



Llywodraeth Cymru
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**Updated Guidance on a Model Operating Procedure for The
Management of Dentists on the Dental Performers List
whose Performance is of Concern**

October 2012

To be Reviewed October 2014

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1 Introduction

This document describes a model procedure for the identification, investigation and management of performance that causes concern of dentists on the Dental Performers' List in Wales – both Performers and Providers.¹ The general principles can also be applied to managing performance issues with Dental Care Professionals (DCPs). It has been designed to be practical and used on a day to day basis.

1.1 The procedure has been developed from an earlier operational policy published by the National Public Health Service in 2008. This has been modified and updated to reflect organisational changes in NHS Wales, new guidance on concerns (Putting Things Right, Welsh Government, April 2011 www.wales.nhs.uk/sites3/home.cfm?orgid=932) and lessons learnt from using the previous policy since the publication of *WHC (2005) 086 Guidance for Local Health Boards on Local Procedures for General Dental Practitioners and Dental Care Professionals whose performance gives rise to concern*. It also draws on the NHS Wales Act 2006 together with relevant regulations Adoption by Health Boards (HBs) will assure patients and Performers/Providers that there is a consistent and fair procedure across Wales.

1.2 While it aims to foster a formative approach with a fair and transparent process, **it places patient safety at its core**. During its development the document has been sent for consultation to the General Dental Practitioner Committee (Wales), British Dental Association (Wales), NHS Wales Shared Services Partnership (NWSSP), National Clinical Assessment Service (NCAS), and members of the Public Health Wales (PHW) Dental Team. It has also been presented to the LHB Associate Medical Directors for Primary Care

1.3 This document refers to the role of NHSBSA Dental Services Dental Reference Service. The service in Wales is currently under review by Welsh Government and changes will be introduced after March 2013

2 Purpose

Local procedures are designed to:

Protect the safety and well being of patients;

¹ A Performer is a dentist whose name is included on a Dental Performers List and who performs primary dental services. A Provider is an individual or organisation holding a General Dental Service (GDS) contract or Personal Dental Service (PDS) agreement with a Health Board for providing primary care dental services. A Provider may be a dentist, other health care professional or corporate body. Providers may also be Performers.

Respond to expressions of concern about practitioner performance at the earliest stage;
Provide a structured framework for the review and/or investigation of concerns;
Ensure any review or investigation is open, transparent and fair to all parties;
Provide an accurate assessment and report upon which to base decisions and appropriate action; and
Focus on good practice and improved performance.

3 Principles

3.1 Many concerns can be identified at an early stage. HB receive information about general dental practices from a range of sources, allowing failing practice to be identified and supportive remedial action taken to prevent further deterioration. Well structured and effective monitoring facilitates early discussions with performers, and allows for a supportive process in the majority of cases. Accordingly HB may consider establishing a dental quality and safety group as part of their system of assurance and clinical risk management strategy (see Appendix 1).

A dental quality and safety group can –

- (i) Review and monitor a wide range of dental practice information to provide assurance to the Board and identify trends/themes/ good practice to share
- (ii) Identify concerns, and bring these to the attention of the Medical Director (MD)/ Associate Medical Director (AMD)
- (iii) Where there are minor concerns the group may have a role in helping the dentist Performer/Provider to rectify these (see also 4.3)
- (iv) When concerns are more serious or major they must be handled as per section 4
- (v) Assist in identifying improvements, and in formulating and monitoring any improvement plan.

At all stages it is essential to avoid conflicts of interest between a member's role on the dental quality and safety group and their role as an individual who may be involved in investigation of a concern or in the screening process.

3.2 Performance concerns within the Primary Dental Care setting can be complex and multifactorial. Because of the specific nature of the GDS contract or PDS agreement, these concerns can relate to one or more of the following issues:- clinical, other quality and safety aspects, management, conduct, behaviour and health, contractual/financial/fraud.

3.3 General Dental Council (GDC) standards are clear that if a Registrant of the GDC has concerns about a colleague's performance, which may affect patient safety, or the safety of staff or a dentist, then the Registrant has a duty to report this. The GDC does not specify where any concerns are to be reported. In the past, concerns may not have been brought to the attention of the HB formally or directly because registrants with concerns about a colleague's performance did not want to be identified. It is therefore essential that the HB handles whistle-blowers in line with Standards for Health Services and in accordance with their whistle blowing policy.

