

BDA Cymru Wales Briefing: The National Health Service (Welsh Language in Primary Care Services) (Miscellaneous Amendments) (Wales) Regulations 2019

6 June 2019

Timeline and Overview

The Welsh Government launched its Consultation¹ in July 2016 and issued a final response² 20 months later in February 2018. BDA Cymru Wales was one of many organisations to provide a detailed response³ to the 2016 consultation.

BDA Cymru Wales received a letter⁴ from Karin Phillips Deputy Director Primary Care in late February 2018 regarding the Welsh Language Standards (No.7) Regulations 2018 being laid in the Assembly.

As explained in the Cabinet Secretary's memorandum⁵ of the 9th May 2019, the revised regulations *The National Health Service (Welsh Language in Primary Care Services) (Miscellaneous Amendments) (Wales) Regulations 2019* (see Appendix 1) treat primary care services provided directly by the LHBs in the same way as secondary care services. Independent primary care providers will be subject to these new duties through their contracts from May 2019. These duties are amended from the 2016 draft, as the government acknowledged that several aspects would not have been otherwise achievable.

The Culture, Welsh Language and Communications Committee invited responses to the revised legislation on 20 May. We were unable to provide a response within the narrow time-frame so offered up our original consultation response submitted in 2016 with a covering note to that effect.

BDA Cymru Wales representatives attended the oral evidence session on 6 June. The points we raised in the meeting reflect the points below that we would wish to submit to the committee following that meeting.

Points of note

Principle

BDA Cymru Wales as a general principle supports the use of the Welsh language within health care settings in Wales for the benefit of Welsh-speaking patients. We recognise the benefits to patients to have the ability to communicate with dental practitioners in their first language.

Welsh Language Policy and Practice

BDA Cymru Wales provides all its key policy documents in Welsh as well as English on the BDA Cymru Wales landing page on the BDA website <https://bda.org/bdawales> and has a recurring annual budget for the purpose of translation since staff do not have Welsh language.

Proportionate and workable legislation

BDA Cymru Wales is aware that there are some groups who feel the Welsh Language in Primary Health Care duties do not go far enough. However, we think that the draft version would have been challenging to enforce and required modification. We support the approach by the Government in revising the regulations. We are also aware that the Government is looking for 5-year plans to show

how the Health Boards will move in the direction to enhance Welsh Language provision in a manageable fashion.

The BDA Cymru Wales' view is that the revised duties are proportionate and achievable assuming they do not incur extra cost (or time deficit) for practices. Practices run as independent businesses so that any additional legislation of any type may have such impacts and these need to be assessed. The revised legislation appears to put the onus for cost on the Health Boards, with one exception as it currently stands – see below.

We also made some general points in 2016 around the lack of cost-benefit analysis and also cost-modelling in the original consultation and note that these have been demonstrated to a degree in the government response, which is helpful.

Training for Welsh language awareness – cost model

BDA Cymru Wales understands this is advisory not mandatory. However, whilst the training is paid for by the Health Boards there is no statement about who pays for the lost clinical time. Even if UDAs or UOAs targets are adjusted downwards that is still lost income to the practice and lost treatment for patients. This doesn't appear to have been addressed anywhere.

Until the Health Boards supply the finances to backfill the time spent out of clinic this will be difficult and undesirable for most practices to do. Even if funds are supplied for backfill, 'spare' staff will need to be found to provide back-filled services. It is hard enough for dentists to secure back-filled time out of practice for statutory CPD requirements.

Perception of Welsh Language duties and their impact on Workforce recruitment

In the 2016 consultation under *other comments* BDA Cymru Wales raised concerns around the future risk of perception of these duties by dentists thinking about moving to Wales and the possibility that the (draft) duties could put them off if they did not have the language. There was no comment in the 2018 Government response regarding *other comments* from representatives of primary care, so this point was overlooked. The government only responded to *other comments* points from the regulators.

BDA Cymru Wales believes that with the revised duties such perception is still a possible risk and therefore needs careful management. To be clear, in identifying a risk we are not saying this will be a problem, nor that introducing the regulations should not be done. A risk should however be mitigated and that will require careful communications.

Distinction between Translation and Interpretation

BDA Cymru Wales would like to make the distinction between these two linguistic operations of *translation* and *interpretation* which seem to have been used interchangeably in the legislation. Interpreting and translation are two closely related linguistic disciplines⁷. Interpretation (rather than translation) is required during a consultation.

