

Health and Social Services Committee

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Date: 3 November 2005

Venue: Committee Rooms 3 & 4, National Assembly for Wales

Title: Legislation required to implement the new dental contract

Purpose

1. This paper updates the Committee on the secondary legislation required to be in force in order to implement the new dental contract.

Background

2. I wrote to the Chair of the Health and Social Services Committee on 11 October detailing the legislation necessary to implement the new dental contract from 1 April 2006 and to raise a number of issues regarding the handling of the legislative timetable. The letter has also been copied to all Assembly Members and is reproduced as an annex to this paper.

3. I subsequently met with the Chair of the Health and Social Services Committee on 18 October and agreed that the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006 and the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006 will be considered in draft, albeit near final form, when the Committee meets on 23 November. The National Health Service (Dental Charges) (Wales) Regulations 2006 will be considered in final form by the Committee next year.

Action for Subject Committee

4. To note the content of the letter sent to the Chair of Health and Social Services Committee and the proposed handling of the legislation associated with the introduction of the new dental contract. Any additional legislation identified by Committee for scrutiny will need to be considered at the same time as the Dental Charges regulations. Once the legislation has been scrutinised by the Committee it will be considered by Business and Legislation Committees before going to Plenary.

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Copy of the letter sent by the Minister for Health & Social Services to the Chair of the Health and Social Services Committee on 11 October 2005

Legislation required to be in force in order to implement the new dental contract

I am writing to you to provide you with details of the secondary legislation necessary to implement the new dental contract from 1 April 2006 and to raise a number of issues regarding the handling of the legislative timetable in order to introduce the reforms.

The implementation of the new dental contract regime requires significant amendment to the legislative basis under which general dental services are currently provided and the repeal of a significant amount of primary and secondary legislation. While the reforms will allow dentists to provide more appropriate clinical care, spend more time with patients and expand overall capacity, the measures will also simplify the legislative base. Despite the new powers it is intended that the volume of legislation post implementation will be smaller and more coherent than that currently in place.

Attached as an annex to this letter is a list of the legislation associated with the reform of dental services. Against each is a brief explanation of the intended effect of the measures. You'll be aware that the Health and Social Services Committee have already identified for scrutiny the National Health Service (Dental Charges) (Wales) Regulations 2006, the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006 and the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006. The remaining items in the annex had yet to appear on the list of forthcoming legislation but were to be included in the schedule due to be considered by HSS Committee on 3 November.

The draft timetables for standard procedure we currently have for introducing the above Regulations have identified difficulties in meeting all of the required stages before consideration in Plenary.

It has always been our intention that the legislation concerning the new contract would follow the National Assembly's standard procedure. However, final versions of the Regulations, Directions and Orders will not be available until at least the first week of January which means they would not be able to go for HSS Committee scrutiny until 1 February at the earliest. While this means that the Regulations could come into force on 29 March, and this is workable for the Dental Charges Regulations, for the GDS Contract and PDS Agreements Regulations (and any other associated legislation which is identified for scrutiny) this does not allow enough preparatory time for the work which LHBs and dentists will be required to undertake - negotiating, agreeing and signing contracts etc. - and the Regulations need to be made by early February at the latest.

This is a very similar situation to the position we faced with the General Medical Services legislation for the new GP contract. On that occasion although HSS Committee agreed to scrutinise draft versions of the Regulations it was still necessary to use the executive procedure and Plenary debated on the principle rather than the detail of the legislation.

We are more advanced with drafting the main legislation for the dental contract than at the equivalent time for the GMS contract. Indeed we are currently consulting on draft Dental Charges Regulations and have also published drafts of the GDS Contracts and PDS Agreements Regulations. However, due to the timetabling difficulties outlined above I believe there is a need for HSS Committee to consider agreeing to scrutinise the Regulations, and any other associated legislation subsequently identified for scrutiny, in draft, albeit near final form, if we are to introduce the legislation in time to implement the new dental contract from 1 April 2006.

The new dental contract is based closely on that being introduced in England although officials are working with British Dental Association Wales and the dental profession to amend the contract where possible to reflect needs and address difficulties here. However, our timetable is linked to the one in England and you will know that there have already been a number of postponements in the date for implementing the contract.

I believe that any further delay in implementation in Wales would now be very serious. Even a month or two delay would put us seriously out of step and have an immediate and negative effect on retention and recruitment of dentists providing NHS care. There would also be substantial additional cost in maintaining different payment and charging arrangements for dentists in Wales with the Dental Practice Board.

I am therefore proposing that the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006 and the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006, and any other associated legislation subsequently identified for scrutiny, are considered in draft form by the HSS Committee. It would seem to be sensible that this is done at its final meeting before Christmas when near final drafts should be ready. An undertaking would also be given to update the Committee on any significant changes to this legislation and to let them have copies of the final versions as soon as they were ready. This is by no means an attempt to by-pass the scrutiny of the Committee but a necessary approach if we are to implement the new dental contract on 1 April 2006. The Dental Charges Regulations would be able to be considered in its final form when the Committee met on 1 February.

I cannot be certain that the other items of legislation listed in the annex would follow standard procedure. The Regulations, Orders and Directions are inextricably linked and much will depend on timetabling, possible scrutiny and the readiness of the final drafts. However, we would endeavour to follow the standard procedure where possible and I will keep you and the

Committee informed of any changes to this.

I would welcome the opportunity to discuss with you my proposal for handling the legislation required to implement the new dental contract.

A copy of this letter will also be going to Jenny Randerson AM, Chair of the Business Committee.

Annex

The National Health Service (Dental Charges) (Wales) Regulations 2006 provide for the making and recovery of charges for the provision of dental treatment and the supply of dental appliances under the National Health Service Act 1977. Consultation on the principle of a new banded charge payment system and the draft regulations began on 29 August and ended on 7 November.

The National Health Service (General Dental Services Contracts) (Wales) Regulations 2006 will set out the framework for general dental services contracts under section 28K of the National Health Service Act 1977. They will also prescribe the conditions which must be met by a contractor before the Local Health Board may enter into a general dental services contract with it; the procedure for pre-contract dispute resolution; the terms which must be included in a general dental services contract; and a description of the services which must be provided to patients under a general dental services contract.

The National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006 will set out the framework for personal dental services contracts under the National Health Service Act 1977. They will also prescribe the conditions which must be met by a contractor before the relevant body may enter into a personal dental services agreement with it; the procedure for pre-agreement dispute resolution; the terms which must be included in a personal dental services agreement; and provide for the contractor to terminate its agreement and enter into a general dental services contract.

The National Health Service (Performers Lists)(Wales) Amendment Regulations 2006 provide for lists of persons performing primary dental care to be kept by Local Health Boards in accordance with the provisions of section 28X of the National Health Service Act 1977.

Dental Public Health Regulations and Directions will prescribe functions an LHB will have in relation to public health.

GDS Statement of Financial Entitlement Directions (made under section 28N of the NHS Act in respect of payments and GDS Contracts) set out what payments a contractor holding a GDS contract is entitled to. They also set out what persons providing general dental services under

the old regime will be entitled to by way of a minimum contract value guarantee.

PDS Statement of Financial Entitlement: Directions (made under section 28E(3A) of the NHS Act in respect of payments under PDS Agreements set out what payments are to be made to those providing services under a PDS Agreement.

Commencement Order (2003 Act) will commence relevant provisions in the Health and Social Care (Community Health and Standards) Act 2003.

GDS and PDS transitional and consequential provisions order sets out the way in which we move from the old contract to the new contract and also relates to minor and consequential amendments which govern the relationship between new and existing legislation.