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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation – summary of response

The draft Private Dentistry (Wales) Regulations 2017

January 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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Introduction

The Welsh Government is proposing to create a new, more effective regime for the regulation of private dental practices by way of the introduction of the Private Dentistry (Wales) Regulations 2017 (“the 2017 Regulations”). A 12 week public consultation exercise was undertaken which sought the views on major changes to the way dentists and their teams, and dental care professionals who provide private direct access dental services are regulated.

The consultation opened on 29 January 2016 and closed on 22 April. The consultation included 9 questions which were set out in a proforma style document and an online form for ease of email return. The first 8 questions gave respondents the choice of *yes* or *no* answers and then allowed for comments. Question 9 invited any other comments not covered elsewhere. Respondents received a standard acknowledgement letter confirming receipt of their response.

This document provides a summary of the consultation responses received by the Dental Policy Division from a range of key stakeholders. We would like to take this opportunity to thank everyone who responded to the consultation. We value your opinion and your views will be taken into account in the final drafting of “the 2017 Regulations”.

The 2017 Regulations will operate alongside two other sets of Regulations:

1. The Registration of Private Dentistry (Wales) Regulations 2017, which will set out the requirements in relation to the registration process, including the information and documents that applicants will need to provide to HIW, and the requirements in relation to applications to cancellation registration and to vary or remove conditions.
2. The Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017, which will modify the powers in Part 2 of the Care Standards Act 2002 under which the 2017 Regulations and the Registration Regulations will be made.

When these Regulations are agreed by the National Assembly for Wales, Welsh Government Dental Branch will issue accompanying guidance for dental teams. This will provide straightforward information to support teams to comply with the Regulations. For example it will signpost teams to Welsh guidance on infection control and the accompanying national audit which practice teams can use.

Responses

A total of 8 responses were received in response to the consultation from the following organisations:

Third sector - 2
Health Boards and Trusts - 1
Community Health Council – 1
Dental professional bodies and organisations - 2
Healthcare regulatory body – 1
Local Dental Committee – 1

Consultation questions and summary of responses

Some respondents provided detailed narrative to support their initial response. The main points are summarised in the following section.

A number of respondents to the consultation referred to the “registration fee”. Under the new system, there will be no initial registration fee with HIW, but there will be an annual fee. We have retained the term “registration fee” in this document where it is a direct quote.

Question 1. Practice Registration: Do you agree with the change from registration of individual dentists to registration of dental practices which provide any private dentistry?

Answered yes	Answered no	Answered yes or no	neither	No direct response
7	1	0		0

The majority of respondents were satisfied the proposed changes will help to ensure a more consistent approach to the quality and safety standards being applied to all dental practices while supporting a more robust regulatory system. It would also align with how NHS and private dental practices are inspected and regulated in England.

It was suggested the additional costs involved are disproportionate for those NHS practices which provide relatively little private care when compared to the previous system in which individual dentists register with HIW to provide private dental services rather than the practice as a whole under the proposed new system.

Welsh Government response:

We welcome the fact that most respondents agree with the proposed change to practice registration. The comments about costs are considered in more detail under our response to Question 6.

Question 2. Direct access to Dental Care Professionals: Do you agree that DCPs who provide private direct access dental care in their own premises must register as a private direct access practice with HIW?

Answered yes	Answered no	Answered yes or no	neither	No direct response
8	0	0		0

All respondents agreed that the same registration and inspection process should apply to Dental Care Professionals’ practices which provide private direct access as apply to general dental services. One respondent wanted clarification about whether this would include clinical dental technicians (CDTs) and dental hygienists with their own practice.

Welsh Government response:

Welsh Government welcomes this endorsement. We can confirm that the Regulations will include all DCPs which the General Dental Council permits to provide direct access. That includes dental therapists, dental hygienists, and CDTs.

Question 3. (first part) Quality and Safety: Do you agree with the suggested quality and safety issues covered in the draft regulations?

Answered yes	Answered no	Answered neither yes or no	No direct response
8	0	0	0

Additional respondent comment - *Dental practices should display the rating from their most recent inspection, similar to food hygiene.*

Welsh Government response:

Welsh Government welcomes this endorsement which will help to ensure that all practices (private, NHS and mixed private/NHS) are equally underpinned by dental quality and safety governance systems.

Welsh Government does not use a number rating system for any areas of healthcare. However, dental practices in Wales are inspected by Healthcare Inspectorate Wales (HIW) and inspection reports are published on the HIW website. These can be readily accessed by patients and the public and provide considerable detail on a wide range of issues relating to quality and safety in dental practice.

