

# Dental team returning to work

Please note that the below information is for general guidance only and valid at the time of publication on 29<sup>th</sup> May 2020.

This cannot be construed as legal advice and remains subject to change. Individual dentists and dental nurses have a continuing professional obligation to remain apprised of the most up to date and ever changing guidance, information or regulation that exists and ensure that they act in accordance with this. We would also recommend that all individual dentists, dental nurses and practices follow the phased guidelines issued by the NHS.

## Dental Team

### The History timeline:-

- 25<sup>th</sup> March 2020 - The decision to close dental practices came from the Chief Dental Officer (CDO) citing the need to protect the NHS and PPE resources.
- 26<sup>th</sup> March 2020 - The **Coronavirus Act 2020** came into effect, which gave the Secretary of State the power to close businesses to prevent the spread of coronavirus. Under S4 and Schedule 2, part 1, the Coronavirus Act lists the businesses that must close during the emergency period. This did not include the closure of dental practices. Dental services were specifically excluded from closing.
- 11<sup>th</sup> May 2020 – The CDO stated that:

*“All dental guidance and Standard Operating Procedures currently in force remain unchanged. The temporary cessation of routine dentistry addresses the safety of patients and of dental teams as well as supporting the public health measures required to slow community transmission of COVID-19.”*

<https://www.england.nhs.uk/email-bulletins/primary-care-bulletin/>

- 19<sup>th</sup> May 2020 - The CQC issued the following statement:

*“Alongside guidance given by Public Health England (PHE) and the General Dental Council (GDC), CQC encourage dental providers to give proper consideration to the communications from the Chief Dental Officer (CDO) regardless of whether their practice is NHS, private, or mixed.*

*CQC cannot require providers of dental care services to close, unless we find clear evidence of a breach of our regulations that requires consideration of the use of our powers under the Health and Social Care Act 2008 and associated regulations.*

*As part of our regulatory function we will assess the extent to which providers are providing an appropriate level of safety within the context of our regulations. In doing so we will refer to prevailing guidance, not limited to but including guidance from PHE, the CDO and GDC to help us reach a judgement on the extent to which the service currently being provided complies with our Regulations.*

<https://www.cqc.org.uk/guidance-providers/dentists/current-position-dental-care-services-regarding-covid-19-updates>

- 20<sup>th</sup> May 2020 – The Chief Dental Officer (CDO) of England issued a letter to NHS dental practices providing guideline for a return to work, entitled “a Prompt to prepare”. Effectively setting out the requirements for operational procedures to allow the resumption of work for NHS England dentistry. The guidelines that have been set out must be adhered to.
- 28<sup>th</sup> May 2020 – The CDO issue a \*letter to all NHS dental practices to allow the resumption of work for NHS England with effect from 8<sup>th</sup> June 2020, in accordance with the guidelines set out in the Prompt to Prepare letter.

*\*Publications approval reference: 001559 NHS Letter*

## Roles and Responsibilities

With the extensive amount of information that exists, primarily due to the various roles performed by multiple individuals and organisations, there may be confusion arising as to when individuals are able to return to work in dental practices. In light of this, CFC provides the below purely for guidance as to the current situation for the dental profession:-

- The CDO is an employee of the NHS and only has powers to issue guidance to practices providing NHS services. The CDO has no authority over private dental practices and all guidance issued by the CDO is specifically targeted to those providing primary care dental services on behalf of the NHS.
- The Care Quality Commission (CQC) regulates all health and social care services in England pursuant to the Health and Social Care Act 2008. The CQC are responsible for ensuring that all dental practices are operating safely, as per their statement of the 19<sup>th</sup> May 2020. However, they work under Regulation 12 of The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 which states:

*“(1) Care and treatment must be provided in a safe way for service users.*

*(2) ... the things which a registered person must do to comply ... include-*

*...*

*(d) ensuring that the premises used by the service provider are safe to use for their intended purpose and are used in a safe way;*

...

