



Wednesday, 08 April 2020

**General Dental Services: COVID-19 Financial Support Scheme (GDS FSS)
NIDPC feedback 8th April 2020**

Mr Paul Montgomery
General Healthcare Directorate
Room C3.27
Castle Buildings
Stormont Estate
Belfast
BT4 3SQ

8th April 2020

Dear Paul

We are extremely disappointed that the Department chose to issue the financial support scheme documents without giving NIDPC adequate opportunity to provide feedback in advance.

While we accept the scheme has changed significantly compared with its initial guise, there are a number of key aspects to this scheme that we are deeply concerned about, as highlighted in our comments in bold below.

May we remind the Department that while put forward as a voluntary 'opt-in' scheme, we will not countenance a situation which is entirely one-sided in terms of the power relationship. In particular, this scheme must adhere to legal principles, not least the need for due process, fairness, and reasonable expectation. That is why an appeals process is key, and so to is sufficient clarity about how aspects of the scheme will work in practice.

We are disappointed that Capitation payments have been abated by 20%. We dispute the rationale that this is because of variable costs not incurred, and it is contrary to the approach taken in Scotland.

To date, we have fielded many hundreds of practitioner emails seeking clarity about aspects of this notional scheme. We feel it is only right that such enquiries be directed to the Department, and that you provide these answers urgently.

British Dental Association
The Mount, 2 Woodstock Link, Belfast BT6 8DD
02890 735 856 enquiries@bda.org bda.org

Key NIDPC concerns are as follows:

1. **No appeals process:** As a Trade Union, BDA cannot countenance a scheme whereby there is no ability to appeal a determination in relation to individual circumstances. In addition, the lack of a narrative in the application process to set out individual circumstances is concerning. A solution might be to establish a panel to include DoH, HSCB and a practitioner representative that can consider outlier individual cases
2. **Recovery:** Re-introducing an open-ended threat of possible recovery in the event there is a significant future increase in activity post-COVID is concerning and potentially off-putting to applicants. After this is over, an economic downturn is likely to result in general practitioners losing a considerable proportion of their Private income. While overall dental activity may not change, the NHS/Private balance is likely to, and access issues could be caused if NHS activity artificially stymied. An agreed and reasonable approach that seeks to avoid public funds being paid twice, while removing the threat of recovery where practitioners act responsibly in accordance with the scheme must be put in place.
3. **Capitation abatements:** The proposal to abate Capitation by 20% holds no justification. IoS fees are already being abated by 20%. Capitation has only a very miniscule % associated with variable costs. Rather, it is mainly associated with GDP time, and is not being abated in Scotland.
4. **Patient registrations:** We object to patient registrations being reduced from a further 6 months to 3 months. We would ask that a provision could be made that a 3 month period post-COVID could be put in place to allow registrations to roll over.
5. **Redeployment:** There are many situations where redeployment may not be appropriate to individuals. It would be unreasonable to expect all practitioners to be asked to redeploy under duress. Indeed, to the contrary, we point out that GDPs have volunteered to work in the urgent dental centres at a rate of over 400; they have donated PPE including oxygen tanks and PPE to the COVID effort; and they are being asked to assume additional responsibilities by conducting triage at weekends and unsociable hours over the bank holiday period. GDPs have jumped first; this must be recognised and reciprocated by supportive financial mitigations.

Specific NIDPC comments are as follows in relation to the text issued last evening:

Conditions:

- *GDPs, specialist practitioners and other staff must assist the wider HSC when asked by the HSCB 'where possible' -clarification that a reasonable interpretation will be applied, i.e. in proportion to HS commitment*
- *Practices must retain and pay staff (associates, non-clinical and other) who normally provide GDS dental care, to ensure the continued provision of urgent dental care services, and to provide support to other parts of the HSC sector as appropriate, unless in exceptional circumstances -again, clarification that a reasonable interpretation will be applied in the circumstances, and that furloughing of staff particularly in proportion to Private element will not be unreasonably precluded*
- *Conditional on there being a significant increase in the level of activity following the outbreak then it may be necessary to recover the support payments made in 2020, over the period 2021-22 to 2023-24 -who will make this determination? Will the determination be based on individual practice level activity, or NI-wide activity? Urgent commitment to protect and reassure practitioners, and ensure due process for all who enter into this scheme in good faith from being subject to clawback through circumstances outside of their control at some point in the future*
- *The appeals process under GDS Regulation 21 will not be available to applicants - BDA NI strongly objects to the Department's proposition not to include an appeals mechanism. This is fundamental to ensuring fairness is applied and seen to be applied, and to have less common situations reviewed.*