Question 3 (second part): Do you have any suggestions for additional quality and safety issues which should be included in the 2017 Regulations?

Responses for additional quality and safety assurances included:

- use of disposable gloves;
- publically displayed information on the sterilisation of equipment; and
- the display of health and safety standards and the qualifications of staff members.

Welsh Government response:

GDC standards and guidance on decontamination and disinfection (Welsh Health Technical Memorandum 01-05 – WHTM 01-05) indicate that dental teams in all settings are expected to use a fresh pair of disposable gloves for every patient. There is a wide range of quality and safety assurance systems in place to ensure dental teams are well trained and comply with good practice in infection control – including the use of disposable gloves and sterilisation of equipment. The guidance document will include information on GDC standards and WHTM 01-05.

Welsh Government does not require any healthcare provider to display information on the sterilisation of equipment. However, dental practices in Wales are inspected by Healthcare Inspectorate Wales (HIW) and the inspection process includes a detailed review of the use of sterilised equipment and compliance with all steps taken in the cleaning and sterilisation process. All Wales guidance on sterilisation procedures is available to all practices in Wales, and this is supported by a detailed audit for practices to review how well they comply with the guidance.

Welsh Government does not require any healthcare provider to display health and safety standards. There is a very wide range of standards which healthcare providers are expected to be aware of and comply with. HIW dental practice inspections are in line with the Health and Care Standards for Wales.

It is good practice for dental practices to display the names and qualifications of their dental team members although this is not a requirement of the new Private Dentistry Regulations. The GDC Standards for the Dental Team note that patients “expect to know the names of those providing their care” and that dental teams “must ensure that patients are fully informed of the names and roles of the dental professionals involved in their care.”

Question 4. Disclosure and Barring Checks: Do you agree with the change to DBS requirements so that dentists, the practice staff and DCPs who provide direct access services from their own premises must have an enhanced DBS check when the practice registers with HIW?

Answered yes	Answered no	Answered yes or no	neither	No direct response
8	0	0		0

All respondents agreed with the proposed change. One respondent noted - *It would be useful, at a patient’s request to have this information readily available.*

Welsh Government response:

Welsh Government welcomes this endorsement. A very wide range of people who work with children and adults at risk are required to have DBS checks and Welsh Government does not routinely require those people to provide information about this on request of service users. However, WG requires healthcare providers such as dental practices to have robust systems in place for DBS checks on all staff who need this. DBS checks are one part of a range of employment processes to ensure good practice in safeguarding, for example checking references, training and supervision.

Additional respondent comment - *Would staff whose DBS check was valid be required to undergo another for the initial registration process as staff are required to have a new DBS check every 3 years?*

Welsh Government response:

Initial practice registration with HIW will require staff who need a DBS check to have had this within the 3 years prior to registration. They are not required to have a new DBS check if their current certificate has been issued within the previous 3 years.

Question 5. Use of Lasers: Do you agree with the proposal to change the requirements to register use of lasers?

Answered yes	Answered no	Answered yes or no	neither	No direct response
8	0	0		0

One respondent noted - *Ensure in regulation that users of Class 4 lasers who use them for treatments other than dentistry are not omitted from inspection.*

Welsh Government response:

The new Private Dentistry Regulations remove the need for dental practices to separately register use of lasers **for dental treatment** under the Independent Healthcare (Wales) Regulations 2011. However, the practice registration process with HIW will ask practices to inform HIW if they use lasers, which type of laser they use and provide assurance that they

comply with requirements for training to use the laser and associated health and safety requirements.

Any laser used in the dental practice **for purposes other than dental treatment** will require the practice to register separately under the Independent Healthcare (Wales) Regulations 2011.

HIW inspections include checks on lasers where these are used in the practice.

Question 6. Fees: Do you agree with the reasons for increasing the fee to register with HIW?

Answered yes	Answered no	Answered yes or no	neither	No direct response
4	2	0		2

Do you agree with the proposed fee?

Answered yes	Answered no	Answered yes or no	neither	No direct response
2	4	0		2

Comments from respondents:

There were a number of common themes about the perceived inequity of the level of the annual fee, particularly with regard to the difference in size of individual practices and the variance in the level of private and NHS treatment undertaken. The issue of transparency about what the fee pays for in terms of administration and inspection was also raised, and the frequency of reviewing the annual fee. A number of general comments were considered outside of the scope of a consultation on Private Dentistry Regulation and are not included in this response document.

One respondent was concerned that the increased fee would be passed on to patients and thereby increase the cost of what is already a very expensive service.

