



BDA Scotland comments to the Scottish Parliament, Health, Social Care and Sport Committee, October 2023

**THE NATIONAL HEALTH SERVICE (GENERAL DENTAL SERVICES)
(MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2023**

SSI 2023/247

1. In June 2023 the British Dental Association (BDA) Scotland provided written and oral evidence to the Scottish Parliament's COVID 19 Recovery Committee Inquiry into the recovery of NHS dentistry. David McColl, Chair of the Scottish Dental Practice Committee provided oral evidence to the committee on behalf of the BDA.
2. We understand that following an announcement by the Scottish Government in July 2023, in relation to payment reform of NHS dentistry by 1 November 2023, the Government have now laid regulations; the [*National Health Service \(General Dental Services\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2023*](#) which is intended to give effect to that payment reform.
3. Part of that process is for the Scottish Parliament Health, Social Care and Sport Committee to consider the policy grounds of the regulations and it has asked for the BDA to provide views on the instrument and in particular to consider the following 2 questions;
 - I. Do you think the reforms will meet the stated purpose as set out in the policy note
 - II. Do you have any issues you wish to raise in relation to the instrument and payment reform
4. General dental practitioners are independent contractors to the NHS. We have consistently stated that in order for the Scottish Government to 'sustain and improve patient access to NHS dental services', appropriate NHS funding must be made available for NHS general dental services.
5. NHS dental services in Scotland have yet to recover fully from the pandemic, when access to dental services was significantly reduced. As a result, a backlog of care has developed which is impacting on patient access. The pandemic's impact on dentistry exceeds any other part of the NHS in Scotland. This unique status requires ongoing support and wholesale reform. Recovery hinges on root and branch changes to service delivery and business models that were struggling even in a pre- COVID age. Scottish Government did not consider new models of care or alternative delivery models as part of payment reform and we feel this was a missed opportunity. Facilitating skill mix and ensuring that the NHS is an attractive place to work, which retains and recruits dentists and dental team members at all stages of their careers, will be key to the success of any reform.

6. The policy note for SSI 2023/247 states; ‘Payment reform affirms the Government’s commitment to sustaining and improving patient access to NHS dental services, in line with the First Minister’s Policy Prospectus. Payment reform will comprise a new, modernised system that will provide NHS dental teams with greater clinical discretion, improve preventive care, deliver better periodontal treatment and provide the full range of treatments necessary in modern dentistry, whilst supporting patient understanding of the NHS dental treatment offer.’
7. We understand that the purpose of this instrument is to support payment reform as outlined in the policy note.
8. The changes proposed in this statutory instrument relate specifically to;
 - I. The replacement of the existing capitation and continuing care arrangement with a single capitation arrangement for all patient regardless of age.
 - II. The removal of ‘occasional treatment’ items
 - III. Revised Terms of Service for the new capitation arrangement
 - IV. The removal of the provision that prevents NHS and private treatment on the same tooth
 - V. Miscellaneous changes
9. It is important to note that arguably the most significant aspect of payment reform is the development of a new [Determination 1 of the Statement of Dental Remuneration](#). The Determination 1 is a list of all the items of service and associated fees. Changes to the Determination 1 did not require regulatory amendment and are therefore not part of SSI 2023/247. We therefore will not include commentary on this aspect of payment reform, as it is not part of the regulatory changes laid out via this instrument.
10. We will consider each of the changes proposed via the statutory instrument and whether the reforms will meet the stated purpose as set out in the policy note.
11. **Q1: Do you think the reforms will meet the stated purpose as set out in the policy note**
 - I. The replacement of the existing capitation and continuing care arrangement with a single capitation arrangement for all patient regardless of age.
 - i. This amendment will mean that all care and treatment items, where appropriate, will be available for both children and adult patients and there will no longer be separate items for children. This may improve access to a more ‘full range of necessary treatments in modern dentistry’ for children.
 - ii. Scottish Government will need to evaluate the impact of access to dentistry for children in due course, particularly in relation to any impact on oral health inequalities and also on their ambition as outlined in the policy note, to ‘improve preventive care’.
 - II. The removal of ‘occasional treatment’ items
 - i. The new payment reform system will not restrict the treatment items available to non-registered patients, all patients regardless of registration status will be able to receive the same range of care and treatment.
 - ii. This would align with the ambition to ‘provide a full range of treatments’. However, capacity issues at dental service level, may impact on whether

non-registered patients are provided with a full course of treatment or emergency care only.

- III. Revised Terms of Service for the new capitation arrangement
 - i. This regulatory change does not directly relate to payment reform.
 - ii. The current capitation arrangement refers to the requirement to 'secure and maintain' the oral health of the patient. The regulatory change has amended this to 'manage' instead of 'secure and maintain'.
 - iii. This change reflects the responsibly the patient has in relation to their oral health and we would agree that this is a more realistic aim for the dentist. Although dentists and dental team members provide preventive advice to their patients, ultimately they do not have control over decisions which patients and parents/carers make in relation to oral health, for example lifestyle choices, diet and brushing habits, or their attendance at dental appointments. The shift to 'manage' therefore seems reasonable. However, this should be considered in the context, that patient's lifestyle choices can be impacted by factors such as deprivation and the government should look to ensure that oral health inequalities are addressed within their wider health policies.
- IV. The removal of the provision that prevents NHS and private treatment on the same tooth
 - i. This regulatory change does not directly relate to NHS payment reform but it is a regulatory change which we have been calling for.
 - ii. This should allow for more clinical freedom and support patient choices around treatment options, which had previously been restricted.
 - iii. Patients who choose to have a private procedure that is not available on the NHS, can continue to receive any treatment pertaining to other treatments on that tooth which are available on the NHS.
- V. Miscellaneous changes
 - i. Further miscellaneous changes have been made as a consequence of the main regulatory changes and will have minimal impact on the position outlined in the policy note.

12. Q2: Do you have any issues you wish to raise in relation to the instrument and payment reform

- I. In her [letter](#) to the dental profession, from 27 July, Jenni Minto, Minister for Public Health and Women's Health stated 'I recognise there remains further work to do to ensure the long term sustainability of dental businesses and I look forward to working with you as we test and refine the system post-launch.'
- II. We view these changes as simply the first step in the reform of NHS dentistry and it must not be the final destination. The Scottish Government must commit to future analysis of the impact payment reform has had on dental services, including the changes made to the Determination 1. We would like to continue to work constructively with the Scottish Government to ensure NHS dentistry has a sustainable future.
- III. We are concerned that certain aspects of the new Determination 1 may result in unintended consequences, which may result in an increase to oral health inequalities. For example, a single examination fee which does not take account of disease experience, may favour patients with minimal past dental disease and/or current dental disease experience and those with low treatment needs.

- IV. The outcome of payment reform will be critical for the dental sector. This reform will determine the future of NHS dentistry in Scotland and impact on the provision of dental care across the whole of the dental system.

BDA Scotland

October 2023