Working within the practitioner's competence

Dentists and DCPs are bound by the GDC Standards⁸. The first three standards relate directly to patients and their needs and interests which relate significantly and substantially to communication with them. Communication is a key tenet of patient care and the dental team strives to prioritize communication.

If a DCP is used as an interpreter, then that will increase the clinical time that a patient contact may take, and this will have cost implications. If neither dentist or DCP has Welsh language competence, or only conversational Welsh, but the patient requires to be consulted in Welsh then in those circumstances a professional interpreter is the only solution. This requires planning and finances and longer consultation periods which impacts on availability to see other patients. Therefore, BDA

Cymru Wales considers it was right that the raft legislation was amended as this circumstance would be costly and difficult to provide.

We would not want dental staff to feel pressurised into wearing badges if they have a limited degree of Welsh. It is important that in the clinical setting staff work within their competence including their language in order to protect patient interests.

References

1. Welsh Language Standards (Health Sector) Regulations WG28986; Welsh Government Consultation - Improving services for Welsh speakers (14 July 2016)
2. Welsh Language Standards (Health Sector) Regulations WG33631; Welsh Government Consultation – summary of response (February 2018)
3. Welsh Language Standards (Health Sector) Regulations – BDA Consultation Response (14 October 2016)
4. Welsh Language Standards No 7 Regulations 2018 – Letter from Karin Phillips Deputy Director Primary Care (February 2018)
5. Explanatory Memorandum to The Making and Laying of The National Health Service (Welsh Language in Primary Care Services) (Miscellaneous Amendments) (Wales) Regulations 2019
6. The National Health Service (Welsh Language in Primary Care Services) (Miscellaneous Amendments) (Wales) Regulations 2019
<http://www.legislation.gov.uk/wsi/2019/917/contents/made>
7. The Difference between Translation and Interpreting
<http://www.languagescientific.com/the-difference-between-translation-and-interpreting/>
8. GDC Standards for the Dental Team <https://www.gdc-uk.org/professionals/standards>

Appendix 1: The National Health Service (Welsh Language in Primary Care Services) (Miscellaneous Amendments) (Wales) Regulations 2019 (extract)

Amendments to the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006

4.—(1) The National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006(1) are amended as follows.

(2) In Schedule 3, in Part 2, after paragraph 17 insert—

“Welsh Language

17A.—(1) Where the contractor(2) provides dental services under the agreement(3) through the medium of Welsh, it must notify the Local Health Board(4) in writing.

(2) The contractor must make available a Welsh language version of any document or form for use by patients(5) and/or members of the public, provided by the Local Health Board.

(3) Where the contractor displays a new sign or notice in connection with dental services provided under the agreement, the text on the sign or notice must be in English and Welsh, and the contractor may utilise the translation service offered by the Local Health Board for this purpose.

(4) The contractor must encourage the wearing of a badge, provided by the Local Health Board, by those delivering dental services under the agreement who are Welsh speaking, to convey that they are able to speak Welsh.

(5) The contractor must encourage those delivering dental services under the agreement to utilise information and/or attend training courses and events provided by the Local Health Board, so that they can develop—

(a) an awareness of the Welsh language (including awareness of its history and its role in Welsh culture); and

(b) an understanding of how the Welsh language can be used when delivering dental services under the agreement.

(6) The contractor must encourage those delivering dental services under the agreement to establish and record the Welsh or English language preference expressed by or on behalf of a patient.”

**Amendments to the National Health Service
(General Dental Services Contracts) (Wales)
Regulations 2006**

5.—(1) The National Health Service (General Dental Services Contracts) (Wales) Regulations 2006(1) are amended as follows.

(2) In Schedule 3, in Part 2, after paragraph 16 insert—

“Welsh Language

16A.—(1) Where the contractor(2) provides dental services under the contract(3) through the medium of Welsh, it must notify the Local Health Board(4) in writing.

(2) The contractor must make available a Welsh language version of any document or form for use by patients(5) and/or members of the public, provided by the Local Health Board.

(3) Where the contractor displays a new sign or notice in connection with dental services provided under the contract, the text on the sign or notice must be in English and Welsh, and the contractor may utilise the translation service offered by the Local Health Board for this purpose.

(4) The contractor must encourage the wearing of a badge, provided by the Local Health Board, by those delivering dental services under the contract who are Welsh speaking, to convey that they are able to speak Welsh.