Other comments from respondents:

- The fee should be higher.
- Annual report should be available on the website.
- The suggested fee for registration is not evidenced based.
- The fee should be determined on a sliding scale depending upon the size of the practice.
- NHS practices will subsidise the increase in fees. They are already inspected by HIW.
- Any fee should take into consideration the NHS/private split of the practice.

Welsh Government Response

See collated response after question 8.

Question 7. Regulatory Impact Assessment (RIA): Do you agree with the estimated costs/benefits regarding the implementation of the Regulations?

Answered yes	Answered no	Answered yes or no	neither	No direct response
2	3	0		3

Comments from respondents:

- Not enough information provided about the RIA.
- There was some disagreement with the rationale on costs.
- One respondent queried the effect of the cancellation of the registered person's registration on the remaining dentists within a practice.
- Potential costs to Healthcare Inspectorate Wales.

Welsh Government Response

See collated response after question 8.

Question 8. RIA – expected costs: Do you have any comments on the expected costs to dental practices/businesses?

Answered yes	Answered no	Answered yes or no	neither	No direct response
5	1	0		2

Comments from respondents: These are noted as exact quotes

- Dental charges are too high for patients.
- Costs are broadly justified but should remain proportionate.
- Practitioners may attempt to recover any increased registration fees from increased charges for consultations and treatments from the public.
- The risk of practices recovering registration fees from individual registrants.
- There is the Issue of dentists who work at more than one location.
- No gain for patients or value for practices.
- Regulation is over-bureaucratic increasing the administrative costs to practices.
- Fees should match those paid by Independent Clinics.

Welsh Government Response

Welsh Government has carefully considered the responses to questions 6, 7 and 8 in respect of the proposed fees since these questions have common themes and produced detailed responses from the dental profession.

Initial comments

In Wales there are approximately 450 dental practices. The majority of practices provide both NHS and private services, while some provide NHS services only and others provide private dental services only.

In 2013 the NHS Dental Services Business Service Authority (NHS DS) withdrew from inspecting dental practices in Wales largely because they were unable to recruit and retain

suitable inspectors and did not want to run a system solely for Wales. Their inspections were done by a dentist working alone.

The NHS DS inspections were not always perceived to be robust. Dental practices frequently cancelled the inspection and some external organisations were concerned about “dentists checking dentists” without an additional independent inspector being present.

Welsh Government originally provided funding to NHS DS to inspect dental practices which provided NHS dental care. Although some practices provided both NHS and private care, the emphasis was on NHS services. Inspections were not done on wholly private practices. At this stage HIW registered dentists providing private dental care on payment of an annual fee, but did not inspect any practices.

In 2013 NHS DS ceased to inspect NHS practices and the role was transferred to HIW – together with the WG funding which had previously been provided to NHS DS. Dentists providing private dental care continued to pay an annual fee to HIW.

A changed structure is proposed to the annual fee which allows practices to register with HIW to provide private dental care. The fee structure reflects whether the practice provides wholly private care or mixed NHS/private care.

HIW began inspecting dental practices in September 2014 and inspections are carried out by an HIW Inspection Manager and a Peer Review dentist.

The proposed Private Dentistry Regulations help to further ensure that quality and safety governance standards in private dental practices are aligned with those in the NHS. The Regulations underpin the process whereby HIW can provide reliable, fair and consistent dental practice inspections in all types of practice to provide assurance to dental teams, patients, the public, health boards and Welsh Government.

The proposed increase in annual fee from £75 per *dentist* registration with HIW to £500 per *practice* registration is in the order of 600% and undoubtedly this headline figure has been of concern to some respondents.

It should be borne in mind that the proposed fee is per practice rather than for individual dentists and for larger practices with 4 or more dentists the proposed new annual fee is not greatly out of line with the current annual fee for individual dentists. The current £75 fee contributes towards HIW administrative costs for registration and was not intended to fully cover costs of the inspection/peer review and reporting process.

How will HIW take forward inspections?

HIW, which is part of a directorate within the Welsh Government, receives the major part of its funding from the Welsh Government. However, HIW has powers to charge fees to those wishing to register as dental care providers in Wales.

The fee will be used towards the costs of HIW’s registration activities, which includes activities associated with monitoring, inspecting and regulating services.

HIW will complete the current cycle of practice inspections to ensure the majority of practices have been inspected. The ongoing frequency of practice inspections will be reviewed in light of evidence from the first cycle, and risks/benefits associated with a 3-year inspection cycle.

