under a different provider.
- 11.2 In such cases, accountability will remain with the responsible clinician. The Trust must ensure that the treating organisation is aware that the patient is paying for their additional private treatment and has appropriate mechanisms in place to adhere to this policy for the element of care they are delivering.

## **12. Legal Accountability**

- 12.1 If treatment is being delivered in line with this policy then it is considered to be part of the standard services provided by the Trust. Normal medical indemnity cover applies.
- 12.2 Clinicians providing additional private care treatment at the Trust would normally be doing so within their NHS time and so would not charge a private consultation fee. If they choose to do so, then Trust indemnity will not cover them in the event of any adverse incident or complaint and they must ensure they have appropriate private indemnity cover in place for themselves.
- 12.3 If additional NHS staff are used in the provision of the additional private care treatment, the NHS employer's indemnity will cover them.
- 12.4 Section 9 of the DoH Guidance<sup>1</sup> refers to the indemnity arrangements for privately funded Top-Up treatments in an NHS organisation such as the Trust.



### **13. Consistency**

- 13.1 Existing clinical networks and clinical governance bodies should be used to ensure that this policy is applied consistently to all patients. They can also advise on best practice on issues such as clinical pathways and appropriate treatments that can be provided in addition to standard NHS care.
- 13.2 Note earlier reference to 1) the Drugs and Therapeutic Meeting and 2) the Introduction of New procedures policy.

### **14. Charges for Additional Private Care**

- 14.1 This section covers the principles to follow when private care treatment is being provided by the Trust. These are charges for NHS patients, who are having additional private care treatment.
- a) The patient should meet all additional, predictable costs associated with the private care treatment at the Trust.
  - b) Patients will never receive a charge just for the cost of medicines or equipment on their own; there will always be a charge for arranging the treatment.
  - c) Where the same diagnostic, monitoring or other procedure is needed for both the NHS and additional private care treatment, the Trust should provide this for free as part of the patient's NHS entitlement and share the results with the 'private team'. The patients should not be unnecessarily subjected to two sets of tests.
  - d) In the event of a complication, the Trust should never refuse to treat simply because the cause of the complication is not clear.
  - e) The Trust will seek payment for the predictable costs before treatment commences.
  - f) The Trust and NHS should not be seen to be profiting unreasonably from patients in these circumstances.

### **15. Equality and Diversity**

- 15.1 The Trust recognises the diversity of the local community and those in its employ. Our aim is, therefore, to provide a safe environment free from discrimination and a place where all individuals are treated fairly, with dignity and appropriately to their need.
- 15.2 The Trust recognises that equality impacts on all aspects of its day-to-day operations and has produced an Equality Policy Statement to reflect this.
- 15.3 All policies are assessed in accordance with the Equality Impact Assessment tool, the results for which are monitored centrally.

### **16. Review**

- 16.1 This policy will be reviewed in 3 years time. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation of guidance.

## **17. Training and awareness**

17.1 Awareness of this protocol will be via Staff Communications.

## **18. Key Performance Indicators/Process for Monitoring Effectiveness**

18.1 Monitoring will be via the Clinical Directorate, General Managers and the Trust Private Patients Manager.

18.2 Private patient activity should be set as a subsection of the directorates activity KPIs and be reviewed at the QMF.

18.3 Private patient care pathways will be reviewed through the governance framework.

## **19. Discipline**

19.1 Breaches of this policy will be investigated and may result in the matter being treated as a disciplinary offence under the Trust's disciplinary procedure.