(5) The contractor must encourage those delivering dental services under the contract to utilise information and/or attend training courses and events provided by the Local Health Board, so that they can develop—

(a) an awareness of the Welsh language (including awareness of its history and its role in Welsh culture); and

(b) an understanding of how the Welsh language can be used when delivering dental services under the contract.

(6) The contractor must encourage those delivering dental services under the contract to establish and record the Welsh or English language preference expressed by or on behalf of a patient.”

Appendix 2: Standards for the Dental Team (extract)

About this document

This document sets out the standards of conduct, performance and ethics that govern you as a dental professional. It specifies the principles, standards and guidance which apply to all members of the dental team which includes:

- Dentists;
- Dental nurses;
- Dental hygienists;
- Dental therapists;
- Orthodontic therapists;
- Dental technicians; and
- Clinical dental technicians.

It also sets out what patients expect from their dental professionals.

Principles: The core ethical principles of practice

Patient expectations: What patients can expect from the dental team

Standards: What registrants must do to ensure patient expectations are met

Guidance: How registrants meet the standards

There are nine principles registered dental professionals must keep to at all times.

As a GDC registrant you must:

- 1. Put patients' interests first**
- 2. Communicate effectively with patients**
- 3. Obtain valid consent**
- 4. Maintain and protect patients' information**
- 5. Have a clear and effective complaints procedure**
- 6. Work with colleagues in a way that is in patients' best interests**
- 7. Maintain, develop and work within your professional knowledge and skills**
- 8. Raise concerns if patients are at risk**
- 9. Make sure your personal behaviour maintains patients' confidence in you and the dental profession**

The principles are all equally important and are not listed in order of priority. They are supplemented by additional guidance documents which can be found on our website at www.gdc-uk.org and which you must also follow.

You have an individual responsibility to behave professionally and follow these principles at all times.

The standards set out what you must do. If you do not meet these standards, you may be removed from our register and not be able to work as a dental professional.

The guidance is there to help you to meet the standards. You are expected to follow the guidance, to use your professional judgment, demonstrate insight at all times and be able to justify any decision that is not in line with the guidance. Serious or persistent failure to follow the guidance could see you removed from our register and not able to work as a dental professional. Throughout this document:

'must' is used where the duty is compulsory;

'should' is used where the duty would not apply in all situations and where there are exceptional circumstances outside your control that could affect whether, or how, you can comply with the guidance. Should is also used when we are providing an explanation of how you will meet the overriding duty.

If we receive information which brings your fitness to practise into question, such as a complaint or a conviction, we will refer to the standards and the guidance to judge whether you are fit to practise as a dental professional.

Principle 1 - Put patients' interests first

Patient expectations

Patients expect:

- To be listened to and have their preferences and concerns taken into account
- To be treated as individuals and have their cultures and values respected
- That all members of the dental team will be honest and act with integrity
- That all aspects of their health and well-being will be considered and they will receive dental care that is appropriate for them
- To be treated in a clean and safe environment.
- That reasonable adjustments will be made for any disabilities
- That their interests will be put before financial gain and business need
- Redress if they suffer harm during dental treatment
- That their dental pain and anxiety will be managed appropriately

Standards

You must:

- 1.1 Listen to your patients.
- 1.2 Treat every patient with dignity and respect at all times.
- 1.3 Be honest and act with integrity.
- 1.4 Take a holistic and preventative approach to patient care which is appropriate to the individual patient.
- 1.5 Treat patients in a hygienic and safe environment
- 1.6 Treat patients fairly, as individuals and without discrimination.
- 1.7 Put patients' interests before your own or those of any colleague, business or organisation.
- 1.8 Have appropriate arrangements in place for patients to seek compensation if they suffer harm.
- 1.9 Find out about laws and regulations that affect your work and follow them.

Guidance

Standard 1.1: You must listen to your patients

1.1.1 You must discuss treatment options with patients and listen carefully to what they say. Give them the opportunity to have a discussion and to ask questions.

Standard 1.2: You must treat every patient with dignity and respect at all times

- 1.2.1 You should be aware of how your tone of voice and body language might be perceived.
- 1.2.2 You should take patients' preferences into account and be sensitive to their individual needs and values.
- 1.2.3 You must treat patients with kindness and compassion.
- 1.2.4 You should manage patients' dental pain and anxiety appropriately.