Application Process:

- *The nature of the scheme means that it will be necessary for GDPs to apply for the support payment rather than being automatically enrolled. In addition, there is expected to be a need to refine and amend the approach as more information becomes available which means that this approach should be repeated each month. - any proposed changes to the scheme must be in consultation with representatives of the profession whose livelihoods depend on scheme rules, and to which it forms a material change in the terms and conditions to which they are accustomed. NIDPC is the recognised body to negotiate on behalf of GDPs in Northern Ireland.*

Appeals:

- *In light of the short period of time available it is not possible to design a scheme which covers the particular circumstances of all individual GDPs. In the context that the scheme is voluntary with a need to have the minimum amount of administration possible, it is intended that there will be no appeal process available in respect of the level of monthly support payments. **-we cannot countenance a situation whereby individual practitioners have no right of reply to appeal any allocation or perceived injustice on their part in how they are treated by this scheme. Again, this is extremely one-sided in power and control, and contrary to due process. A simple appeals mechanism is absolutely essential to this scheme, even if just a third party like HSCB which can review how allocations are made.***

Statement of Dental Remuneration (SDR):

- *The development of the COVID-19 GDP financial support arrangement has delayed the implementation of the Minister of Health's decision to apply the DDRB recommendations through a 2.7% increase in the rate of payment for items under the Statement of Dental Remuneration. **-At a time of crisis in GDS, ensuring backpay of DDRB 19/20 owing to practitioners is an absolutely imperative. The Public Sector Pay Policy was set in November 19 after DDRB reported in early Summer; it is yet further evidence of the dysfunctional approach to dentistry within the Department of Health that they have not been able to run the processes to make backpay awards.***
- *Action to implement the SDR will take place as soon as possible. **-while GDPs have been given tight deadlines of 2 days to complete their applications, DoH officials can leave actions at their end open ended. This is unsatisfactory.***

Recovery:

- *There is the potential for a spike in activity following the outbreak which would result in a boost in IoS payments for 2020-21 compared to what they would have been in the absence of a pandemic. If this is found to be the case there may be a need for some of the support to be recovered if there is a significant increase in activity compared with previous years.*

*This remains uncertain, will be monitored and further details will be developed by the DoH in due course. **-It is wholly unacceptable to suggest that monies could be recovered, without giving a clear indication at the outset of what those tightly defined circumstances are that could lead to a recovery taking place; the extent of recovery that could be potentially applied; and whether this would impact at individual GDP level, or equally across all applicants of the scheme.***

Wednesday, 08 April 2020

We question the procedural fairness of this provision to ensure this aspect of the scheme is applied fairly.

Conclusions:

Key safeguards to guarantee procedural fairness are missing -including the absence of a right to appeal, and the vagueness of references in relation to possible future recovery. Abating capitation commitments at 20% is also ungrounded.

The caveat throughout that 'these rules are subject to change' gives little comfort to practitioners who need a degree of certainty to be able to weather the financial storm they find themselves in. Any changes must include meaningful consultation and input opportunities by NIDPC on behalf of the profession it represents, and done in good faith.

An appeal that the above adjustments are made to the scheme, and that the Department engages more meaningfully and routinely with BDA as the scheme continues to develop. In the meantime, we trust the Department will be receptive to fielding practitioner queries, and responding with frequent FAQs to be posted online on the BSO Dental COVID pages.

Finally, we would be grateful if you can confirm your approach to the suggested amendments urgently, being mindful that practitioners require clarity in advance of the 9th April deadline (tomorrow).

We look forward to hearing from you.

Yours sincerely



Richard Graham
Chair, NIDPC



Tristen Kelso
BDA Northern Ireland Director

Appendix: Verbatim feedback raised by practitioners

Cc: Michael Donaldson, Acting Chief Dental Officer