

## What is the Physio First position re Bupa?

### A brief Introduction

Bupa are like any other insurer in the sense that they have their business to run and we, as self-employed private practitioners, have ours. As members, our relationship with an insurer is strictly business to business which is more or less complex depending upon how reliant we are upon them. Something that varies greatly from member to member. Each Physiotherapy practice has a separate relationship with an insurer and negotiates individually leading to different results based on supply and demand, a fundamental basis for doing business.

The Physio First relationship with Bupa is equally complex. Having to walk a line between resisting the temptation to call for a strike to force Bupa and all other private medical insurers to improve their rates, whilst knowing that such a move would unjustifiably inflate member expectations, diminish Physio First's ability to communicate with them and prove illegal.

So, to explain Physio First's position in the face of what many members (including members of our executive) feel are inadequate and sometimes derisory offers of fees to treat Bupa patients, here are four headings to explain.

1. **It is firstly a question of "who is Physio First?"**
2. **So why not just advise members to simply band together and say "no"?**
3. **So, what can we as members do?**
4. **Conclusion**

### It is firstly a question of "who is Physio First?"

Essentially, we are a membership trade association that is run by volunteers. Each volunteer runs his or her own practice but also contributes their own time and energy to doing the best they can for our colleague members, supported by our Strategic & Business Lead and our office team.

In terms of meetings that we have with any private medical insurer, these are really quite tricky in that in communicating with them we have to balance informing them of the problems that we as private practitioners face with the reality of their and our marketplace.

Reporting a problem to a private medical insurer such as **"Our members do not like the rates that you are offering"** we know from lots of experience that the response is likely to be something along the lines of **"Unfortunately, you are asking us to offer your members more than the research we have done indicates is a realistic price in the current marketplace. If we were to offer more, we would need something in return in order to make any increase cost effective. We ourselves have to remain competitive"**

So, Physio First representatives can relay our member dissatisfaction about rates to our contacts (and we do) but cannot yet address an insurer's legitimate question as to what Physio First members can do for them in terms of helping insurers make money, save money or improve their brand.

If we are too hostile and tell insurers how we as private practitioners really detest the way that they do business and that private practitioners would be encouraged to criticise them openly, including to their customers (our patients):

- at best they will simply refuse to meet us any more
- at worst they could remind us that if we were to encourage criticism of them then they would be **“asking their lawyers to intervene!”**

So again, not really a productive option as without this open communication channel with an insurer, we would get no advanced marketplace information that we can publish that helps us all.

So overall, meeting insurers is to try to persuade them to tell us about what they are intending to do, to try to find any common ground and to take those opportunities to relay how our members feel about them. Our establishment of our member only DBS enhanced checks, came as a result of such meetings with Bupa - see [here](#)

### **So why not just advise members to simply band together and say “no”?**

To try to present a united front as groups of individual members or as individual businesses and for Physio First to suggest that all members tell private medical insurers, that “we will not treat their patients for less than £x per session”, would put us in breach of the law and shoot ourselves in the foot.

The legal danger is that we would leave ourselves open to being sued for trying to adversely affect competition – a subject that we have taken legal advice upon and written about extensively, and about which the legal position is unchanged. For a simple detail see [Competition law risk: a short guide](#) - especially Case Study 5.

The shooting ourselves in the foot comes from the fact that not everyone would agree to unite. In a free competitive marketplace, some of us would regard any attempt by a group of members to band together (to effectively (and illegally) go on strike, to try to protect or improve fees as a major marketplace opportunity to nip in and take the business. Such instances were reported during what we dubbed “the Bupa Blind Tender process” in 2009.

All this tells us is that to expect such unity (even if it were legal) in a society that is set up to value competition (because competition benefits the consumer) would be naïve, damage our marketplace credibility and destroy any meaningful contact with private medical insurers.

### **So, what can we as members do?**

How big the problem of what private medical insurers pay is, depends upon our individual circumstances.

The question to ask for context is **“how much of our turnover is attributable to private medical insurance?”** The answer quickly shows the size of the problem and why there are such differences between members’ responses.

The same is true from a negotiating point of view. The less you need private medical insurance work, the better your negotiating position. Why? Because if you do not need them at all (or only to a very limited extent), you can simply say “no!” OR “it is not worth my while to work for those rates” OR “unless you increase them to what I regard as my bottom line, I will refuse”.

So, three plans that many members have learned are effective are:

1. to move from a position of reliance upon them, to one of no or limited reliance so that they can decide to reject working for private medical insurers at a time of their choosing and
2. to manage private medical insurer patients, so that they are only ever offered the harder to fill slots which tend to be mid-morning and mid-afternoon to leave the more popular early, lunchtime and evening slots for self-paying patients. This is obviously not something to discuss with either the insurers or their insured, but something which if cleverly managed, can alleviate the issue.
3. to recruit or distribute private medical insurance patients to less experienced colleagues.

All of these plans resonate differently with members depending upon your own priorities, values and ways of working, but all represent legitimate responses to the rules of our marketplace. It is never (ever) a case of one size fits all.

From a private medical insurers point of view, they fear not being able to find or retain enough physio practices to maintain their network. This plays out at a national and local level which is why some members can negotiate better rates so leaving the private medical insurer with fewer options and a worse negotiating position.

So, in terms of negotiating with private medical insurers whether Bupa or any other insurer, it is best to start by recognising your own competitive position. It is stronger or weaker depending upon your reliance upon them and density of competitors near you. Obviously, luck plays its own part e.g. as to where your practice is located but so does planning to reduce your reliance on their work.

So, whatever your position, in terms of communicating with a private medical insurer, your steps are:

1. know how strong or weak your position is
2. make it your business to find out what your competitors are being paid by insurers. Sometimes this will be through a mystery shopper approach, but as the case studies in the **Competition law risk: a short guide** point out, be very careful about how you find out and do not forget to determine the main context by understanding **“how much of a competitor’s turnover is attributable to private medical insurance?”** .
3. armed with as much cogent information as you can go back to the insurer and put your case as forensically and professionally as you can, as they are very used to this – it does not mean that you will necessarily convince them, but the discussion will inform you, to include whether to accept their terms or not.

Although “fairness” has technically little to do with the rates you are offered, being able to cite examples of competitor colleagues who are paid more can have impact as can references to inflation and time between (and percentages of) payment rises over the last few years. But none are silver bullets.

## **Conclusion**

The most helpful conclusion is to really understand the rules of engagement. No amount of clarion cry for what amounts to a strike to force insurers into increasing rates will work. What matters is how we organise and position our own businesses. Private medical insurance must be viewed for what it is, an option for patients and income that comes with many more strings than treating the uninsured self-paying patients.