3.4 The Role of the Local Dental Committee (LDC)

Health Boards are recommended to consult with their LDC to ensure that the processes and procedures used are fair and reasonable. However, it is essential that patients, the profession and HB are assured there are no conflicts of interest when consulting with the LDC. This does not in any way preclude the LDC from providing support as a "friend" to the Performer or Provider at the centre of concern at any stage of the process.

3.5 Tangible/ Objective Evidence

Concerns about an individual Performer/Provider performance can come from a variety of sources. It is essential that all the evidence is sought, triangulated, and verified by investigation. Concerns need to be well documented, factual and based on evidence. The HB must do its best to satisfy itself that concerns are genuine and not malicious.

3.6 Support and professional guidance for the Performer/Provider

Support and professional guidance for the Performer/Provider should be available at each stage as appropriate from the LDC, British Dental Association (Wales), a Dental Defence Organisation, the Primary Care Support Scheme or a friend or colleague.

3.7 The role of dental postgraduate education

If the case involves a dentist in Dental Foundation Training, the Director of Postgraduate Dental Education must be consulted at an early stage. However, this must not affect the HB's ability to put measures in place to protect the public.

If a concern is likely to include referral for postgraduate support, it is helpful to consult the Director of Postgraduate Dental Education as early as possible in the process. However there will be some cases where issues of confidentiality preclude this.

3.8 This guidance does not apply to dentists directly employed by the HB. This will include those working in the Community Dental Service and Hospital Dental Service unless they are also on the Performers List. Occasionally it may be necessary to apply this guidance to dentists who have applied to be on the Performers List, but have not yet been formally accepted onto the list.

3.9 This procedure does not cover dentists working in wholly private practice, and who do not provide any NHS treatment.

3.10 If the concern relates solely to a Practice/Contract rather than an individual Performer e.g. equipment, practice protocols or policy issues, then the process will be identical, but relate to the Provider/Contractor.

4. Process

4.1 It is essential that processes are transparent, open and fair, and carried out in a timely manner with a well documented audit trail. All interested parties must be assured of this.

4.2 Concerns may be raised in a number of ways, and from different sources including:

Patients and carers

Dental practice staff/other professional colleagues

Practice visits, inspections, self assessments, reports

Professional groups within the HB (e.g. the dental quality and safety group)

Professional bodies outside the organisation (e.g. the LDC).

The HB may request additional information from the Clinical Policy Advisor (CPA) of the Dental Reference Service (DRS). This process allows early identification/explanation/remedial correction of some issues before they have the chance to develop into more serious matters.

Previous unsubstantiated or unproven complaints or concerns should not form part of any evidence against an individual dentist without further investigation.

4.3 Where concerns are **minor** and do not pose any risk to patients, the practitioner, the practice or the LHB, the MD/AMD can decide to deal with the matter under the LHB Quality and Safety/Clinical Governance procedures by addressing concerns as areas of development or support. The dental quality and safety group may have a role to play in this, and will be able to advice on other suitable sources of support for the dentist concerned.

Where a concern is more **serious or major or suggests a pattern of concerns indicating an underlying performance concern** the HB may need to either:

Go straight to the Screening Process (section 5)

Go straight to Reference Panel (section 6)

Consider immediate referral to the GDC and/or suspension from the Performers list at any stage.

When considering concerns the HB may consider seeking advice from NCAS. NCAS is able to offer advice on the resolution of concerns at any stage of the case not just those matters which may require further assessment.

4.4 The HB must ensure that all concerns are recorded and managed appropriately. Care should be taken to ensure that concerns are not malicious, and that allegations are adequately verified, and assessed. However, in some cases e.g. where there may be issues of concern about child protection the HB needs to carefully balance such considerations and not unduly delay action. PHW has published safeguarding guidance for children and vulnerable adults for general dental practice.

4.5 A flowchart to support decision making is available in Appendix 1

5. Screening Process

5.1 At this stage the MD/AMD should review all information and meet with the Performer/Provider to discuss the concerns. At this Screening Process meeting the MD/AMD may be accompanied by the HB Primary Care Lead/Clinical Governance Lead and a Primary Care Dental Practice Advisor (PCDPA). The practitioner should be urged to seek independent advice from a defence organisation or professional association.

The process should:

be based on a formative learning approach;

be, and be seen to be, fair and transparent; and

consider information to date and any presented by the Performer/ Provider.