Standard 1.3: You must be honest and act with integrity

- 1.3.1 You must justify the trust that patients, the public and your colleagues place in you by always acting honestly and fairly in your dealings with them. This applies to any business or education activities in which you are involved as well as to your professional dealings.
- 1.3.2 You must make sure you do not bring the profession into disrepute.
- 1.3.3 You must make sure that any advertising, promotional material or other information that you produce is accurate and not misleading, and complies with the GDC's guidance on ethical advertising.

Standard 1.4: You must take a holistic and preventative approach to patient care which is appropriate to the individual patient

- 1.4.1 A holistic approach means you must take account of patients' overall health, their psychological and social needs, their long term oral health needs and their desired outcomes.
- 1.4.2 You must provide patients with treatment that is in their best interests, providing appropriate oral health advice and following clinical guidelines relevant to their situation. You may need to balance their oral health needs with their desired outcomes.

If their desired outcome is not achievable or is not in the best interests of their oral health, you must explain the risks, benefits and likely outcomes to help them to make a decision.

Standard 1.5: You must treat patients in a hygienic and safe environment

- 1.5.1 You must find out about the laws and regulations which apply to your clinical practice, your premises and your obligations as an employer and you must follow them at all times. This will include (but is not limited to) legislation relating to:
 - o the disposal of clinical and other hazardous waste;
 - o radiography;
 - o health and safety;
 - o decontamination; and
 - o medical devices.
- 1.5.2 You must make sure that you have all necessary vaccinations and follow guidance relating to blood-borne viruses.
- 1.5.3 You must follow the guidance on medical emergencies and training updates issued by the Resuscitation Council (UK).
- 1.5.4 You must record all patient safety incidents and report them promptly to the appropriate national body.

Standard 1.6: You must treat patients fairly, as individuals and without discrimination

- 1.6.1 You must not discriminate against patients on the grounds of:
 - o Age
 - o Disability
 - o Gender reassignment
 - o Marriage and civil partnership
 - o Pregnancy and maternity
 - o Race
 - o Religion or belief
 - o Sex
 - o Sexual orientation.

You must also ensure that you do not discriminate against patients or groups of patients for any other reasons such as nationality, special needs, health, lifestyle or any other consideration.

1.6.2 You must be aware of and adhere to all your responsibilities as set out in relevant equalities legislation.

1.6.3 You must consider patients' disabilities and make reasonable adjustments to allow them to receive care which meets their needs. If you cannot make reasonable adjustments to treat a patient safely, you should consider referring them to a colleague.

1.6.4 You must not express your personal beliefs (including political, religious or moral beliefs) to patients in any way that exploits their vulnerability or could cause them distress.

Standard 1.7: You must put patients' interests before your own or those of any colleague, business or organisation

1.7.1 You must always put your patients' interests before any financial, personal or other gain.

1.7.2 If you work in a practice that provides both NHS (or equivalent health service) and private treatment (a mixed practice), you must make clear to your patients which treatments can be provided under the NHS (or equivalent health service) and which can only be provided on a private basis.

1.7.3 You must not mislead patients into believing that treatments which are available on the NHS (or equivalent health service) can only be provided privately. If you work in a purely private practice, you should make sure that patients know this before they attend for treatment.

1.7.4 If you work in a mixed practice, you must not pressurise patients into having private treatment if it is available to them under the NHS (or equivalent health service) and they would prefer to have it under the NHS (or equivalent health service).

1.7.5 You must refuse any gifts, payment or hospitality if accepting them could affect, or could appear to affect, your professional judgment.

1.7.6 When you are referring patients to another member of the dental team, you must make sure that the referral is made in the patients' best interests rather than for your own, or another team member's, financial gain or benefit.

1.7.7 If you believe that patients might be at risk because of your health, behaviour or professional performance or that of a colleague, or because of any aspect of the clinical environment, you must take prompt and appropriate action.

1.7.8 In rare circumstances, the trust between you and a patient may break down, and you may find it necessary to end the professional relationship. You should not stop providing a service to a patient solely because of a complaint the patient has made about you or your team.

Before you end a professional relationship with a patient, you must be satisfied that your decision is fair and you must be able to justify your decision. You should write to the patient to tell them your decision and your reasons for it. You should take steps to ensure that arrangements are made promptly for the continuing care of the patient.

Standard 1.8: You must have appropriate arrangements in place for patients to seek compensation if they have suffered harm

1.8.1 You must have appropriate insurance or indemnity in place to make sure your patients can claim any compensation to which they may be entitled (See our website for further guidance on what types of insurance or indemnity the GDC considers to be appropriate).

