

Rt Hon Matt Hancock, Secretary of State for Health and Social Care
Department of Health and Social Care
39 Victoria Street
Westminster
London
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Mr Simon Stevens
NHS England London
Skipton House
80 London Road
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9 December 2019

Dear Secretary of State and Mr Stevens,

We write on behalf of the British Dental Association and the Association of Dental Groups to express our very serious concerns about the current NHS England national procurement of orthodontic services.

We request an immediate review and halt of any ongoing and future procurement of orthodontic services.

The current tendering activity has been excessive, costly and poorly managed – it has seriously and adversely affected ongoing patient care and continuity of treatment, led to fragmentation of provision and caused significant cost (both in terms of financial outlay and wasted time cost) to both dental providers and commissioners. All of this has occurred when there is a shortage of specialist orthodontists, falling morale amongst practitioners, and increasing cost pressures.

Background

As you will know, the British Dental Association is the trade association and professional body representing dentists and dental students. The Association of Dental Groups is the trade association of corporate dental providers and represents 19 of the largest dental providers in the country serving more than 10 million patients each year.

In 2017/18, NHS England commenced a procurement of more than 350 individual contract lots for orthodontic services, which has seen many of these existing contracts broken up into smaller lots – in some cases, current contracts have been reduced by as much as 70%. This fragmentation has led and

will continue to lead to unsustainable provision, severe disruption to patient care and significant financial uncertainty for orthodontists and providers.

At the time of writing, approximately 337 of the 365 lots have been or are out to tender. Certain of these contracts have already been awarded, although it is unclear if contracts have yet been entered into in all cases. However, in response to a series of concerns, NHS England has recently announced an intention to abandon the procurement of 24 lots in the Midlands mid-way through the process and following bid submission and indeed with some contracts already decided upon. A further 28 lots in the East of England have been paused and are due to commence in early 2020 together with separate procurement in the North of England.

Impact on patients

Orthodontic care is typically provided over a longer period – treatment plans may last many months and, in most cases, several years. The procurement exercises mean that many patients (most of whom are children) have been, and continue to be, forced to move to a new provider midway through treatment. Any change mid treatment causes additional cost and delays as incoming providers need to review and assess treatment plans. These costs fall entirely to the new orthodontic provider.

The procurement process has entirely failed to assess the impact on the sustainability of other NHS services provided by these practices. In many cases, these children already have poor access to dental care and are in areas with long waits for appointments, falling numbers of NHS dentists per capita and high levels of deprivation.

Unnecessary and wasted procurement costs

The procurement processes have been overly complex, poorly managed, overly rigid and administratively burdensome and bureaucratic.

Our members have reported major flaws and significant inconsistencies in the procurement documentation, scoring and selection of providers. These failings are perhaps unsurprising given the significant logistical and administration issues involved with procuring 365 individual contracts. An exercise of this scale will have required multiple NHS procurement teams and involved significant NHS time and cost. Given the shortage of orthodontists across the country, we cannot see that it was at all feasible for NHS commissioners to have engaged sufficient people with an understanding of orthodontic services to oversee and manage an exercise of this scale.

Moreover, many existing providers are orthodontic practices, which have been providing high quality services to patients for many years despite significant on-going cost pressures. Faced with loss of income, small contract holders have had little choice but to spend significant sums in responding to these procurements.

In most cases, the costs of tendering have exceeded £10,000 for each provider per bid with some providers reporting costs approaching £30,000. Our estimate is that, taking into account the multiple bid responses to each lot, the collective cost to orthodontic providers exceeds £10million so far. This excludes the actual cost to NHS commissioning teams.

The demanding and drawn-out processes have also had a significant emotional and psychological impact on the mental health and well-being on those involved, with long-standing providers of high-quality services seeing their livelihoods under threat.

Our members report significant and multiple failures in the processes and marking of bids. The marking processes followed are not transparent, standardised, reproducible or validated. These concerns are reflected by multiple legal challenges across the country. We understand that on the most recent batch of tenders, legal proceedings have commenced in at least 6 lots.

This is an alarming outcome and distressing for providers. Litigation is extremely expensive. It is not a step taken lightly by any organisation. It is very concerning to both the British Dental Association and the Association of Dental Groups that providers have felt compelled to raise concerns and protect their livelihoods through court proceedings.

This is all time and money directly diverted from patient care and investment in improving services. The money spent is entirely wasted. NHS England has simply failed to understand and appreciate the issues involved with this exercise and has proceeded despite multiple concerns raised by providers and representative bodies across the dental profession.

On this basis we ask to **spell out your plans to compensate all providers who participated in this process in good faith and incurred significant costs.**

Staffing shortages

You will know that there are significant challenges in the recruitment of orthodontic specialists. Our members report high levels of dissatisfaction and loss of morale among the orthodontists who provide (or were considering a career in) NHS orthodontic care.

Indeed, we understand that in certain areas, successful bidders have been forced to hand back contracts due to difficulties in recruiting sufficient orthodontic specialists and related professional teams.

Over the long term, we are concerned that there are serious and long-ranging implications in respect of access to NHS orthodontic care free at the point of use and consider there is a serious risk of that patients may be forced to pay for their own orthodontic care or suffer long waits.

Failure to consider flexibility in healthcare procurement law

We are particularly concerned that NHS England proceeded with an overly complex, fragmented and bureaucratic process despite the fact that procurement legislation allows for significant flexibility in the award of healthcare services. Indeed, this flexibility is recognised by the NHS Long Term Plan, which also highlighted the wasteful legal and administration costs on protracted procurement processes.

NHS commissioners have failed to take into account patient choice, the importance of continuity of care for children mid-treatment, wider health inequalities in relation to dental care access or indeed any alternative approach that would have allowed for a simpler and more flexible award and extension of contracts, particularly given the nature of the Personal Dental Services contract. It was and remains open to NHS England to take a more pragmatic and sensible approach and one that would have taken into account nation-wide challenges in orthodontic recruitment and much-needed investment for services.

Halt to the current and future procurement lots

In light of these concerns, **we seek an immediate review and halt of any ongoing or future procurements of orthodontic services.**

Our overriding concern is that patients continue to be able to access NHS care and that continuity of high-quality treatment and care is preserved. We are keen to meet with you and your respective teams to engage constructively on the best approach and to ensure that orthodontic provision is fit for future and protects care to patients.

Yours sincerely,



Mick Armstrong
Chair, British Dental Association



Neil Carmichael
Chair, Association of Dental Groups