## **20. References**

<sup>1</sup> Department of Health (2009) *Guidance on NHS patients who wish to pay for additional private care.*

## **21. Further enquiries**

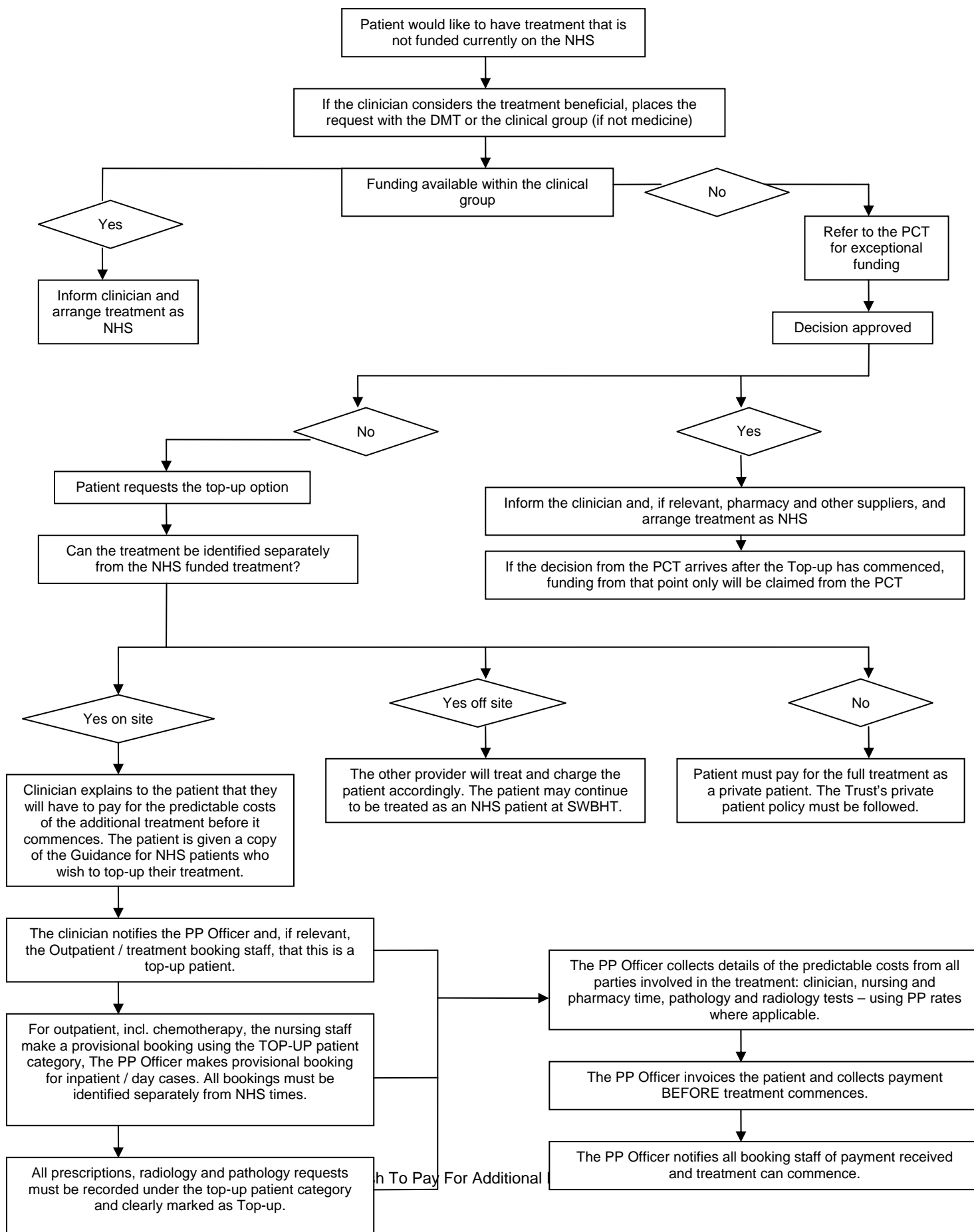
Any further concerns or queries regarding this policy should, in the first instance be directed to:

Jenny Donovan  
Cancer Services Manager  
Ext 3817

## **22. Appendices**

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| Appendix 1 | Flow chart on the decision and subsequent actions when opting for Top-Up treatment – additional medicines or treatments |
| Appendix 2 | A guide for NHS patients being treated at the SWBHT, who wish to pay for additional private care                        |
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**Flow chart on the decision and subsequent actions when opting for Top-Up treatment – additional medicines or treatments**



## **“Guidance for NHS patients at SWBHT who wish to pay for additional private care: ‘Top-up’.**

In March 2009 the government published guidance for patients who wish to pay for additional private care on top of their NHS treatment (“top-ups”). This leaflet explains what this means for you and how you can find out more.

