

Handling Cases of Misleading Information about NHS Dental Services: PCT Advice

1. Introduction

One of the intended benefits of the recent changes to NHS dentistry is to improve clarity and transparency of information about dental services for patients and the public. In the past, patients have reported confusion about whether they were receiving NHS or private dentistry. The new regulations now require dentists to give clear information about which elements of a course of treatment are NHS and which are private and what each will cost (if the patient is an NHS charge payer).

There are many good examples of PCTs and dentists working effectively together to provide clear information to patients and the public. There have, however, been a small minority of cases where dentists have issued information to patients that gives a misleading contrast between NHS and private care. Dentists have every right to promote to patients any benefits of private care; however, in doing so, they have both an ethical duty and a contractual responsibility not to denigrate the quality of NHS dental services.

This report gives some examples of misleading communication and examples of PCT good practice in handling such situations.

2. Background

Recently there have been instances where practices have sent letters to their patients about the new dental contract arrangements from 1 April 2006, or have posted information on their websites. Some of these portray NHS dentistry as a basic “no frills” service alongside descriptions of the benefits of private dental care.

Typically, the line being taken in these letters is that practices are being forced to make some or all of the following changes in respect of NHS patients:

- 1) Reduced/limited availability of appointment slots (e.g. appointments not available early morning or afternoon, or not available in school half terms)
- 2) Patients no longer registered with the practice
- 3) See some patients less frequently
- 4) No reminders or recall letters
- 5) No automatic entitlement to 6 monthly NHS checkups
- 6) Shorter NHS treatment slots
- 7) No OOH or emergency service provided by practice
- 8) No guarantee of seeing same dentist each time

- 9) Assessment required before dentist decides whether or not to provide NHS treatment
- 10) Appointment booking fees and/or missed appointment fees
- 11) Use of amalgams versus white composite fillings

Some letters or practice websites also selectively compare the new NHS patients' charges with private charges, but usually without making clear that the NHS charges are for entire courses of treatment

There have also been reported instances where dentists have

- a) implied that the quality of NHS treatment is inferior to that of private treatment
- b) accepted a person as an NHS patient, then told them when "extensive" treatment required that this cannot be provided on the NHS

3. What action might the PCT take?

This will depend on the circumstances. There may be clear evidence of a breach of the Regulations, or of clauses that have been included locally in the PCT's contracts (eg around NHS opening hours/appointment times), or even (in extreme cases) potentially fraudulent behaviour – see section 5. Or the situation may be less clear cut. There may be no actual breach, either of the Regulations or contractual terms, but the PCT may have concerns (serious or otherwise) about the content or tone of the communication. This may be because the letter/website runs contrary to published local policies and/or accepted good practice, is misleading or portrays the local NHS in a poor light. Adverse publicity may also have been generated as a result. The table below lists actions PCTs may wish to consider taking in response to this range of circumstances:

<i>Situation</i>	<i>Possible PCT response</i>
Breach of contract (either contract regulations or locally agreed terms)	Notify practice, referring to relevant terms of contract – request formal meeting to discuss concerns, with follow up letter from PCT to confirm outcome/action agreed. (Keeping a record of actions taken, and the reasons, is good practice in case of a subsequent dispute.) Ultimately PCT could terminate contract if issues are not rectified within the agreed timescale
No breach, but PCT has major concerns	Formal meeting with practice to discuss concerns, with follow up letter from PCT to confirm outcome/action agreed. Depending on the outcome, the PCT may decide not to commission services from the practice in future. Consider media handling strategy.
No breach, PCT has minor concerns	Informal discussion with practice, explaining reasons for concerns. Consider whether press release necessary to counteract any misinformation or adverse publicity.

4. Responses to specific points

PCTS may wish to customise the responses in the table below for local use. The table gives examples of misleading information to patients.

<i>Situation</i>	<i>Response</i>
Misrepresentation of reasons for introduction of new contract	To release dentists from “drill and fill” treadmill, allowing a more preventive approach. PCTs are now responsible for commissioning dentistry Benefits: <ul style="list-style-type: none"> • Guaranteed income for dentists in return for 5% less courses of treatment (compared with old GDS) and opportunity to carry out simpler courses of treatment – allowing time for more preventive work • Simpler system of patient charges
Reduced or limited availability of appointment slots	Not a breach – unless a clause specifying NHS opening hours is included in local contract There is no reason why the practice should not offer flexible appointments to NHS patients. The PCT may wish to develop local policy/good practice guidelines that meet the expectations of local people.
Patients no longer registered with the practice	‘Registration’ no longer formally exists – in the sense that dentists are not paid a ‘continuing care’ fee for the patients on their books and they are not obliged to offer continuing care to any patient. But we would expect most dentists will continue to keep the same patients on their books – just as they did before 1990 (when the formal system of registration was introduced) – and there is nothing in the new contract to prevent them from doing so.
Changes or increases in NHS fees	There are three standard charges for all NHS dental treatment. The maximum charge for a complex course of treatment has been reduced from £384 to £189. Most courses of treatment will cost £15.50 or £42.40. Patients will only pay one charge even if they need to visit their dentist more than once to complete a course of treatment. Free NHS dental treatment is available for patients who meet the exemption criteria.
Treatments not available on the NHS	This is potentially a breach of contract. As was the case prior to 1 April 2006, the NHS covers all treatment other than cosmetic procedures with the dentist using his or her clinical judgement as to what is “proper and necessary” (GDS Regulations, Part 5, para 14). In other words, the dentist should provide all treatment within his/her competence that is necessary to maintain oral health and which the patient is willing to undergo. The new regulations require dentists to be clear with patients which

