

## **Explanatory Memorandum to The National Health Service (General Dental Services Contracts and Personal Dental Services Agreements) (Wales) (Amendment) Regulations 2017**

This Explanatory Memorandum has been prepared by the Primary Care Division of the Health and Social Services Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the National Health Service (General Dental Services Contracts and Personal Dental Services Agreements) (Wales) (Amendment) Regulations 2017. I am satisfied that the benefits justify the likely costs.

Vaughan Gething  
Cabinet Secretary for Health, Well-being and Sport

31 October 2017

## **1. Description**

1.1 These regulations amend the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006 and the National Health Service Personal Dental Services Agreements) (Wales) Regulations 2006.

1.2 They mandate the electronic submission of NHS primary dental care activity data and provide Local Health Boards (“health boards”) with a discretionary power to accept paper forms in exceptional circumstances.

## **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

2.1 None.

## **3. Legislative background**

3.1 The regulations will be made pursuant to powers under sections 61, 66 and 203(9) and (10) of the National Health Service (Wales) Act 2006 and will be subject to the negative resolution procedure.

## **4. Purpose & intended effect of the legislation**

4.1 As part of the programme of dental contract reform Welsh Government is developing an electronic referral management system in dentistry for referrals from primary to secondary care. Linked to this move to electronic e-referrals we also want to introduce a requirement for dental activity data forms (FP17W and FP17OW) - which detail courses of NHS primary care dental treatment including orthodontic courses of treatment - to be submitted to health boards electronically. Health boards will have a discretionary power to accept paper forms in exceptional circumstances.

4.2 Dental contractors providing NHS services are required to submit the forms FP17W and FP17OW (“FP17s”) to the NHS Business Services Authority (NHSBSA) detailing activity data for every course of NHS dental treatment they provide. The data recorded on the FP17s shows the clinical treatment undertaken, the patient charge collected, the number of units of activity performed, and treatment banding information.

4.3 There are at present options for dental providers to submit the forms electronically or in paper form version or a mixture of both. Of the 2.3 million forms submitted annually, currently 95.1% are submitted electronically and 4.9% by paper – a number of practices submit data both electronically and in paper form. There are 429 dental practices providing NHS primary dental care in Wales with some 40-50 submitting at least some paper FP17s.

4.4 If all FP17s were submitted electronically there would be a number of potential benefits achieved, including:

- an increase in the capture and scope of data beyond the current limits of a paper form;
- improved performance management, service quality and public health data to improve local commissioning;
- improved audit and value for money; and
- improved data quality - 12.42% of paper forms are rejected during processing compared to 3.61% of electronic forms.

## **5. Consultation**

5.1 Please see part 2.

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### **6. Options**

#### **Provide an online form via the NHSBSA dental portal (without mandating)**

6.1 NHSBSA carried out a small research study looking at the reasons why dental practices were reluctant to move to on-line transmission. In summary, cost, low levels of IT proficiency and general reluctance to change were identified as the main drivers for dental practices continuing to submit paper FP17s. Although the delivery of on-line FP17s via the NHSBSA dental portal may encourage some of the remaining practices to switch to electronic submissions, this is unlikely to achieve 100% electronic submission without a regulatory change making it compulsory.

#### **Mandate the electronic transmission of the FP17 forms (preferred option)**

6.2 This would require all dental practices to transmit their FP17s electronically. NHSBSA will provide free on-line FP17s as an alternative to full computerisation and this provides an inexpensive option for practices submitting paper forms. This would require a computer and internet connection. The cost of this is estimated to be £500 (one off cost) with £300 ongoing annual costs. For practices wishing to invest in full clinical and practice management IT software, the cost is estimated to be £11,000 per practice with approximately £2,500 annual maintenance and support costs.

6.3 There is currently a one-off grant of £900 funded by Welsh Government available to dental practitioners wishing to introduce wholly new systems to transmit electronically through Web Electronic Data Interchange (WebEDI). WebEDI provides the current secure means of sending data between a dental practice and NHSBSA. It is proposed to continue to offer the WebEDI grant until 1 November 2018 for those dentists wishing to introduce electronic transmission ahead of the regulatory change.

6.4 The benefits of mandating electronic transmission are set out below:

<b>Benefit</b>	<b>Beneficiary</b>
Fits with the wider programme of dental contract reform and electronic referral in NHS dentistry for referrals from primary to secondary care.	Welsh Government Health boards Dental practices Patients
Reduced cost for changes to the content of FP17s	NHSBSA Health boards Welsh Government
Removal of space restriction when adding new items to FP17s	NHSBSA Health boards Welsh Government
Reduced risk of loss or interception of patient data	Dental practices Patients
Near real-time processing	Health boards Dental practices
Improved data accuracy	Health boards Dental practices NHSBSA
Reduced postage costs	Dental practices
Reduced costs due to removal of paper data capture process	NHSBSA Welsh Government

6.5 There is an inherent risk with FP17s being lost when either submitted by post or courier. If the FP17s are submitted electronically the risk of interception/loss is greatly reduced.