HIW inspections are carried out by an experienced HIW inspection manager, together with a peer review dentist (an external reviewer who is a dentist with current hands-on experience of dentistry). Both the inspectors and the peer review dentists are highly trained professionals who should be appropriately paid for the role they play.

HIW will be inspecting a greater number of practices once the new Private Dentistry Regulations come into force. The currently unregistered direct access practices will be required to register under the new system and HIW will have powers to inspect those additional practices once registered.

HIW may need to employ additional inspectors and recruit additional dentist peer reviewers to ensure the inspection team is able to undertake all inspections as planned, and publish the subsequent reports in a timely manner.

WG will continue to work with HIW and dental stakeholders to ensure the inspection system is as efficient as possible.

What was considered in deciding the proposed fee?

1. The costs of undertaking a practice inspection. An average dental practice inspection costs £2,544.
2. The frequency of inspections. At present HIW inspects dental practices every 3 years, whether they are NHS only or mixed NHS and private. HIW has also inspected some wholly private practices where they are branch practices of NHS practice.
3. The need for a straightforward and efficient process – a single fee for all practices which helps to keep administrative costs to a minimum rather than a sliding scale depending on practice size and the proportion of private services provided. In practices which provide both NHS and private care there are no systems to reliably determine what proportion of time is spent on NHS or private services. It would require considerable effort for practices to provide this information.
4. No separate fee for initial registration.
5. The fee of £500 pa paid by other comparable providers required to register with HIW under the Independent Healthcare Regulations, for example private GP practices and services using lasers such as beauticians.
6. The Care Quality Commission (CQC) fees at the time of the consultation (these have since changed slightly):
https://www.cqc.org.uk/sites/default/files/20150323_guidance_providers_cqc_fees_2015-16.pdf

The CQC, the independent regulator of health and social care in England requires annual fees of between £600 per annum to £1,300 pa for a dental provider with one registered location only. The fees range from £1,600 to £60,000 for providers with more than one registered location (Paras 44 to 46 of the CQC fees guidance).

CQC fees follow a sliding scale depending on the number of dental chairs in each location. A provider with 1 dental chair in a single location pays £600 p.a. with 2 dental chairs pays

£750 p.a. and so on up to more than 6 dental chairs in a single location where the fee is £1,300.

Scale of fees

Welsh Government has carefully considered the consultation responses and we appreciate that the annual fee for a single dentist practice (that is, a practice with only one dentist) which provides both NHS and private services should be less than practices with more than one dentist or practices which provide only private care.

However, Welsh Government would not want to introduce a complex sliding scale of fees which is likely to be bureaucratic.

Therefore we propose to change the proposed flat rate fee of £500 and introduce a simple scale of fees as follows.

- Single dentist practices which provide both NHS and private services will pay £300 annual fee to HIW.
- All other practices will pay £500 annual fee to HIW. This includes private direct access practices.

Practices which provide NHS dental services are subject to the NHS quality assurance systems such as contract review with the health board, and this provides additional assurance for these practices.

Miscellaneous

A few respondents expressed concern about additional charges being passed to patients. Private dental care depends on a wide range of issues outside the cost of registration with HIW. Private patient fees take into account individual patient clinical care requirements and other issues including the materials used, the time taken for particular procedures, and the expert skills and training required by the dental team.

A small number of dental procedures are not funded by the NHS and are only available privately. Dentists will discuss the detailed breakdown of private fees with patients.

It is important to note that NHS dental patient charges are set by Welsh Government and it is not possible for dental practices to increase NHS charges.

One respondent suggested a sliding scale of fees depending on the proportion of NHS to private dentistry provided in the practice. Welsh Government considers that it would be unduly onerous on practices to keep detailed information on this. It would require recording information on patients about whether they are wholly NHS, wholly private or treated under both systems (and when patients are treated under both systems, to what extent the treatment is private or NHS). It would also require information on how much the practice earns from private care and NHS care. This would have to be calculated retrospectively since practices cannot always accurately predict the number of patients who will request private care. Therefore, Welsh Government decided not to use this type of sliding scale to calculate fees.

Other respondents expressed concern about how principal dentists may pass on the fee to other dentists working in the practice. However, it is not for Welsh Government to comment on these individual practice business decisions.

Any change in annual fee would not be implemented without detailed discussion between WG, HIW and the dental profession in Wales, and may be subject to a consultation process.

The private practice annual fee is a legitimate practice expense and as such can be set against tax.

Question 9. Other comments: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please comment below.