*(h) assessing the risk of, and preventing, detecting and controlling the spread of, infections, including those that are health care associated."*

With regards to Coronavirus, if a practice was found to fall short of any guideline or requirements issued, the CQC would then have the power to close down those practices that are in breach of the above. One consideration is whether dental practices have enough Personal Protective Equipment (PPE) to complete a treatment plan, which might last weeks or months.

- The GDC regulate professional standards and have issued the following advice:

*"Expert advice on the clinical aspects of COVID-19 will continue to come from the health authorities of the four nations and we will continue to **signpost to this guidance** as and when it is updated. But that guidance will inevitably not cover every potential scenario, and therefore, dental professionals will need to continue exercising their professional judgement and weigh the risks in any given situation. They will also need to continue to assess whether they are trained, competent and indemnified to carry out the activity in question."*

Thus, if the dental practice is acting responsibly, undertaking appropriate risk assessment, has effective cross-infection control, and is taking care of their staff there should not be an increase in 'blue on blue' referrals to the GDC or concerns raised with the CQC.

## Summary

So what does this mean for dental practices, dentists and dental care professionals who provide dental services?

- **NHS** - The provision of NHS work is currently governed by the CDO. The advice issued by NHS England, Scotland and Wales provides a clear road map for the resumption of NHS dental services, including when practices can resume. Practices will need to strictly adhere to these guidelines and directions. They will also need to review other insurances, such as the dental surgery policy to ensure they are adequately covered under Employer's Liability and Public Liability.
- **Private** – It appears private dental services may be resumed. Consideration must be made in respect of the safety to patients by ensuring that the practice has adequate staffing levels, supply of suitable PPE, facilities for the sterilisation and cleaning of communal areas, minimising waiting times and contact between patients with social distancing/2 metres apart, and the frequent testing of staff. Standard operating procedures should meet the standards etc in the prevailing guidance set out by the NHS. Practices will also need to review other insurances, such as the dental surgery policy to ensure they are adequately covered under Employer's Liability and Public Liability.
- **Mixed** – Remains the most complex area due to the different information set out above. As it stands these practices are likely to be viewed as a public body, irrespective of the size of their NHS activities. Thus any mixed practice which contemplates opening solely for private practice prior to the

resumption of NHS activities MUST be able to demonstrate the following to justify treating private patients prior to the CDOs agreement on the resumption of NHS activities:

- That the NHS and Private businesses operate independently to each other, for example the private practice will be an incorporated business
- That separate CQC registration exists for NHS and Private
- That they maintain entirely separate records and accounting systems

In line with the aforementioned, careful consideration must therefore be given to every aspect of doing so, including but not limited to:

- The use and availability of PPE.
- The protection of both patients and staff (building requirements to accommodate social distancing/cleaning/sterilization).
- The training of staff (including maintaining evidence and records of such training).
- Confirmation of all insurance policies and the cover that is available under these (please speak with your broker for any advice around this aspect).

## Dental Nurses

As it currently stands, dental nurses should follow the guidance as per the above, but in summary:-

- Dental nurses can resume work in strict accordance with the detailed phased returns set out by NHS England, Scotland and Wales.
- Dental nurses, at the discretion and under direction of their employer, may work in private practice.

### Things to consider:-

- Have you been trained and are competent to use PPE equipment? To consider this, please think about how you would prove that this training and competency had taken place.
- Do you have adequate PPE equipment for treating private patients on a continual basis? For example, a patient might need follow up appointments, is there enough PPE equipment to complete the treatment?
- Has your dental employer gained agreement from their own indemnity provider?
- Has your dental employer gained agreement from their employers and public liability insurers?



If you are asked to provide NHS treatment in England at the current time (excluding emergency work / work at a UDC centre) until the 8<sup>th</sup> June 2020, this may well lead to a breach of numerous guidelines and directives as documented above. This could ultimately impact on GDC registration. If in doubt, please refer to your Association or indemnity broker for further guidance.