MINI BULLETIN – 31 May 2023

**General Practice** has lost more than 500 fully qualified, full-time equivalent (FTE) GPs in the past year alone and more than 2,000 since 2015 - and nearly a quarter of those remaining are aged over 55.

The below groups will be eligible for **a flu vaccine** from 1 September 2023:

* Those aged 65 years and over.
* Those aged 6 months to under 65 years in clinical risk groups (as defined by the [Green Book, chapter 19 (Influenza)](https://emea01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.gov.uk%2Fgovernment%2Fpublications%2Finfluenza-the-green-book-chapter-19&data=05%7C01%7C%7Ce4c3dffc6cde492d712a08db6124f9f2%7C84df9e7fe9f640afb435aaaaaaaaaaaa%7C1%7C0%7C638210583660159131%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=27onyPPd0bXOvhs8BsWDUc0MMzcCr3rEG537rgJuRqw%3D&reserved=0)).
* Pregnant women.
* All children aged 2 or 3 years on 31 August 2023.
* Primary school aged children (from Reception to Year 6).
* Those in long-stay residential care homes.
* Carers in receipt of carer’s allowance, or those who are the main carer of an elderly or disabled person.
* Close contacts of immunocompromised individuals.
* Frontline workers in a social care setting without an employer led occupational health scheme, including those working for a registered residential care or nursing home, registered domiciliary care providers, voluntary managed hospice providers and those that are employed by those who receive direct payments (personal budgets) or Personal Health budgets, such as Personal Assistants.

**Why charging top-up fees will cripple the NHS Dental budget …**

**Following the High Court’s ruling that charging top-up fees is permitted, Neel Kothar discusses whey this is a ‘disaster’ for NHS England, the consequences it will have for the profession.**

There is no longer any doubt that the NHS contract regulations allow for charging top-up fees to NHS patients, thereby affording them access to a wider array of treatments previously considered private-only options.

This clarification came about because of a High Court ruling – GDC versus Williams -<https://dentistry.co.uk/2023/05/17/gdc-versus-williams-the-profession-reacts/> that was further supported upon appeal through the submissions of Mr Mark Vinall, acting as advocate to the court.

He made it clear that charging top-up fees is permissible under the NHS charges regulations, contrary to popular belief. This is nothing less than a seismic shift in interpretation that largely ameliorates the need for NHS dentists to offer a ‘wholly’ private alternative.

**Clarity is needed …**

Despite this, the recent GDC and BDA press releases suggest restrictions, stating that the ruling was ‘situation specific’ and that ‘the Court did not suggest that any type of top-up fee, in any situation, was permissible’.

While technically correct, these cleverly-worded statements are somewhat misleading, because it’s equally true that the courts haven’t suggested any form of restriction or scenario where it was not permissible.

Simply put, the courts have ruled that NHS regulations do not prohibit top-up fees.

This may sound inconsequential, but the distinction matters. This is because, for the past 17 years, dental professionals have been subject to manufactured regulations based on the false pretences of those who claim to understand NHS dentistry.

Undoubtedly this ruling will have wider implications. But what we now need isn’t a repetition of history, but rather clarity over what we as a profession can and cannot do, and precisely to what extent we will be supported in doing so.

Further, it stands to reason that private top-up fees are not limited to just crowns or cosmetic treatments but could be applied to a wide range of dental treatments. This view isn’t limited to uninformed social media gurus engaging in esoteric philosophical debates. It is precisely the point made by the GDC’s own barrister Ms Johnson (available online – part 1 from 1.13.00). <https://www.youtube.com/watch?v=d0RsJ0SYNTA>

Rather helpfully, Ms Johnson raises wider areas where this could apply, such as requesting a senior dentist, quicker appointments, or even lengthier appointments for anxious patients <https://www.youtube.com/watch?v=1eeNuZaa2Uk>

While Johnson argues that top-up fees would set a precedent against the spirit of the NHS, this is difficult to reconcile with the fact that NHS optical vouchers already operate in this exact way and seem to work well for opticians.

**NHS England disaster**

The gravity of this decision goes beyond a few dentists charging top-up fees, as it is conceivable that we may all be compelled to do so, bringing about the biggest change in NHS dentistry since 2006. While some may opt to maintain the status quo, it is likely that they will run into several difficulties.

Firstly, by not offering their patients a permissible benefit, this may conflict with consent laws. This is because it affects decision making and may generate a potential future complaint.

More practically, even if very few dentists offer this, it puts the rest in a very difficult position as patient expectations will eventually change. In my opinion, it is plain to see that it will not be long before it becomes the new norm.

One could interpret this as a small win for dentists who may find an opportunity to carry out more rewarding work, as well as gain an additional revenue stream. It’s also clear how patients would benefit from greater choice at subsidised rates.

But this is an absolute disaster for NHS England, which hasn’t accounted for the vast numbers of wholly private treatments carried out on NHS patients who will now have treatment at least in part under the auspices of the NHS.

**Depleting UDAs**

Going forward, patients who have previously opted to have their care exclusively under the NHS will have a neutral impact on the budget even if they choose to top up. However, the many patients previously opting for private options would now gain access to NHS funding, resulting in UDAs being depleted at an alarming rate.

Further, there seems to be no obvious provisions within the General Dental Services (GDS) regulations or standard GDS contract that cover this eventuality.

For example, there is no requirement to ration UDAs evenly over the contractual year. This makes it entirely plausible that, unless something changes, there may be a significant amount of time where NHS dentistry provision in England largely comes to a standstill.

The growing consensus within the profession seems to be that NHS England is in a very precarious position. And this bombshell clarification could force them into altering the current contract or providing a new one altogether. If this is the case, one can only hope that they seek to do this with the consent of the profession.