There were a number of comments with specific reference to the draft regulations. They are reproduced verbatim:

PART 1: GENERAL

Reg 7(b) and paragraph 12 of Schedule 1: Review of statement of purpose

Comments:

- *The requirement to give 28 days' warning is bureaucratic and difficult to comply with. If staff leave at short notice or join at short notice giving 28 days warning to HIW will be difficult. As it is written the resignation of a DCP will have to be communicated and then a further communication is required on appointment. It may not always be possible to provide this concurrently. We believe "within 28 days of commencement of employment" to be more reasonable and workable.*
- *The practice should be allowed a reasonable time to inform HIW of changes to the SoP specifically around the turnover of staff.*

Welsh Government response

Welsh Government agrees that this requirement should be amended. We propose to change it to require dental practices to notify the appropriate office of the registration authority of any such amendment within 28 days of the review. In addition, the guidance will make it clear that the registration authority (HIW) does not need to be notified of all dental practice DCP staff changes at the time they take place. It is sufficient to provide HIW with an updated list of DCPs annually.

The same arrangements will apply to private direct access practices.

Reg 8 (7): Policies and procedures

Comment: The requirement to make available policies and procedures on request could be onerous. Unreasonable patients may ask for all policies and procedures. We believe the Regulations should reflect this with a clause reflecting that practices should not have to comply with unreasonable requests. This could be similar to a Data Protection Act request for data.

Welsh Government response

The guidance will make it clear that practices are not expected to provide copies of policies on request which can be taken out of the practice, or meet unreasonable requests for individual copies. Practices are expected to keep a manual of all their policies for use by staff and this can be shown to others if requested.

Reg 8(8): Policies and procedures

*Comment: The retention of **all** versions of **all** policies and procedures for three years is bureaucratic and unreasonable. We propose this is replaced by a clause asking for retention of all policies and procedures for a period of one year past their expiration.*

Welsh Government response

We have consulted Welsh Risk Pool (WRP) and a dental indemnity provider about this Regulation and WRP confirm this is standard for healthcare services in Wales.

Policies may relate directly to compliance with Regulations and good clinical practice (e.g. policy on infection control/decontamination) or they may relate to practice specific issues such as staff leave arrangements. It is clear that practice dental teams and staff must have ready access to copies of current policies, and that practices are advised to have a simple system to ensure staff have read the policies and procedures. It is also important to ensure that expired policies and procedures are not readily available because staff may mistakenly use them instead of current policies.

Advice from WRP and a dental indemnity provider are that it is appropriate to retain expired policies and the guidance will provide additional information on the safe archiving of expired policies in case they need to be referred to.

PART 2: REGISTERED PERSONS

Reg 9 (1) Fitness of registered provider

Comment: When the fitness to practice of a registered provider is at issue and they are deemed unfit to carry out private work it could affect any partner in the practice. Similarly if the manager was deemed unfit this might also affect the ability of dentist practitioners in the practice to perform. Therefore this ruling must not preclude them from continuing to practice for the interim until new registration is facilitated.

Welsh Government response

Welsh Government takes the view that registered providers and managers are primarily responsible for achieving compliance with Regulations. We expect providers and managers to be diligent in anticipating and responding to regulatory expectations. We also expect them to continually improve their services, seeking out best practice and responding to the wishes and feedback of people using services. Where concerns about the fitness of a registered provider or manager have been identified, we expect that they will take responsibility for addressing the shortfall, doing what is best to achieve compliance.

Where there are severe failings and a serious risk to the health and wellbeing of patients urgent action may be required which could result in the cancellation of registration. Every

effort will be made to explore possible alternatives, as we understand the impact that cancellation can have on the practice. However, if Welsh Government determines that cancellation of registration is the only option, then the provider or manager will be guilty of an offence if he or she continues to carry on or manage the practice as the case may be.

Reg 10 (1) Appointment of a manager

Comment: Where a manager must be designated even for single-handed practices and the name of a responsible person provided, it should clarify that the manager could be a dentist.

Welsh Government response

The Regulations do not require every practice to appoint a manager. The provider is only required to appoint a manager if the provider is an organisation/partnership; is unfit to manage; or does not intend to be in charge of the practice full-time. The Regulations do not preclude a dentist from being a manager but all the fitness requirements for managers must still be met. This will be clarified in the accompanying guidance.

Reg 12 (2) Registered person – general requirements and training

Comment: This proposes that providers and registered managers undertake “such training as appropriate to ensure they have the skills necessary for managing the private dental practice”. It does not advise what level of training is appropriate or indeed what training is suitable. Would a dental degree meet these requirements? Dental practices are efficient small businesses which do not require this over-regulation. We believe this clause to be unclear, unnecessary, and not achievable. We propose it be deleted.