1.8.2 You should ensure that you keep to the terms and conditions of your insurance or indemnity and contact the provider as soon as possible when a claim is made. A delay in contacting the provider could disadvantage patients and may affect the level of help you receive from the provider.

Standard 1.9: You must find out about laws and regulations that affect your work and follow them

1.9.1 You must find out about, and follow, laws and regulations affecting your work. This includes, but is not limited to, those relating to:

- o data protection
- o employment
- o human rights and equality
- o registration with other regulatory bodies.

Principle 2 - Communicate effectively with patients

Patient expectations

Patients expect:

- To receive full, clear and accurate information that they can understand, before, during and after treatment, so that they can make informed decisions in partnership with the people providing their care
- A clear explanation of the treatment, possible outcomes and what they can expect
- To know how much their treatment will cost before it starts, and to be told about any changes
- Communication that they can understand
- To know the names of those providing their care

Standards

You must:

2.1 Communicate effectively with patients – listen to them, give them time to consider information and take their individual views and communication needs into account

2.2 Recognise and promote patients' rights to and responsibilities for making decisions about their health priorities and care

2.3 Give patients the information they need, in a way they can understand, so that they can make informed decisions

2.4 Give patients clear information about costs

Guidance

Standard 2.1: You must communicate effectively with patients – listen to them, give them time to consider information and take their individual views and communication needs into account

2.1.1 You must treat patients as individuals. You should take their specific communication needs and preferences into account where possible and respect any cultural values and differences.

2.1.2 You must be sufficiently fluent in written and spoken English to communicate effectively with patients, their relatives, the dental team and other healthcare professionals in the United Kingdom.

Standard 2.2: You must recognise and promote patients' rights to and responsibilities for making decisions about their health priorities and care

2.2.1 You must listen to patients and communicate effectively with them at a level they can understand. Before treatment starts you must:

- o explain the options (including those of delaying treatment or doing nothing) with the risks and benefits of each; and

- o give full information on the treatment you propose and the possible costs.

2.2.2 You should encourage patients to ask questions about their options or any aspect of their treatment.

2.2.3 You must give full and honest answers to any questions patients have about their options or treatment.

Standard 2.3: You must give patients the information they need, in a way they can understand, so that they can make informed decisions

2.3.1 You should introduce yourself to patients and explain your role so that they know how you will be involved in their care.

2.3.2 Other members of your team may have valuable knowledge about the patients' backgrounds or concerns so you should involve them (and the patients' carers if relevant) in discussion with patients where appropriate.

2.3.3 You should recognise patients' communication difficulties and try to meet the patients' particular communication needs by, for example:

- o not using professional jargon and acronyms;

- o using an interpreter for patients whose first language is not English;

- o suggesting that patients bring someone with them who can use sign language; and

- o providing an induction loop to help patients who wear hearing aids.

2.3.4 You should satisfy yourself that patients have understood the information you have given them, for example by asking questions and summarising the main points of your discussion.

2.3.5 You should make sure that patients have enough information and enough time to ask questions and make a decision.

2.3.6 You must give patients a written treatment plan, or plans, before their treatment starts and you should retain a copy in their notes. You should also ask patients to sign the treatment plan.

2.3.7 Whenever you provide a treatment plan you must include:

- o the proposed treatment;

- o a realistic indication of the cost;

- o whether the treatment is being provided under the NHS (or equivalent health service) or privately (if mixed, the treatment plan should clearly indicate which elements are being provided under which arrangement).

2.3.8 You should keep the treatment plan and estimated costs under review during treatment. You must inform your patients immediately if the treatment plan changes and provide them with an updated version in writing.

2.3.9 You must provide patients with clear information about your arrangements for emergency care including the out of hours arrangements.

2.3.10 You should make sure patients have the details they need to allow them to contact you by their preferred method.

2.3.11 You should provide patients with clear information about any referral arrangements related to their treatment.

Standard 2.4: You must give patients clear information about costs

2.4.1 You must make sure that a simple price list is clearly displayed in your reception or waiting area. This should include a list of basic items including a consultation, a single-surface filling, an extraction, radiographs (bitewing or pan-oral) and treatment provided by the hygienist. For items which may vary in cost, a 'from -- to' price range can be shown.

2.4.2 You must give clear information on prices in your practice literature and on your websites - patients should not have to ask for this information.

2.4.3 You should tell your patients whether treatment is guaranteed, under what circumstances and for how long. You should make clear any circumstances under which treatment is not guaranteed (for example, a lack of care on their part which leads to recurring problems).

