

The dento-legal implications of returning to practice



Some dental practices are starting to resume face-to-face care for patients. You may have understandable concerns about the dento-legal implications which are answered here by **Leo Briggs**, Deputy Head of the Dental Defence Union (DDU).

Can I open my practice?

The key question is 'can I open safely for patients and colleagues?' In deciding whether and how to resume routine dental treatments you need to carry out a thorough risk assessment of your practice, taking into account a responsible body of opinion. This should consider appropriate measures in areas like infection control, personal protective equipment (PPE) and social distancing. You should not be criticised if you follow guidance from organisations such as the FGDP(UK), the relevant Chief Dental Officer (CDO) and local NHS arrangements.

In England, the CDO published a standard operating procedure for the phased transition for dental practice towards the full range of dental provision on 4 June. This sets out guidance for infection prevention and control as well as a practice checklist.

Scotland's CDO has set out a phased approach for the remobilisation of NHS dental services. In a letter of 20 May 2020 (<https://bit.ly/2Y807h1>) phase 2 covers the resumption of dental services. The Scottish Clinical Effectiveness Programme (SCEP) has also produced a 'live document' toolkit entitled 'Resuming general dental services following COVID-19 shutdown: A guide and implementation tools for general dental practice' (<https://bit.ly/2Y4e0Ne>).

In Wales, details of the phased restoration of dental services are set out in the Novel Coronavirus (C-19) De-escalation Standard Operating Processes for Primary Dental Care Settings in Wales (<https://bit.ly/3eTE1Wm>). This explains the principles of de-escalation as well as

the role of dental teams during de-escalation.

The Acting CDO for Northern Ireland published a letter dated 2 June which sets out the details of the plans for the restoration of general dental services. This explains the phases for the re-establishment of care in general dental practices.

Given the backlog in patients needing treatment and routine appointments, I am worried that I will be faced with complaints from patients about waiting times and delayed diagnosis.

Effective communication is essential to manage expectations and should cover areas such as arrangements for those requiring an appointment and the measures you are taking to protect them and members of your team.

Your practice may need to continue to remotely triage patients to determine the urgency and whether treatment can be provided safely. Consider proactively contacting patients whose appointments have had to be rescheduled to explain your plans for reopening and arranging a new date.

Finally, update your website and practice answerphone so patients have a consistent and current message. Be explicit about how you are following official guidelines designed to safeguard everyone.

I am concerned about the risk of treatment. What is the position with AGPs?

The CDO in England has explained:

'Progression to resumption of services of the full range of routine dental care will be risk-managed by the individual practice and can include aerosol-generating procedures (AGPs), subject to following the necessary IPC and PPE requirements'. The CDO expects NHS England and NHS Improvement



regional teams to work with local providers to agree which UDC sites remain operational and support the provision of AGP during the early stages of resumption of services.

In Scotland, AGPs will not be reintroduced in routine practice until phase 3. Patients requiring AGPs will continue to be referred to Urgent Dental Centres or designated dental practices for treatment in the meantime. Similarly in Wales, the CDO letter of 22 May (<https://bit.ly/3eTE1Wm>) says: 'The need to avoid AGPs will remain necessary for some time, and so to manage that risk, they will continue to be undertaken in UDCs.'

In Northern Ireland AGPs can start to be provided in a general dental practice setting

during phase 3 of the restoration of general dental services.

Will the GDC take action against me if I have to depart from guidance?

The General Dental Council (GDC) has acknowledged that its guidance will not cover every potential scenario (<https://bit.ly/3cxEbBe>).

It advises that dental professionals will need to exercise their professional judgement and carry out an appropriate risk assessment. At the same time, it recognises that 'in highly challenging circumstances, professionals may need to depart from established procedures to care for patients and that should concerns be raised, relevant

environmental and human factors would be taken into account'. In the unlikely event of a GDC investigation, DDU members can look to us for advice and support.

The coronavirus has compromised the standard of treatment I can provide and I expect this will lead to claims. Will I be indemnified?

From a DDU perspective, our role is to assist our members and if your clinical decisions are criticised at this difficult time, you can look to us for our advice and representation in the usual way.

The DDU has argued there should be immunity for dental professionals from Covid-19 related legal claims (<https://bit.ly/2AGq6Er>). Of course, dental professionals will be accountable for their actions but the unprecedented circumstances in which care was provided must be remembered when investigating dental negligence claims arising from the pandemic.

This information is correct at the time of writing. To keep up-to-date with the latest information visit <https://www.theddu.com/coronavirus>.

'In deciding whether and how to resume routine dental treatments you need to carry out a thorough risk assessment of your practice'



©seamartini/Stock/Getty Images Plus

<https://doi.org/10.1038/s41407-020-0347-4>