Usually all information should be made available to the Performer/Provider two weeks prior to the screening process. Occasionally information may need to be kept confidential e.g. to protect children or whistle-blowers.

5.2 The MD/AMD, with the support of the PCDPA, should agree an appropriate way forward for the resolution of the concerns, including a detailed plan for improvement with strict timescales (see sections 7 and 8).

5.3 At this stage the MD/AMD may wish to contact NCAS if advice has not already been sought. Referral to NCAS may particularly be considered where there are health or behavioural issues in addition to clinical concerns.

5.4 If the dentist has any health issues, the MD/AMD may also advise the Performer/Provider to contact the Primary Care Support Scheme or other relevant professional medical or occupational support. The Health Board may also request that the dentist undergo a medical examination as set out in Regulation 71(2)(m) of the National Health Services (General Dental Services Contracts) (Wales) Regulations 2006 and Regulation 69(2)(l) of the National Health Service (Personal Dental Services Agreements)(Wales) Regulations 2006.

5.5 The Screening Process may recommend a formal investigation and/or referral to a Reference Panel if the concern is judged to be serious or patient safety has been, or is likely to be, significantly compromised.

5.6. If the concerns are sufficiently serious it may be necessary to make an immediate referral to the GDC or counter fraud services.

5.7 It is viewed as good practice that any investigation/assessment procedures should be completed within 3 months from the time it was agreed to investigate the concern. It is acknowledged that this may not always be possible in complex cases.

6 Reference Panel

6.1 The remit of the HB Reference Panel is to review any evidence presented regarding concerns with a Performer/Provider dentist. The evidence presented will be as a result of an independent investigation commissioned by the MD. The Health Board process should conform with requirements of the National Health Service (Performers List) (Wales) regulations 2004 (as amended).

6.2 Membership

The membership of the Reference Panel should include:

- Chair – an Executive HB Officer, with the power of suspension;
- Independent Member of the HB;
- MD (or nominated AMD – who has responsibility for primary dental care issues). This individual should not be the same person who has been involved to date and may have to come from another HB;

LDC Nominee²; and
Consultant in Dental Public Health.

Members of the Reference Panel should not have been involved in the Screening Process.

A senior member of the NWSSP should be in attendance to give advice on the processes and procedures. A recorder is also required to ensure accurate records are kept of the proceedings and written records available for inspection.

6.3 Panel members should be independent of the process to this stage. All panel members should have training in performance procedures or be judged to have equivalent experience of such processes.

6.4 The HB may consult with NCAS, especially if it is considering change of status to conditional inclusion, suspension, or removal of the contractor from the Dental Performer List, or termination of a contract or agreement. This must not affect the HB's ability to put measures in place to protect the public.

7 Making Improvements

7.1 At the conclusion of the process an agreed means to improve should be formulated for the Primary Care Lead to follow up with Performer/Provider. It is helpful to all parties if this is documented in an improvement plan. The plan will be developed with input from PCDDPA and agreed by MD/AMD. NCAS is available to assist with the drafting of improvement plans and help implement via facilitated meetings.

7.2 Plans for improvement may include referral to the Dental Postgraduate Department for educational support. This requires the Performer/Provider to be referred to the Director of Dental Postgraduate Education, detailing the concerns, and requesting an educational interview. If appropriate the Dental Postgraduate Department will then recommend a tailored educational support programme.

7.3 Where an improvement plan is required, a fair process must be in place to develop it in a timely way, support the Performer/Provider as appropriate, monitor progress and sign off when all parties are assured that performance no longer causes concern. The Performer/Provider needs to be fully informed and engaged in

² The LDC nominee to the Reference Panel will be in addition to any LDC representative present at the panel hearing who is acting in the capacity of a "friend" of the dentist.

the process. There must be clear objectives, identification of areas of responsibility and reasonable timescales. In addition, there must be regular formal reviews of achievement against objectives, and adjustment of timescales as appropriate.

7.4 The underpinning aim of the improvement plan is for the Health Board and the Performer/Provider to work together towards improving the quality of care for patients and addressing the issues that gave rise to the concern. Where the Performer/Provider constructively engages with the Health Board, matters may be monitored locally by the dental quality and safety group (or other appropriate group if the HB does not have specific dental group).

7.5 Where the issues are not adequately addressed by the dentist concerned, or where he/she fails to engage with the improvement plan, the case will be highlighted to the Medical Director, or appropriate Associated Medical Director with delegated responsibility.