Principle 3- Obtain valid consent

Patient expectations

Patients expect:

- To be asked for their consent to treatment before it starts.

Standards

You must:

3.1 Obtain valid consent before starting treatment, explaining all the relevant options and the possible costs

3.2 Make sure that patients (or their representatives) understand the decisions they are being asked to make

3.3 Make sure that the patient's consent remains valid at each stage of investigation or treatment

Guidance

Standard 3.1: You must obtain valid consent before starting treatment, explaining all the relevant options and the possible costs.

3.1.1 You must make sure you have valid consent before starting any treatment or investigation. This applies whether you are the first member of your team to see the patient or whether you are involved after other team members have already seen them. Do not assume that someone else has obtained the patient's consent.

3.1.2 You should document the discussions you have with patients in the process of gaining consent. Although a signature on a form is important in verifying that a patient has given consent, it is the discussions that take place with the patient that determine whether the consent is valid.

3.1.3 You should find out what your patients want to know as well as what you think they need to know. Things that patients might want to know include:

- o options for treatment, the risks and the potential benefits;
- o why you think a particular treatment is necessary and appropriate for them;
- o the consequences, risks and benefits of the treatment you propose;
- o the likely prognosis;
- o your recommended option;
- o the cost of the proposed treatment;
- o what might happen if the proposed treatment is not carried out; and
- o whether the treatment is guaranteed, how long it is guaranteed for and any exclusions that apply.

3.1.4 You must check and document that patients have understood the information you have given.

3.1.5 Patients can withdraw their consent at any time, refuse treatment or ask for it to be stopped after it has started. You must acknowledge their right to do this and follow their wishes.

You should explain the consequences or risks of not continuing the treatment and ensure that the patient knows that they are responsible for any future problems which arise as a result of not completing the treatment. You must record all this in the patient's notes.

3.1.6 You must obtain written consent where treatment involves conscious sedation or general anaesthetic.

Standard 3.2: You must make sure that patients (or their representatives) understand the decisions they are being asked to make.

3.2.1 You must provide patients with sufficient information and give them a reasonable amount of time to consider that information in order to make a decision.

3.2.2 You must tailor the way you obtain consent to each patient's needs. You should help them to make informed decisions about their care by giving them information in a format they can easily understand.

3.2.3 When obtaining consent, you should encourage patients who have communication difficulties to have a friend, relative or carer with them to help them ask questions or understand your answers.

3.2.4 You must always consider whether patients are able to make decisions about their care themselves, and avoid making assumptions about a patient's ability to give consent.

This is a complex area and you should refer to the appropriate legislation. You can find further information on our website or you can contact your defence organisation for further advice.

3.2.5 You must check and document that patients have understood the information you have given them.

Standard 3.3: You must make sure that the patient's consent remains valid at each stage of investigation or treatment

3.3.1 Giving and obtaining consent is a process, not a one-off event. It should be part of on-going communication between patients and all members of the dental team involved in their care. You should keep patients informed about the progress of their care.

3.3.2 When carrying out an on-going course of treatment, you must make sure you have specific consent for what you are going to do during that appointment.

3.3.3 You must tailor the way you confirm ongoing consent to each patient's needs and check that patients have understood the information you have given them.

3.3.4 You must document the discussions you have with patients in the process of confirming their ongoing consent.

3.3.5 If you think that you need to change a patient's agreed treatment or the estimated cost, you must obtain your patient's consent to the changes and document that you have done so.

Principle 4 - Maintain and protect patients' information

Patient expectations

Patients expect:

- Their records to be up to date, complete, clear, accurate and legible
- Their personal details to be kept confidential
- **To be able to access their dental records**
- Their records to be stored securely

Standards

You must:

- 4.1 Make and keep contemporaneous, complete and accurate patient records
- 4.2 Protect the confidentiality of patients' information and only use it for the purpose for which it was given.
- 4.3 Only release a patient's information without their permission in exceptional circumstances.
- 4.4 Ensure that patients can have access to their records
- 4.5 Keep patients' information secure at all times, whether your records are held on paper or electronically.

Guidance

Standard 4.1: You must make and keep contemporaneous, complete and accurate patient records

4.1.1 You must make and keep complete and accurate patient records, including an up-to-date medical history, each time that you treat patients.

Radiographs, consent forms, photographs, models, audio or visual recordings of consultations, laboratory prescriptions, statements of conformity and referral letters all form part of patients records where they are available.

