

# YOUR RIGHTS TO NHS TREATMENT WHEN YOU ALSO PAY FOR PRIVATE CARE

## A simple summary of the legal position

- You cannot be deprived of NHS care and treatment because you also choose to pay for private healthcare – whether you pay for that care yourself, or through medical insurance.
- That principle applies whether you have had private care in the past, are currently having private care, or intend to have it in the future.
- The principle applies whether the private care is for the same condition that calls for NHS care, or for some different condition.

You are entitled to NHS care for your condition even though it may only have been diagnosed as a result of tests or examinations paid for privately.

- The principle applies even though you could have had from the NHS the care or treatment that you have chosen to have privately (for example, to get it more quickly or in more comfortable surroundings).
- The principle means that you should be given, free of charge, the same NHS care and treatment available to you if you had not paid for any care privately (assuming that the NHS care is still required and clinically appropriate).

You should not be subjected to any disadvantage or discrimination in the kind of care and treatment you get, or in the time it takes for you to get it.

- Government guidance says that private care should be carried out at a different time and in a different place to NHS care, so that there is no risk of the NHS subsidising the cost of the private care. BUT –
  - The guidance clearly accepts that NHS providers cannot use this as a reason for refusing NHS care where this sort of separation cannot be achieved safely. For example, you should not miss out on free NHS care because your health and safety mean that you cannot be moved elsewhere to receive your private care.
  - In my view, the same applies where the arrangements necessary to deliver the NHS and private treatment at different times and in separate places would cause you disproportionate pain or distress.
  - Logically, NHS providers do not have to insist on such separation in any event, if they are satisfied that the private care is not being subsidised by the NHS even though they are delivered in the same place.
- If you are refused NHS care for any reason relating to your private care, you should be promptly provided with clear reasons for that decision, so that you can challenge it if necessary.