7.6 The Provider for whom a Dentist/Performer works for should normally be informed and involved in the process, especially if the issues regarding the individual Performer/dentist have implications for patient safety, the Provider and the contract or practice as a whole.

7.7 When the Performer/Provider has completed the improvement process the HB will make a decision to close the concern. This may be done in consultation with those individuals and organisations who have assisted the dentist in making improvements.

8 Improvement Reviews

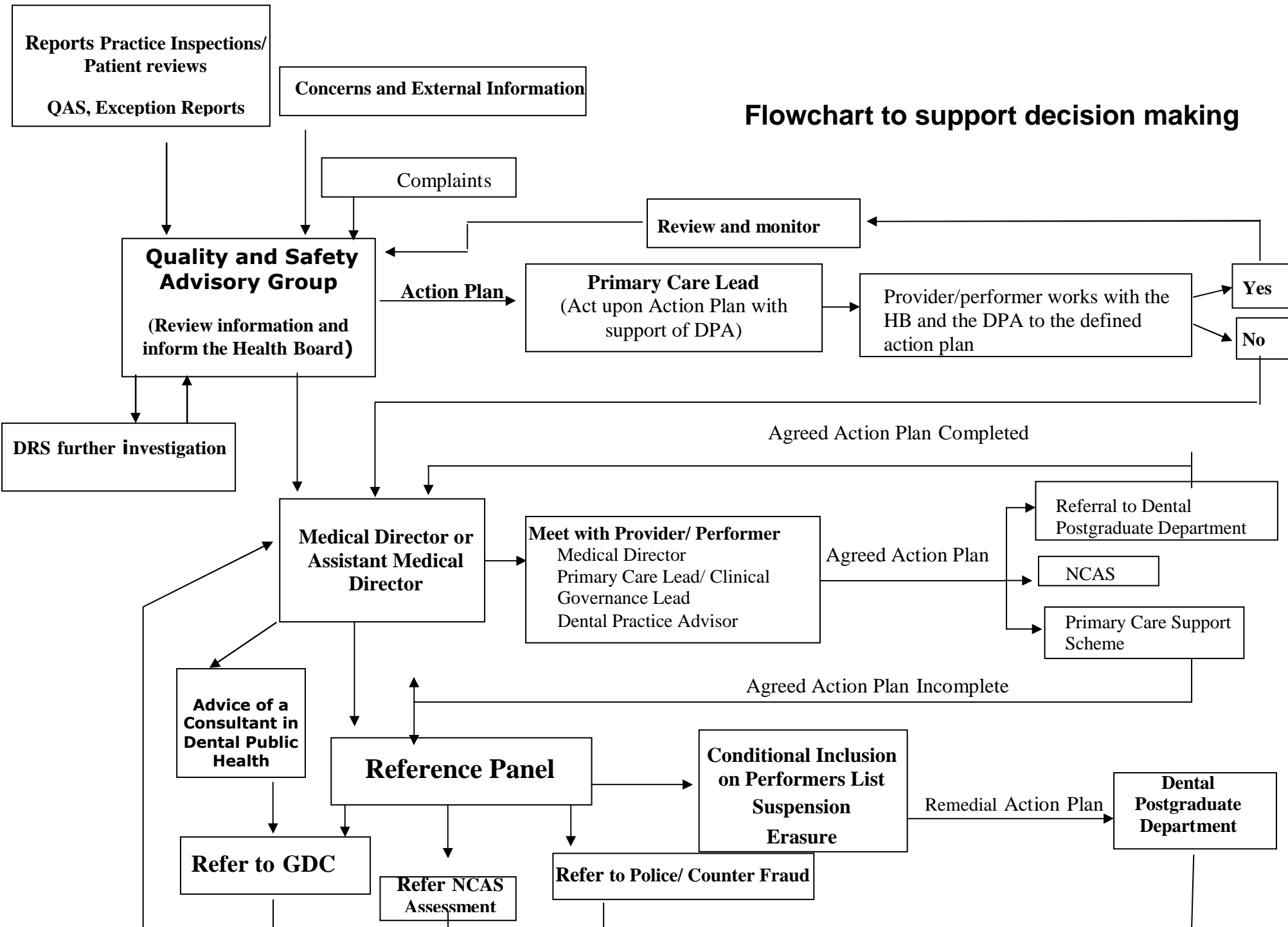
8.1 It is anticipated that by adopting a formative/educational approach, concerns will be addressed as per the agreed improvement plan. There should be flexibility to intervene and review at an earlier stage if there are any changes in circumstances.