4.1.2 You should record as much detail as possible about the discussions you have with your patients, including evidence that valid consent has been obtained. You should also include details of any particular patient's treatment needs where appropriate.

4.1.3 You must understand and meet your responsibilities in relation to patient information in line with current legislation. You must follow appropriate national advice on retaining, storing and disposing of patient records.

4.1.4 You must ensure that all documentation that records your work, including patient records, is clear, legible, accurate, and can be readily understood by others. You must also record the name or initials of the treating clinician.

4.1.5 If you need to make any amendments to a patient's records you must make sure that the changes are clearly marked up and dated.

4.1.6 If you refer a patient to another dental professional or other health professional, you must make an accurate record of this referral in the patient's notes and include a written prescription when necessary.

Standard 4.2: You must protect the confidentiality of patients' information and only use it for the purpose for which it was given

4.2.1 Confidentiality is central to the relationship and trust between you and your patients. You must keep patient information confidential.

This applies to all the information about patients that you have learnt in your professional role including personal details, medical history, what treatment they are having and how much it costs.

4.2.2 You must ensure that non-registered members of the dental team are aware of the importance of confidentiality and that they keep patient information confidential at all times.

4.2.3 You must not post any information or comments about patients on social networking or blogging sites. If you use professional social media to discuss anonymised cases for the purpose of discussing best practice you must be careful that the patient or patients cannot be identified. See our website for further guidance on social networking.

4.2.4 You must not talk about patients or their treatment in places where you can be overheard by people who should not have access to the information you are discussing.

4.2.5 You must explain to patients the circumstances in which you may need to share information with others involved in their healthcare. This includes making sure that they understand:

- o what information you will be releasing;
- o why you will be releasing it; and
- o the likely consequences of you releasing the information.

You must give your patients the opportunity to withhold their permission to share information in this way unless exceptional circumstances apply. You must record in your patient's notes whether or not they gave their permission.

4.2.6 If a patient allows you to share information about them, you should ensure that anyone you share it with understands that it is confidential.

4.2.7 If other people ask you to provide information about patients (for example, for teaching or research), or if you want to use patient information such as photographs for any reason, you must:

- o explain to patients how the information or images will be used;
- o check that patients understand what they are agreeing to;
- o obtain and record the patients' consent to their use;
- o only release or use the minimum information necessary for the purpose; and
- o explain to the patients that they can withdraw their permission at any time.

If it is not necessary for patients to be identified, you must make sure they remain anonymous in any information you release.

- 4.2.8 You must keep patient information confidential even after patients die.
- 4.2.9 The duty to keep information confidential also covers recordings or images of patients such as photographs, videos or audio recordings, both originals and copies, including those made on a mobile phone. You must not make any recordings or images without the patient's permission.

Standard 4.3: You must only release a patient's information without their permission in exceptional circumstances

4.3.1 In exceptional circumstances, you may be justified in releasing confidential patient information without their consent if doing so is in the best interests of the public or the patient. This could happen if a patient puts their own safety or that of others at serious risk, or if information about a patient could be important in preventing or detecting a serious crime.

If you believe that revealing information about a patient is in the best interests of the public or the patient you should first try to get the patient's permission to release the information.

You should do everything you can to encourage the patient to either release the information themselves or to give you permission to do so. You must document the efforts you have made to obtain consent in the patient's notes.

4.3.2 If obtaining consent from a patient to the release of their information in the public interest is not practical or appropriate, or if the patient will not give their permission, you should get advice from your defence organisation or professional association before you release the information.

4.3.3 If you have information that a patient is or could be at risk of significant harm, or you suspect that a patient is a victim of abuse, you must inform the appropriate social care agencies or the police. See our website for further guidance.

4.3.4 You can be ordered by a court, or you can be under a statutory duty, to release information about a patient without their permission. If this happens, you should only release the minimum amount of information necessary to comply with the court order or statutory duty.

4.3.5 In any circumstance where you decide to release confidential information, you must document your reasons and be prepared to explain and justify your decision and actions.

Standard 4.4: You must ensure that patients can have access to their records

4.4.1 Although patients do not own their dental records, they have the right to access them under Data Protection legislation. If patients ask for access to their records, you must arrange for this promptly, in accordance with the law.

4.4.2 In some circumstances you can charge patients a fee for accessing their records. The maximum you can charge depends on whether the records are paper copies or held electronically. You should check the latest guidance issued by your national Information Commissioner's Office.