Welsh Government response

Welsh Government has considered the risk of not requiring appropriate training, particularly for larger practices.

Other Regulations made under part 2 of the Care Standards Act 2000 have similar provisions for appropriate training from time to time of the registered provider and manager to ensure they have the necessary skills to carry on or manage the establishment or agency.

The terms “appropriate” and “from time to time” recognise that private dental practices vary in size and as such the training requirements should be proportionate “having regard to the size of the private dental practice”. Registrants with the GDC are required to undertake CPD and this may meet both the requirements of the GDC and the Private Dentistry Regulations. It is not appropriate to specify the level and type of training because this will vary with individual qualifications and experience.

Further information will be provided in the accompanying guidance.

Reg 13(6)(c) Quality of treatment and other service provision

Comment: Regarding the provision of occupational health advice, the BDA would be concerned if a totally private practice was expected to do this without recourse to NHS occupational services. This could be potentially very costly and of questionable value.

Welsh Government response

Dental practices in Wales are not expected to provide Occupational Health services to their staff.

Practices which provide any NHS dental care via a contract with the health board have access to Welsh Government funded occupational health services for NHS dental teams. This includes practices which provide NHS and mixed NHS/private dental services. Wholly private practice teams cannot access this service, but this does not preclude them from accessing their NHS GP for occupational health advice or from being referred by their GP to a NHS Occupational Health Consultant.

The registered person will in any event need to ensure that staff have successfully completed pre-employment health checks including any additional health clearances required for staff who undertake Exposure Prone Procedures. The Regulations will be amended accordingly.

PART 3: CONDUCT OF PRIVATE DENTAL PRACTICE

Reg 15(2) Privacy, dignity and relationships

Comment: This clause does not meet the Disability Discrimination Act 2010 since it has omissions including age. The relevant protected characteristics are age; disability, gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation. We propose this clause reflects the DDA 2010.

Welsh Government response

The relevant anti-discrimination legislation which sets out the protected characteristics is the Equality Act 2010. Welsh Government agrees that the Regulations should reflect the protected characteristics in the 2010 Act and will make the necessary amendments.

Reg 17 (2)(b) Staffing

Comment: With reference to appraisals the BDA does not consider this stipulation appropriate for self-employed dentists. However, if this is with reference to DCPs who are employees then this is acceptable.

Welsh Government response

The Welsh Government, GDC and other professional organisations in dental education recognise the value of appraisal and the NHS systems promote the use of appraisal for all staff. The Welsh Government believes that practice team members who are registered with the GDC should have appraisals. Other practice staff may have appraisals if it is felt to be beneficial.

However, Welsh Government recognises that it is not practical for the most senior dentist(s) to be appraised by other team members, and those individuals may want to consider other professional development systems such as peer reviews with neighbouring practices. Welsh Government proposes to retain this Regulation but clarify in the guidance how it applies to different dental team members.

Reg 23(4)(a) Visits by registered provider

Comment: We do not believe sporadic, statistically invalid interviews with patients will identify problems with the running of the practice ("other services") or with the standard of treatment of individual performers. The provision of a report on the conduct of dental practice is more red-tape with no benefit. It will not identify problems HIW might seek to find. Complaints from patients are already comprehensively dealt with in these regulations. The BSA provides detailed and statistically valid feedback on patient satisfaction. Patient surveys and "suggestions box" can be available at HIW inspections. These three areas provide ample feedback from patients.

Welsh Government response

Welsh Government has carefully considered the comments made in relation to Regulation 23(4)(a). We consider that patient feedback is very valuable and we note that:

- registered persons are expected to regularly seek the views (including the descriptions of their experiences of care and treatment) of patients (Regulation 16(2)(b));
- registered persons are already required to establish a complaints procedure and record all complaints (Regulation 21);
- Regulation 23(4)(b) requires registered persons to inspect the records of any complaints;
- HIW seek patient feedback and the views of patients as part of their practice inspections.

However, we also recognise that dental patients are on the premises for a short period of time and interviews during visits by the registered provider may be more appropriate and of greater benefit in circumstances where patients are on the premises for longer periods, for instance overnight in hospital.

Welsh Government therefore proposes to amend this Regulation by removing the requirement in Regulation 23(4)(a) to interview patients or their representatives.

It should be noted that the NHS Business Services Authority, Dental Services (referred to as BSA in the respondent comment above) provide detailed and statistically valid feedback on patient satisfaction for patients treated under NHS Regulations, not patients receiving private dental services.