8.2 If objectives are not met within the agreed timeframe, and the improvement plan is at risk of failing, then the Health Board should inform the Performer or Provider, and a decision made as to whether additional support is required or whether the process has irretrievably broken down.

8.3 If additional factors come to light, the MD/AMD may ask for:

- A Clinical Governance Practice Visit
- Specific training to be considered
- Protected time for the dentist to make progress
- Formal measures to assess the Performers/Providers health
- Referral to occupational health service or Primary Care Support Service
- A DRS inspection

An NCAS referral for an assessment
Referral to the GDC
Input from Counter Fraud Services
A contingency plan for the practice



Appendix 1

A suggested Dental Quality and Safety Group

Purpose of the Group

The Group will act as a professional advisory group informing and supporting the Medical Director in monitoring Performer/Providers in relation to clinical governance, probity and performance. It may also investigate and review clinical information, e.g. – Data Sets, Clinical Records Review, Patient Complaints etc at the request of the Medical Director.

There are numerous sources of information available to HB to support their clinical governance processes:

- Practice Inspection Report Document
- Patient record review
- Quality Assurance Self Assessment Document
- Vital Signs Reports
- Exception reports - (method of review see Appendix 2)
- Concerns or complaints

The Group should review all the practices contracted within the HB area at an agreed interval, perhaps a month before the mid-year and annual review, and assess any data and information received by the HB.

The specifics of the GDS contract and PDS agreement, the complementary nature of the NHS GDS and PDS Regulations, Patient Dental Charges Regulations, and the fact that GDPs directly collect NHS fees from patients mean that there is a need for sound management, scrutiny and analysis of all information. This is a key factor in ensuring that patients are treated safely and probity is maintained. The purpose of this Group is to support the HB in targeting the resources with regards Quality and Safety, acting as a conduit and filter for all the information received.

Suggested Membership of the Group

1. Health Board Quality and Safety Coordinator
2. Health Board Primary Dental Care Lead
3. Member of the DRS Team
4. Member of the Dental Practice Advisory Team (PHW) and/or the HBs' directly employed DPA. In order to reduce conflicts of interest, any dentist whose performance causes concern should be mentored and supported by a

- different PCDDPA from the individual who is a member of this group
5. AMD or his/her nominated representative.

From time to time others may need to attend e.g. a representative from the Dental Postgraduate Department.

The Group's role includes reviewing each GDS/PDS contract or agreement held by the HB in a transparent way, including each individual provider and performer. The DRS will provide input/interpretation on the information they provide to the HBs. The PCDDPA will provide dental practice and professional advice.

Typical matters for discussion

Dental Practice Visits both surgery and record card checks carried out by the Dental Reference Officer - action points required

Exception reports - the level of information provided/required

QAS documents – review methodology of interpretation and action points to be carried forward

Any concerns/complaints/'noise within the system', which the Health Board has received.

The Dental Postgraduate Department can provide information on training opportunities available.

Having scrutinised/reviewed the information, the Group will support and advise the HB on a way forward with each Performer and provider.

Appendix 2 Exception Reports Reviews

1. If a contract appears on an exception report or high on vital signs for the first time, the primary care lead will contact the provider, asking for an explanation as to why they are outside of the normal claiming patterns. Unless the variance is of an extreme magnitude and/or the provider refuses to engage, HB will inform them that they will continue to monitor and explain that if they appear for a second time in a 12-month period, then the CPA of the DRS may be asked to review claims.

If a practice appears a second time, then the CPA will be asked to review the reports through a Data Review of all claims, and if in his opinion there needs to be further investigation then the CPA will review selected patient records.

2. If after the review the CPA identifies inappropriate claiming, the practice should be visited by the Primary Care Lead and a Primary Care Dental Practice Advisor to discuss any clinical issues, and potential repayment to the Health Board. The Performer may be required to repay any agreed monies identified as inappropriate claims by the CPA.
3. The provider will then be informed that the HB will continue to monitor exception reports/vital signs and if they continue to be high, the CPA will be asked to review again. If the CPA identifies inappropriate claiming for a second time then the HB may issue the provider with a remedial notice.