6.6 FP17s are processed in near real-time if submitted electronically, whereas paper forms take three working days to be scanned, keyed and validated.

## **7. Costs and benefits**

### **Impact on the private, local government and third sector**

7.1 No impact on the private, local government or third sector is foreseen.

### **Impact on the public**

7.2 Minimal but there will be a reduced risk of loss or interception of patient data.

### **Impact on health boards**

7.3 Health boards will benefit from increased efficiency, quality of data, timely submission of information and more accurate reporting. This will help with contract management and commissioning.

## Impact on dental practitioners

7.4 There are 40-50 practices which continue to submit paper FP17s, fully or in part. If the practices who submit all FP17s in paper form do not take advantage of the £900 grant currently available for WebEDI transfer then they would be required at the very least to invest in a computer and ongoing broadband connections if not already available in the practice. The cost of this is anticipated to be £500 (one off costs) with £300 ongoing annual costs. For practices wishing to invest in full clinical and practice management IT software, the cost is estimated to be £11,000 per practice with approximately £2,500 annual maintenance and support costs.

7.5 The benefits to practices include:

- reduced postage costs;
- reduction in FP17 rejections due to online form validation;
- more accurate and timely transfer of data;
- reduced risk of loss or interception of FP17s; and
- near real-time processing of FP17s.

7.6 These regulations will only impact financially on those practices which do not:

- currently have the ability to transmit returns electronically (whether they choose to do so or not);
- have broadband or a computer in the practice; or
- take advantage of the grant available for WebEDI.

7.7 Over 90% of practices and their dentists are therefore unaffected as they are known to already electronically transmit all or some returns. Of the remaining 10% which are impacted, reasons varied for still reporting on paper but the most common reason given was unwillingness to invest in the substantial costs of a full clinical system. The proposed online form reduces up-front costs reducing from £11,000 to £500 and ongoing costs from £2,500 to £300. No dentist suggested in the NHSBSA research study their business would be unable to make returns electronically due to protected characteristics e.g. age, race, religion or belief. However there has been a case in a non-health care sector where a business owner was unable to make returns electronically due to their deeply held religious beliefs. The proposed regulation addresses this possible scenario by giving health boards the power to allow paper returns on an exception basis.

7.8 The level of change required is further reduced by the fact that the online form will be a near replica of the existing paper form and as currently is the case returns do not have to be made by a named individual. Anyone in the dental practice can complete and upload forms under the dentist who carried out the treatment's overall authority.

7.9 A significant transition period of 17 months is proposed between the regulation change coming into force on 1 December 2017 and the point at which electronic submission would be mandated - 1 May 2019. This will allow sufficient time for the web-based form to be designed and made available and

for NHSBSA, Welsh Government, health boards, and NHS Shared Services Partnership to work with contractors still submitting paper forms in order to prepare them for the change coming into force on 1 May 2019. The NHSBSA will be establishing a working group to develop the on-line form that will include practice staff and dental profession representatives.

7.10 As set out above health boards will have the power to continue to allow paper claims where electronic transmission is not practical. As well as possible religious or other difficulties on the part of the contractor this allows for other possible circumstances, for example broadband coverage or IT systems being down for prolonged periods.

7.11 One-off grants of £900 funded by Welsh Government will remain available to practitioners wishing to introduce wholly new systems to transmit electronically through WebEDI until 1 November 2018 when it will cease i.e. 6 months before the requirement for FP17s to be submitted electronically comes into effect.

## **8. Consultation**

8.1 The move to electronic submission of FP17s in Wales will correspond with the same changes in England. Department of Health undertook a 5 week consultation with the British Dental Association (BDA) on the changes. The BDA is the professional association and trade union for dentists in the United Kingdom. Although BDA Wales is not independent of BDA at a UK level we also undertook a subsequent 4 week consultation with BDA Wales.

8.2 The BDA raised concerns about the cost to practices of having to introduce new IT systems and also regarding possible disruption to 'end year' returns - the original intention was for the changes to come in on 1 April 2019. No specific comments were received from BDA Wales.

8.3 As a result of the consultation the implementation date has been put back a month to 1 May 2019. There will also be a transitional provision to allow paper FP17s to be submitted until 30 June 2019 for courses of dental treatment ending on or before 30 April 2019. This will minimise any 'end year' disruption to contractors and NHSBSA.

8.4 For dental practices wishing to transmit data electronically ahead of the change to regulations, the Welsh Government WebEDI grant will remain available until 1 November 2018.