Reg 24 Financial position

Comments:

- *The provision of accounts is intrusive and would be a major difference between Wales and what is required from colleagues in England. There may be a considerable number of companies and these may have no dental connection and importantly no bearing on patients or the dental practice under consideration. We believe this regulation should be omitted. The police will have access to such records if fraud is suspected.*

Welsh Government response

Welsh Government has carefully considered the consultation response and has decided to amend this Regulation. We fully expect registered persons to be responsible for taking all

reasonable steps to ensure the practice is financially viable for the purposes of achieving the aims and objectives set out in the statement of purpose. We will, therefore, substitute Regulation 24 with a requirement for registered persons to take the reasonable steps referred to above. However, where it is considered necessary to do so, HIW may use powers to request financial information from registered persons.

Reg 27(2) Notice of changes

Comment: The departure and recruitment of dentists and DCPs is an ongoing process. Having to inform HIW every time this happens is bureaucratic onerous and of no benefit to patients. The practice already has to update its Patient Information Leaflet (PIL) annually; we consider this to be sufficient.

Welsh Government response

Welsh Government has liaised with HIW on this issue and we agree that this information is not required as stated and is likely to place an unnecessary burden on practices. The requirement to annually update the Statement of Purpose and Practice Information Leaflet includes notification of changes to dental team members. Therefore Regulation 27(2)(a) to (d) inclusive will be removed.

Reg 27(2) (e) Notice of changes

Comment: The practice will often not know of criminal cautions of dentists/DCPs. They are already required to tell the GDC of such information and the police pass such information to the GDC.

Welsh Government response

Welsh Government welcomes this comment and appreciates that the registered person may not be aware that an employee has a caution or conviction. We also recognise that under the GDC Standards for the Dental Team, registrants “*must inform the GDC if you are subject to criminal proceedings or a regulatory finding is made against you anywhere in the world*”. Police involvement may also be reported to the GDC depending on the offence. While the issue may come to the notice of the employer, GDC Registrants are not required to inform their employer of any conviction or caution. In light of the above, we agree to remove the requirement in Regulation 27(2)(e).

Welsh Government has also reviewed the other aspects of regulation 27(2) and, while we consider it important to notify HIW of changes in the case of the registered person, we consider it less so in the case of dentists and dental care professionals working in the practice. We therefore propose to omit regulation 27(2).

Reg 30(4) Death of a registered person

Comment: The period allowed for personal representatives to run a dental surgery is six months. This is insufficient and we propose this be increased to 12 months. Experience in England has shown six months to be insufficient to allow representatives to grieve; assess and understand the dental practice and then dispose of the practice.

Welsh Government response

In developing the Private Dentistry Regulations we have considered the current requirements of the Independent Health Care (Wales) Regulations 2011 which allow an extended time of six months following the death of a registered person for the personal representatives to carry on the establishment or agency without being registered in respect of it. We considered this timescale reasonable.

However, Welsh Government has considered the consultation response and appreciates that the circumstances surrounding the death of a Registered Person may place considerable strain on the practice team and family members who are required to directly deal with the impact on the practice.

Welsh Government therefore proposes to revise Regulation 30 to provide (a) an initial 28 day period during which the personal representatives of the deceased providers may carry on the private dental practice without being registered; (b) an additional such period of up to six months as HIW may determine; and (c) a further such period of up to six months if HIW receives an application for registration as provider of that private dental practice. These timeframes are consistent with the provisions within the NHS Regulations.

Paragraph 2 of Schedule 3: Information required – criminal record certificate

Comments:

- *The reference to “criminal record certificate” should be referred to as “Disclosure and Barring Service checks” as per the gov.uk website.*
- *Of particular note is the fact that DBS is not a requirement for GDC and furthermore a mixed practice would not need to do this. Informing of a change of staff every time is onerous and unnecessary.*

Welsh Government response

It is recognised that Criminal Records Bureau (CRB) checks are now called Disclosure and Barring Service (DBS) checks. However, the certificates produced continue to be called criminal record certificates in accordance with the Police Act 1997 (see s.113A). This distinction will be explained in the guidance. We recognise that the GDC Standards for Dental Teams do not specifically refer to DBS checks for registrants. However, these checks are required for other healthcare services in Wales and these include dental care services.

The comment *“Informing of a change of staff every time is onerous and unnecessary”* has been addressed in response to Reg 7(b).