### **1. How are top-ups different to having private treatment?**

Patients may choose to have private treatment either because they have insurance or because they are able to fund it themselves. This means that they pay for **all** of the care they need.

The government’s new guidance on paying for additional private care (Top-Up) means that you can continue to receive care free of charge on the NHS but can choose to add to that care by paying for additional private care on top.

### **2. How will I know if there is a top-up I could benefit from?**

You will need to talk to your doctor to find out if there are any treatments not available on the NHS that you may benefit from.

Your doctor will also advise on whether the treatment can be carried out at SWBHT or at another healthcare provider such as a private hospital.

### **3. Why won’t the NHS fund a treatment I could benefit from?**

Unfortunately the NHS cannot afford to fund every available treatment.

However, we have to make sure that we exhaust all reasonable funding sources before we suggest that your only option is to pay for your care privately.

Your doctor should talk to you about exceptional funding or any other local arrangements that may be in place to pay for your care.

### **4. I have heard of a treatment that I think will help me. Can I ask a doctor to prescribe it for me?**

Yes, you can ask your doctor about other treatments that you think may be useful.

However, your doctor is not obliged to prescribe a treatment if they do not think it will help you, or if they think it will cause you harm.

### **5. What if the treatment cannot be provided at the SWBHT?**

Your doctor at SWBHT can advise you on where else the additional treatment can be provided; this maybe another healthcare provider such as a private hospital or clinic or a Home care provider.

If you attend another healthcare provider for treatment, they will inform you of the costs and charge you accordingly.

You will still continue to receive your NHS follow up treatment at the SWBHT.

### **6. Will I have to pay for all of my care?**

No. As an NHS Trust we must not charge you for receiving NHS care if you are eligible for it.

Similarly, we must also ensure that the UK taxpayers do not pay for private care. This means that we have to charge patients for any additional treatments they receive which are not available on the NHS.

### **7. What will I pay for if I agree with my doctor to top up my NHS care?**

We can only receive a top-up treatment at SWBHT if it is possible for us to deliver it separately to your normal NHS care.

If we are able to deliver it separately, we will charge you for any costs related to giving you the additional treatment.

In addition to the cost of the drug or treatment that is not available on the NHS this may include:

- a charge for the consultation with your doctor
- an administration fee to cover the cost of planning and ordering your treatment
- a charge for any appointments or admissions necessary to give you the treatment

You will never be charged for the cost of the drug or equipment on its own because there is always a cost of arranging that care for you.

If you are treated at another healthcare provider, they will charge you for the service they are providing.

### **8. Will I lose my right to free NHS care if I have a top-up treatment?**

No. NHS treatment is based on clinical need, not ability to pay, and is free at the point of delivery. You continue to have a right to free NHS treatment provided you are eligible.

We must never take your financial circumstances or willingness to pay into account when making decisions about the most appropriate NHS treatment for you.

### **9. Can I choose to receive all of my care privately?**

Yes, you can always opt to be referred for private treatment if you prefer.

Please discuss this with your doctor so they can arrange this for you.

### **10. Case study examples**

#### **Case Study 1- Patient A's chemotherapy**

Patient A has lung cancer and has been prescribed some chemotherapy by her consultant, Dr Jones. Dr Jones has told her about a drug that has recently been trailed which could be effective. The extra drug is not funded on the NHS.

Following a discussion, Patient A agrees that she would like to pay to receive the extra drug on top of her chemotherapy. Dr Jones dictates a note to go in her records to say that patient A would like to top up her treatment.

