



Mr Mike Nesbitt MLA
Minister
Department of Health
Castle Buildings
Stormont
Belfast
Northern Ireland
BT4 3SQ

By email: Private.Office@health-ni.gov.uk

15th July 2024

Re. Regulation (EU) 2024/1849 of the European Parliament and of the Council of 13 June 2024 amending Regulation (EU) 2017/852 on mercury as regards dental amalgam

Dear Minister

We note the above regulation has now been published in the official EU Journal. The default position as we understand it is direct application of a ban on dental amalgam in Northern Ireland will apply from 1 January 2025 under the terms of the NI Protocol, subject to exercise of the Stormont Brake /a bespoke arrangement being put in place.

As BDA made clear in our letter to then Minister Swann of 5th March, and again in our oral evidence to the Windsor Framework DSC we are in favour of getting to a position where amalgam can be phased-out. However, moving to apply an amalgam phase-out (ban) ahead of sufficient and prerequisite progress having been made on such crucial areas as *prevention* i.e. reducing demand for amalgam/improving population oral health; on *dental service reform* including a fit-for-purpose GDS contract; and on *suitable alternative materials and techniques*, as stated in your own Department's [Northern Ireland Plan to Phase down the use of Dental Amalgam 2019](#) will be deeply damaging to dental services here, and ultimately to population oral health.

A phase-out approach with a vastly accelerated timeline of 2025 is at odds with the UK-wide approach adopted by all four Chief Dental Officers to this point, and to the position adopted at COP-5 (the Conference of the Parties to the UN Convention on Mercury) last November which reaffirmed *phase-down* as respecting differences in country capacities, promoting equity and taking an evidence-based approach to identify alternatives to dental amalgam, ultimately safeguarding the oral health of respective populations.

The UK is a signatory to this Convention.

British Dental Association
The Mount, 2 Woodstock Link, Belfast BT6 8DD
02890 735 856 enquiries@bda.org bda.org

We note in her evidence to the Windsor Framework DSC, our Chief Dental Officer gave a similar view that we are not ready to implement the provisions of this Regulation in Northern Ireland from 1 January. It seems clear that alongside a derogation, we need to see a UK plan give a much greater impetus to strategically reforming, and investing properly in developing our dental services.

Even without the considerable added pressures anticipated from an amalgam ban, access to Health Service dentistry is already disappearing. Latest [NISRA activity data](#) confirms just 79% of patients were treated in GDS in 23/24 compared with 19/20; the number of treatment claims were even lower at 70% of 19/20 levels. A failing GDS contract, namely a remuneration model which bears no resemblance to the true cost to provide modern dental care at practice level is evidenced by total fees paid to dentists drop by £10.4m in 23/24 compared with the previous year.

The full impact of an amalgam ban being imposed on practices and practitioners here has been estimated by BDA at £22m per annum, including displacement of existing Private fees for white fillings currently provided privately. These costings have been shared with your Department.

At this time, practitioners have received no assurances whether a longer-term derogation will be offered to Northern Ireland in recognition of our unique post-Brexit arrangements, compounded by the particular oral health challenges and inequalities, at a time Health and Social Care is buckling under immense pressures.

Indeed, practitioners are deeply concerned that additional costs, either direct or indirectly will be incurred at practice level in the event of a ban on amalgam. Without adequate mitigations put in place, this could be the tipping point for many practices being able to continue to provide HS dentistry.

As independent contractors, such uncertainty is deeply damaging and must be urgently addressed. There simply must be full and fair mitigations by government in the event a ban is imposed here.

In our evidence to the NI Assembly Health Committee last month, we highlighted the total mismatch between dental fees set without any objective basis by DoH under an antiquated contract, and the true cost to provide care at practice level, as a core reason why dentists are increasingly leaving.

Furthermore, of those dentists who are currently providing NHS care, according to our latest survey almost 90% of dentists stated they intend to do less NHS dentistry in the coming year, with almost half stating they intend to go fully private. BSO are currently inundated with requests to de-register patients from receiving Health Service care; and, as a result morale within the dental profession is at an all-time low.

And crucially, this is before the impact of an amalgam ban, which if directly applied in the absence of full mitigations will have irreparable and long-lasting damage to provision of dental services, at a time when Health Service dentistry is on its knees.

