

Wales: Caution urged over contract variation wording

4 April 2023

The Welsh Government issued the formal 2023-24 variation to the General Dental Services (GDS) contract to Local Health Boards (LHBs) on 30 March. The expectation is that LHBs will shortly send notification of the contract variation to practices remaining in contract reform.

We had previous sight of the final draft of the variation, but we are disappointed that the lack of notice has prevented us from engaging in a meaningful discussion about the various issues with the wording. Instead, we have sent the Welsh Government a list of our concerns:

- Notification of this variation was released with even shorter notice than the previous year's, which we have raised concerns over. This flies in the face of the Health Committee's recommendations on giving reasonable notice and providing sufficient time to have meaningful conversations over the implications
- There appears to be no mention regarding the number and nature of mitigations for high needs patients
- No data has been produced and no evidence of learning applied to support the changes to the metrics targets
- There has been no opportunity to discuss and give feedback on the alterations.

We have told the Welsh Government that we cannot support the introduction of these metrics in this manner under the variation contract. An opportunity for appropriate negotiations must first be allowed.

Welsh Government have stated that mitigations will be covered in guidance, rather than in the contract itself, arguing that dental branch had taken on board the stakeholder feedback in the various engagement events.

We sought an internal legal opinion on the contract wording. Several of the clauses were not liked; for example, Clause 3.2.2 appears to put an onerous obligation on practices to treat urgent historic patients. Schedule 4 on remuneration was considered operationally very unclear. There was also a comment made about *curtailing clinical judgement of the practitioner*, which is likely an issue relating to how the contract could affect carrying out dentistry in these conditions.

We have a particular issue with clause 3.2.5.2., Schedule 4, section D, third bullet point, on page 15. This wording is very similar to the same section we insisted was removed from last year's variation contract. It describes how LHB's can make payments based on what they believe a contractor will provide.

We successfully pushed back last year and said that any in-year deductions must be based on mutual agreements, according to the legislation. It is deeply disappointing that this clause has been reinstated for this year's variation, which is a regressive move and does not accord with the high trust, learning environment that contract reform is supposed to operate within.

We are not able to endorse the contract. Any contract holder seeking to undertake the reform

volumetrics in 2023-24 should exercise caution in signing the contract as written. We suggest that you provide a list of any contentious clauses to your LHB contract manager and request to have them removed or reworked to ensure they are fully mutually agreeable.

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