

NHS England and NHS Improvement - Midlands

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Dear Colleagues,

Re: Letter 7

We apologise for the delay in coming back to contractors to explain more about Letter 7 and how we will be applying the quarter 4 and year end arrangements locally.

We have been taking advice from the NHS England & NHS Improvement Central Team and the BSA (NHS Dental Services) to fully understand the guidance and the flexibilities available to us. You will appreciate that this is a complex scheme and we are becoming aware of more and more scenarios where further clarity is required on the way in which activity will be treated. This is particularly true with respect to carry forwards. We hope to be able to further clarify the position on these shortly.

In the meantime, we would signpost people to the BSA year-end guidance:

<https://www.nhsbsa.nhs.uk/dental-provider-assurance/dental-assurance-reviews/mid-year-year-end-contract-reconciliation>

This includes links to a useful set of FAQ and Webinars

The direct link to webinars is below:

<https://www.pcc-cic.org.uk/dental-year-end-2020-21-webinars/>

Carry Forwards

At present it is clear that carry forwards can only be applied in Q4 of 20/21 or deferred to 21/22, as described on page 27 of the supplementary guidance issued with Letter 7. Practices cannot assume that carry forwards have been cleared earlier in the year as normal UDA/UOA arrangements did not apply as usual. This may seem counterintuitive to those who feel they have delivered more than others during quarters 2 and 3. However the requirement during this period was to continue to provide the maximum level of service possible to patients in line with the prioritisation criteria. This is reflected in the fact that most practices will have been credited with full contract payments during this period regardless of the level of activity delivered above the bare minimum of 20% measured by volume.

The other important point to be aware of is the requirement for practices to deliver 100% of the carry forward from 19/20, not 45% of the carry forward. The 45% target only relates to the proportion of baseline activity delivered in Q4.



As a result, we are of the view that most (but not necessarily all) practices may be better off deferring the carry forward into 21/22 and we are likely to make this the default option unless otherwise requested. This is however still to be finalised in line with the next section.

Practices should be aware too that delivery against the target in Q4 is for activity completed on or after January 1st rather than activity completed earlier in the year and submitted in January.

General Consistency of Approach

We are also still talking to our colleagues in other regions of the country to ensure we have a consistent and equitable approach to:

- the way in which we treat exceptional circumstances
- the approach to urgent dental care centres
- the way in which we treat certain non-standard contracts or service lines relating to Community Dental Services (CDS), IMOS or domiciliary and sedation activity
- the approach on 19/20 carry forward

We are also working up an agreed local approach for other more local arrangements like OOH or pathway orthodontic contracts and will communicate these once formally locally agreed (as is required as part of the agreed year end process).

Reporting Exceptional Circumstances

We do however recognise the urgent need to clarify requirements for the initial notification of force majeure/exceptional circumstances.

This will include a degree of overlap as the normal non-COVID provisions for force majeure are still relevant as usual, as well as the more slow burn type cumulative effects of the current pandemic. This may relate to

- levels of patient cancellations in the light of lockdown
- staff sickness or isolation due to COVID either in the community or due to an outbreak in the practice

For these latter circumstances it is unlikely to be clear immediately as to whether or not these issues will be significant until nearer the end of the year.

Please think carefully and do not submit a “just in case” force majeure or exceptional circumstances application. This causes unnecessary work both for yourselves and for the dental team and makes it harder to pull out and deal with the genuine cases. We have already received a number of claims relating to practices who are apparently on track to deliver their targets.

COVID related staffing Issues

As far as staff absence goes there is already an established reporting procedure through our protocol for Management of Covid 19 cases in primary care dental settings. This is through the Forms link:

<https://forms.office.com/Pages/ResponsePage.aspx?id=kp4VA8Zyl0umSq9Q55CtvxHcP71skKxDgA-0H2yj0aVURDBDMzE0NE5aRFhSQ0MwSFhaQ0RQSDhaMS4u>

This link should be used in any circumstance where COVID has affected staffing in a way that immediately adversely impacts on service delivery within the practice.

It is our view that submitting details of an event through this route is sufficient to meet the test of the initial 5-day notification of a force majeure event – regardless of whether this subsequently needs to be reported more fully at a later stage once the cumulative impact is clear.

This would also be the case for outbreaks within the practice (where PHE has determined there is transmission within the practice rather than a random cluster of unrelated cases).

It is definitely **not** necessary to notify us of every instance of staff sickness. The exception to this would be the long term loss of a significant single performer (where this is deemed to meet the normal force majeure criteria). In general these types of individual staffing events would not meet the criteria for force majeure or automatically count as an exceptional circumstance. Practices are still expected to take the normal mitigating actions in line with your business continuity plan so as to maintain services for patients. Our team can support and advise you in this and you may be able to get support locally from your LDC.

Patient Cancellations

We are aware that there are many patients who are choosing not to attend appointments during the lockdown, however there are many more who are in need of dental care due to the prolonged disruption to services. There are for example many patients with urgent dental problems or who are seeking to access care through NHS 111. We expect all practices to be able to evidence that they have systems in place to try and ensure early notification of cancellations so that where possible these slots are not wasted.

Regardless of this we do understand that in some cases this may have a material impact on the delivery of activity. For example, there is clearly more than usual anxiety in the areas where enhanced testing is in place due to cases of the new variants.

The full impact of higher than normal levels of cancellations may not become apparent until nearer year end. As a contractor you will be used to monitoring your progress towards delivery of the year-end target. We are happy to accept notifications related to cancellations to be made at the point when you feel you are no longer in a position to be able to recover the situation. **This should however be before year end.**

As in normal times it will not be acceptable to retrospectively submit a force majeure application at the point where you receive a year end statement showing a shortfall of activity. This is because we would expect this situation to have been readily apparent to your services prior to year-end.

Consideration of Exceptional Circumstances

As in normal years, we are not in a position to consider any provider's force majeure claim before the end of the year, and this will be the point at which you provide the more detailed form setting out the impact of the exceptional circumstances.

We are however advising all practices to keep a log of such events and the impact of these on your day to day delivery. This log will help you later in providing necessary evidence that will be needed as part of any review of your year-end position.

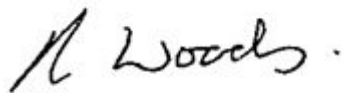
We are aware that a team in the North of England have shared a proforma in their area which has been designed to help practices to collate information in a form that may be useful as supporting documentation at year end. We have reviewed this locally and consider it to offer a consistent way of keeping a record internally of the day to day impact of these type of issues.

It is not mandated that practices should use this form – you may already have devised your own system using your clinical system or other recording. This is simply being provided as a tool to support practices who may be unsure how best to collate this information. Please note that submission of evidence gathered in this way will not necessarily guarantee a successful claim for exceptional circumstance as each application will be judged on its merits in line with the guidance.

Orthodontic Claims

We will be issuing a separate communication for orthodontic providers reminding contractors of the process for dealing with patients who have turned 18 whilst awaiting appliance fit and the separate arrangements for applying of a waiver of patient charges for the small minority of patients who may have missed out on a late assessment during lockdown.

Yours sincerely

A handwritten signature in black ink that reads "R Woods." The signature is written in a cursive, flowing style.

Rebecca Woods

Head of Primary Care Commissioning – West Midlands