Results from a BDA survey indicated without mitigations being put in place by Department of Health:

- 92% of dentists believe an amalgam ban will increase costs for treatment carried out under the Health Service in their practice;
- 91% agreed this will impact on higher needs patients, and 88% agreed that this will lead to their practice reducing or ending its Health Service commitment.

We re-emphasise, we want to safeguard a future for this vital public service, but this will be contingent upon government -both Stormont and Westminster, in engagement with the European Union -having a clear plan in place for the survival of this service, how the additional and considerable risks posed by a dental amalgam will be fully managed and mitigated, and fundamentally, if there might just be an opportunity to grasp the nettle in looking at how the service can be reformed and properly invested in after a decade and a half of neglect and decline.

To quote one member, *“We are at crisis point and need help from Stormont, otherwise NHS dentistry will cease to exist”*. ***“Increase in expenses and the ban on amalgam are the perfect storm. I don’t know any dentists who will be able to deliver any NHS work next year under the circumstances. NHS dentistry is about to collapse”***.

As we enter this crucial next phase of considering how the above Regulation may apply to Northern Ireland, the profession calls for decisive leadership from Stormont, working with the new UK government, and in engagement with EU authorities to arrive at a workable arrangement which will support -and not damage further -this vital public service in Northern Ireland.

Our open letter to DoH of 30th January, co-signed by 720 Northern Ireland dentists is more pertinent than ever; it simply and reasonably asked, *‘What is the plan for Health Service dentistry?’*

This vital public service needs a plan put in place, and urgently.

We urge both Stormont and the UK government, and all Political parties to work in the best interests of the public who rely on dental services to find a workable way forward. Indeed, at a time when dental contract reform has begun in neighbouring jurisdictions, we urge our representatives to seize this unprecedented opportunity to get on with actioning similar reform and investment into dental services and oral health provision in Northern Ireland, starting with stabilising the service at practice level.

Return on investment benefits aside, investing in better Prevention initiatives, dental services reform and research on alternative materials and techniques are essential steps which will enable us to phase down our reliance on dental amalgam, as envisaged by the UK as a signatory to the UN Convention on Mercury.

While the above Regulation may represent the tipping point for a service already under immense pressure, there is an imperative to find a way through which can bring added benefits to our population, and which treats HS committed practitioners fairly.

And, alongside the risks we believe there lies a unique opportunity to be grasped if the political will can be harnessed.

While Health and dental services are devolved, and ultimately dental contracts are held by Department of Health, we recognise these issues are cross-cutting and go beyond even the sole domain of Stormont. As such, we respectfully request a response from each party copied into this letter as we aim to secure commitments to find a positive way through the situation before us.

With the clock now ticking, we urge a collaborative and ambitious approach centred around prioritising the oral health needs of the population of Northern Ireland, and the future viability of dental services.

Suggested Roadmap:

- A. Early action by the UK Cabinet Office to engage with the EU Commission and secure a **derogation** from the relevant regulations, as an initial first step only, in NI.
- B. **Continued development and impetus by the UK government of a four-nation phase-down plan** of dental amalgam, noting its commitments under the Minamata Convention.
- C. **Review of the funding allocation** required to support the conditions required for further phase-down of dental amalgam in all nations under such a plan, including adequate investment in prevention, dental service reform/dental contracts, and research into alternative materials and techniques.
- D. As required, **further extensions of the legal derogation** for NI to ensure equity in treatment across all four nations is maintained whilst the roadmap for change is implemented.

All parties included in this letter have an important role to play to facilitate the necessary progress on this important issue.

As always, our committee representatives stand ready to engage further with all individuals copied on this letter. Please contact northernirelandoffice@bda.org to arrange follow up discussions.

Yours sincerely



Tristen Kelso
Northern Ireland Director

Copied to:

Michelle O'Neill MLA, First Minister & Emma Little-Pengelly MLA, deputy First Minister
Rt Hon Hilary Benn MP, Secretary of State for Northern Ireland
NI Party Leaders: Michelle O'Neill MLA, Sinn Féin; Gavin Robinson MP, DUP; Naomi Long MLA, Alliance; Doug Beattie MLA, UUP; Colum Eastwood MLA, SDLP
Philip McGuigan MLA, Chair Windsor Framework Democratic Scrutiny Committee
Ms Caroline Lappin, Chief Dental Officer