Standard 4.5: You must keep patients' information secure at all times, whether your records are held on paper or electronically

4.5.1 You must make sure that patients' information is not revealed accidentally and that no-one has unauthorised access to it by storing it securely at all times. You must not leave records where they can be seen by other patients, unauthorised staff or members of the public.

4.5.2 If you are sending confidential information, you should use a secure method. If you are sending or storing confidential information electronically, you should ensure that it is encrypted.

4.5.3 If clinical records are computerised, you should make back-up copies of clinical records, radiographs and other images.

Principle 5- Have a clear and effective complaints procedure

Patient expectations

Patients expect:

- Their concerns or complaints to be acknowledged, listened to and dealt with promptly

Standards

You must:

5.1 Make sure that there is an **effective complaints procedure** readily available for patients to use, and follow that procedure at all times

5.2 Respect a patient's right to complain

5.3 Give patients who complain a prompt and constructive response

Guidance

Standard 5.1: You must make sure that there is an effective complaints procedure readily available for patients to use, and follow that procedure at all times

5.1.1 It is part of your responsibility as a dental professional to deal with complaints properly and professionally.

You must:

- o ensure that there is an effective written complaints procedure where you work;
- o follow the complaints procedure at all times;
- o respond to complaints within the time limits set out in the procedure; and
- o provide a constructive response to the complaint.

5.1.2 You should make sure that everyone (dental professionals, other staff and patients) knows about the complaints procedure and understands how it works. If you are an employer, or you manage a team, you must ensure that all staff are trained in handling complaints.

5.1.3 If you work for a practice that provides NHS (or equivalent health service) treatment, or if you work in a hospital, you should follow the procedure set down by that organisation.

5.1.4 If you work in private practice, including private practice owned by a dental body corporate, you should make sure that it has a procedure which sets similar standards and time limits to the NHS (or equivalent health service) procedure.

5.1.5 You should make sure that your complaints procedure:

- o is displayed where patients can see it - patients should not have to ask for a copy;
- o is clearly written in plain language and is available in other formats if needed;
- o is easy for patients to understand and follow;
- o provides information on other independent organisations that patients can contact to raise concerns;
- o allows you to deal with complaints promptly and efficiently;
- o allows you to investigate complaints in a full and fair way;
- o explains the possible outcomes;
- o allows information that can be used to improve services to pass back to your practice management or equivalent; and
- o respects patients' confidentiality.

5.1.6 Complaints can be an opportunity to improve your service. You should analyse any complaints that you receive to help you improve the service you offer, and share lessons learnt from complaints with all team members.

5.1.7 You should keep a written record of all complaints together with your responses. This record should be separate from your patient records so that patients are not discouraged from making a complaint.

You should use your record of complaints to monitor your performance in handling complaints and identify any areas that need to be improved.

Standard 5.2: You must respect a patient's right to complain

5.2.1 You should not react defensively to complaints. You should listen carefully to patients who complain and involve them fully in the complaints process. You should find out what outcome patients want from their complaint.

Standard 5.3: You must give patients who complain a prompt and constructive response

5.3.1 You should give the patient a copy of the complaints procedure when you acknowledge their complaint so that they understand the stages involved and the timescales.

5.3.2 You should deal with complaints in a calm and constructive way and in line with the complaints procedure.

5.3.3 You should aim to resolve complaints as efficiently, effectively and politely as possible.

5.3.4 You must respond to complaints within the time limits set out in your complaints procedure.

5.3.5 If you need more time to investigate a complaint, you should tell the patient when you will respond.

5.3.6 If there are exceptional circumstances which mean that the complaint cannot be resolved within the usual timescale, you should give the patient regular updates (at least every 10 days) on progress.

5.3.7 You should try to deal with all the points raised in the complaint and, where possible, offer a solution for each one.

5.3.8 You should offer an apology and a practical solution where appropriate.

5.3.9 If a complaint is justified, you should offer a fair solution. This may include offering to put things right at your own expense if you have made a mistake.

5.3.10 You should respond to the patient in writing, setting out your findings and any practical solutions you are prepared to offer. Make sure that the letter is clear, deals with the patient's concerns and is easy for them to understand.

5.3.11 If the patient is not satisfied despite your best efforts to resolve their complaint, you should tell them about other avenues that are open to them, such as the relevant Ombudsman for health service complaints or the Dental Complaints Service for complaints about private dental treatment.

<https://www.gdc-uk.org/professionals/standards>