Paragraph 3 of Schedule 3: Information required – written references

Comment: The requirement for two references is too prescriptive. Some young employees may have only one referee and no previous employers. This would particularly apply to those in training. (Other staff may have worked at the practice for decades and two employers’ references may not be available.) We propose this is amended to one reference for new staff not in training.

Welsh Government response

Discussion with the BDA confirms that requiring two references for every prospective GDC registered staff member is not always practical. They may be newly qualified, still in training or have previously only worked at a small practice and can, therefore, obtain only one reference.

In light of these discussions, Welsh Government has agreed to revise paragraph 3 to require one reference as a minimum. However, further information will be included in the guidance in respect of the number of references required for GDC registrants.

Paragraph 3 of Schedule 7: Fees – fee to vary a condition of registration

Comment: We believe the costing with fees of £500 or £250 is excessive, indefensible, and should be proportionate to the actual 'condition' changed. Many of these changes will be administrative changes of the data HIW hold and require little intervention by HIW. Even if another inspection is required this should not and need not be as comprehensive as a full inspection and need only include inspection of the specific change of condition. There is also no detail as to what changes fall into which category (£500 and £250).

Welsh Government response

We have sought confirmation from HIW that a major variation will require at least a practice visit, and in a small minority of cases, a practice inspection and report from an Inspection Manager and Peer Reviewer.

A minor variation is defined as a variation of conditions where it is not necessary for HIW to inspect the establishment or agency in order to determine the application. Although there would be no inspection, HIW would undertake a significant amount of work to ensure that all risks attached to the variation are considered before a decision is made.

Further information will be provided in the guidance.

Para 5 of Schedule 7: Refund of annual fees

Comment: Why is the maximum for this set at 50% and why not 75%? If a provider cancelled in the first quarter there would be three quarters left i.e. £375 and not the maximum 50% (i.e. £250) stated in the draft regulations. We ask for this to be changed accordingly.

Welsh Government response

Welsh Government has carefully considered this feedback in conjunction with HIW and we agree that it is reasonable to grant a refund of up to 75% of the annual fee, if an application to cancel registration is submitted by a registered provider within six months of the due date for the fee to be paid.

Additional comments made by respondents

Access to NHS dentistry is restrictive (we believe this is meant to be "restricted").

While this comment does not relate to the Private Dentistry Regulations, Welsh Government is working with health boards to ensure equitable access to NHS dental care.

The costs of private dentistry are prohibitive.

Welsh Government does not have a role in setting the fees payable by patients for private dental services.

Are private dental care professionals adequately trained and inspected?

All DCPs must be registered with the GDC and be trained, qualified and indemnified for the role they undertake. DCPs working in practices which provide any NHS care are included in the current HIW dental practice programme. At present, wholly private direct access DCP practices are not inspected by HIW because these DCPs cannot currently register with HIW. Under the new Private Dentistry Regulations all private direct access DCP practices will be required to register with HIW and be inspected by HIW.

Mental health patients should have equitable access to dental services.

Welsh Government is working with health boards to ensure equitable access to NHS dental care for people who are vulnerable, particularly those who may find it difficult to access care.

There should be more information for patients about the materials dentists use for the various treatments available.

Welsh Government does not require other dental or healthcare services to provide information on the extensive and complex range of materials used in clinical care. Dentists use a wide range of materials: some of which are designed to meet specific clinical needs. Dental teams should discuss materials with individual patients depending on the treatment needed.

Payment of the annual fee could be on a single date each year for every practice.

Welsh Government recognises that payment of the annual fee on a single day is in line with the GDC process and may be more straightforward for providers in private dental practices.

Any such process would have to be introduced in a step wise way in line with the move from individual dentist registration to practice registration. Consideration will have to be given to the selected date to avoid any financial burden caused by requesting it on the same date that GDC fees are payable.

DCPs should be registered first.

Under the Regulations all private direct access DCP practices will be required to register with HIW and be inspected by HIW. To date, there have been no inspections of this type of practice. The Regulations will require these practices to submit their application for registration within six months of the Regulations coming into force, and these practices will be inspected in a timely manner after registration is complete.

List of respondents

Ref	Respondent
001	Vin Murtagh, Conwy Community Voice
002	Fatima Grzesiak, North Wales Regional Equality Network
003	Bryan Beardsworth, Hywel Dda University Health Board
004	Cerys Jones, North Wales Community Health Council
005	Dr Caroline Seddon, British Dental Association (Wales)
006	Roger Pratley, Morgannwg Local Dental Committee
007	Matthew Thomas, Healthcare Inspectorate Wales
008	Nyree Connell, General Dental Council