	<p>element of their treatment is NHS and which is private (GDS Regulations, Schedule 3, para 7; and Part 7 GDS model contract). There is also a requirement to display information about NHS charges in the practice (part 13, para 208.2 of the model GDS contract). This was in response to feedback that patients found the former system confusing.</p>
Inferior quality of NHS treatment	<p>This is potentially a breach issue. A dentist may not, simply in order to persuade a patient to opt for private treatment</p> <p>a) advise that patient that the treatment required is not available under the NHS</p> <p>b) mislead the patient about the quality of NHS treatment (GDS Regulations, Schedule 3, para 10; also part 7, para 58 of GDS Model contract)</p>
Use of amalgam vs white composite fillings	<p>Under the old GDS Regulations, dentists could not provide a white composite filling on a rear tooth as NHS treatment as this was deemed to be cosmetic. It would be misleading for a dentist to cite this as an example of the inferior quality of NHS treatment, as amalgam fillings are proven to be</p> <p>a) more durable, and</p> <p>b) less likely to cause post operative pain than the white composite variety</p>
No reminders or recall letters	<p>This is down to the practice's choice – there is no reason why not to send out reminder or recall letters (other than to save money and make a private package appear more attractive). When someone is seen by their dentist they must be told when they need to come back. PCTs may wish to build recall letters into local good practice guidelines.</p>
No automatic entitlement to 6 monthly NHS checkups. Some patients will be seen less frequently	<p>The National Institute for Health and Clinical Excellence (NICE)* has introduced guidelines on how often patients need to go to the dentist. Frequency of check ups will depend on the dentist's assessment of a patient's oral health. This means:</p> <ul style="list-style-type: none"> • people with higher treatment needs may need to attend more often than before • people with good oral health may only need to attend once every 12-24 months. <p><small>*NICE is the independent organisation responsible for providing healthcare guidelines in England and Wales.</small></p>
No OOH or emergency service provided by practice	<p>From 1 April 2006 PCTs are responsible for ensuring that an appropriate out-of-hours service (OOH) is provided in their area. Patients who need urgent treatment will continue to get it.</p>

	The cost of emergency/urgent treatment is set at £15.50 and requires the dentist to provide all treatment necessary for the relief of pain. This is simple for people to understand and ensures all patients can access urgent care when required.
No guarantee of seeing same dentist each time	There is no reason why the practice cannot offer choice of dentist, provided (as now) patients are prepared if necessary to wait for an appointment with the dentist of their choice
Insisting on assessment before making decision whether or not to provide NHS treatment	This is potentially a breach. If a dentist agrees to provide an examination, s/he is then obliged to provide whatever treatment is clinically necessary as part of the same course of treatment. (GDS Regulations, Schedule 3, para 7; also Part 7, para 47 of GDS Model Contract)
Applying a booking fee, or charging for missed appointments or short notice cancellations	This is potentially a breach. Under The National Health Service (Dental Charges) Regulations 2005 (Section 3), practices can only make a charge for items listed in the regulations. As booking fees, missed appointments and short notice cancellations etc are not listed, it is illegal after 1 April 2006 for practices to charge patients for these. However, dentists may ask patients to pay the minimum £15.50 charge at the start of their course of treatment – but if they charge £15.50 and then the patient fails to attend the first appointment, the patient is entitled to a full refund. (See also Managing & Minimising Failure-to-Attend (FTAs) briefing paper on PCC website at http://www.primarycarecontracting.nhs.uk/uploads/Dentistry/march_uploads/managing_ftas.pdf)
Failure to apply NICE guidelines	This is potentially a breach. It is a contractual requirement (as well as clinically appropriate) to apply NICE guidelines on patient recall intervals. See GDS Regulations, Schedule 3, Part 2 para 14; also Part 7, para 71 of GDS Model Contract
Patient told that “extensive treatment” is only available privately	This is potentially a breach. The GDS Regulations specify that dentists must provide all proper and necessary dental care and treatment. Once a dentist has agreed to provide an examination for a NHS patient, the dentist is then required to carry out any treatment that follows from that examination and assessment.
Treatment required by a patient is unreasonably split across a number of courses of treatment	This is potentially a breach. The GDS Regulations specify that dentists must (a) provide “all proper and necessary dental care and treatment” and (b) deliver services by providing patients with courses of treatment (excluding orthodontics).

	<p>A “course of treatment” is defined as an examination of a patient, an assessment of oral health and the planning of any treatment required as a result of that examination and assessment.</p> <p>If a dentist is splitting treatment across several courses of treatment, this will be picked up in the activity monitoring reports from the BSA.</p> <p>If the PCT found evidence that treatments were being split in this way without clinical justification, it would be able to issue a remedial notice in accordance with Schedule 3 para 73 of the Regulations.</p>
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5. Suspected Fraud in NHS Dentistry

The Counter Fraud Service Division of the NHS Business Services Authority is developing separate guidance to PCTs on handling suspicions of fraud in NHS Dentistry.

In the meantime, if you have any suspicions of fraud, please telephone the Counter Fraud Service Division’s fraud and corruption reporting line on 0800 028 40 60.