Patient A attends the hospital for her chemotherapy appointment free of charge as normal. Later on she is booked in for a separate appointment at a separate 'private/top-up clinic' where her nurse, David, gives her the extra drug.

Patient A is charged for the drug, David's time and the dressing he uses. She also pays a small amount to cover the cost of Dr Jones writing the prescription and dictating the note, his secretary typing and printing the note, and the cost for pharmacy to order the right drug and check it before dispensing it.

#### **Case Study 2 – Patient B's post-op physiotherapy**

Patient B has just had hip replacement surgery. He needs help to get him back on his feet after the operation and his surgeon, Mr. Clark, offers Patient B physiotherapy in line with normal NHS follow up treatment.

It is difficult for Patient B to get himself to hospital for the physiotherapy. However, his son finds out that there is a private physiotherapy clinic right next door to where he works.

Patient B chooses to go to work with his son and pay to have physiotherapy at the private clinic. He is still coming to hospital to receive his normal check-ups with Mr. Clark free of charge.

### **11. I still have questions – who can I talk to?**

Have a chat to your doctor at your next consultation to find out whether there are any treatments not available on the NHS that they would recommend you have if you are able to pay.

<sup>1</sup> Department of Health (2009) *Guidance on NHS patients who wish to pay for additional private care*

## Clinician guidelines on Top-up payments for additional private care

The following is a set of guidelines for clinicians to follow when treating a patient who wishes to pay for additional treatment or medicines that are not funded by the NHS. The patient will stay as an NHS patient for their funded care. The Department of Health issued guidance<sup>1</sup> on this matter in March 2009 and clinicians are advised to refer to the guidance when treating such a patient.

1. The issue of treatment which is currently unfunded by the NHS maybe raised either by the patient or by the treating clinician. Clinicians should comply at all times with existing GMC guidance which states 'You must give patients the information they want or need about any treatments that you believe have a greater potential benefit for the patient than those you or your organisation can offer'.
2. Having established the treatment provided on SWBHT site would be beneficial to the patient, the clinician together with the clinical group management teams should exhaust all reasonable avenues of NHS funding. For medicines, a request should first be placed with the Drugs and Therapeutic Meeting (DMT). For treatments and any medicines not approved by the DMT, a referral should be put to the patient's PCT for exceptional funding.
3. If the treatment can best be provided in another private organisation, the patient should be referred accordingly.
4. If funding is secured from the PCT, the treatment can proceed as fully funded by the NHS.
5. If funding is not available, it must be established that the Top-Up treatment can be separately identified from the NHS treatment. In practice, this does not have to be a separate ward or clinic, but it would need to be at a separate time to ensure the costs can be separately identified.
6. The clinician should explain to the patient that they will be liable for the full 'predictable costs' and must pay for these before treatment commences. A cost can be provided by the Private Patient (PP) officer fairly quickly once the inputs from nursing, pharmacy etc are known.
7. The patient should be given the hand out 'Guidance for NHS patients at SWBHT who wish to pay for additional private care.'
8. The clinician should notify the PP officer of the patient details and planned treatment, providing details of the clinician time involved in the Top Up.
9. For medicines and outpatient appointments, the clinician should notify the nursing/booking staff that this is a Top up treatment and the Top up patient category should be used on TDS. All prescription, radiology and pathology requests must be recorded under the Top-Up patient category and clearly marked as Top-Up on all notes.
10. For all inpatient / day case treatments, the PP officer will arrange the theatre slot etc in accordance with the Trust's Private Patient policy.
11. Once the PP officer has collected the predictable costs, invoiced and collected payment from the patient, notification will be given that the treatment can proceed.
12. Indemnity: when the patient is being treated on SWBHT site, the normal SWBHT medical indemnity cover will apply i.e. as if NHS.

<sup>1</sup> Department of Health: Guidance on NHS patients who wish to pay for additional private care