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### **Current state of play – a NASDAL Guide**

As we pass three weeks into lockdown, NASDAL (National Association of Specialist Dental Accountants and Lawyers) felt that it would be useful for everyone in the profession to know where we are now from a financial perspective, what we should have done already and what we should now be doing.

Johnny Minford, Principal of Minford Chartered Accountants explains, “this information is being provided to give a birdseye view of the situation for dentists right now. There are appropriate sections for associates as well as practice owners. As an accountant, I have the benefit of an external viewpoint; I am neither an associate nor principal, but I have the advantage of having spoken to a large number of both over the past weeks.”

Alan Suggett Head of the Dental Business Unit at UNW Chartered accountants and NASDAL Media Officer commented, “NASDAL accountants have been working day (and in some cases night!) to provide much needed clarity to the dental community – a combination of sometimes unclear Government and NHS rules made us think that a comprehensive guide, with some commentary, would be a good idea – so here it is!”

#### **Local council grants**

Some practices will already have received these grants of £10,000, based on their rateable value. These are coming directly from their Local Authorities - they were produced automatically in the early days; however more recently local authorities have been giving a level of scrutiny to the applications.

These Grants are taxable.

#### **Self-employed support (SEISS)**

With SEISS the government is trying to reach a reasonable assessment of levels of average earnings for self-employed persons, in order to top up their usual profits in the period when their work

availability is being curtailed by circumstances outside their control. The starting point is the three tax years up to April 2019.

The cap on earnings of £50,000 remains a serious problem for dentists. Representations have been made by various bodies, including the BDA. The argument from the government side is that £50,000 is a good earnings level (it undoubtedly is), but the point is that 'normal' businesses are not prevented from working and earning money; dental professionals are.

Clinicians are also being asked to go on to the 'front line', unlike other business owners.

### **NHS actions**

There have been concerns voiced that NHS will act in a draconian manner if we 'put a toe over the line'. However at this stage, the approach appears to be one of reasonableness. There is an expectation from the NHS and Government of everyone playing the game, doing their bit, and as long as this is observed, this environment of reasonableness will prevail. We must be mindful of the financial support which is being thrown at us, and the strings that are attached to it. But they are strings, not chains.

So, take third-party advice from specialist professionals, make reasonable decisions, write down the factors involved, and why you made the particular decisions you did.

### **NHS payments 2020/21**

NHS income will be provided for the first three months of this new financial year, based on 1/12 of the annual contract value. It will be reduced to take into consideration that there are no direct treatment costs, such as lab fees, although unhelpfully, the amount of "fair reduction for any variable costs" is unknown. This payment is not the payment of the 2020/21 contract. It is the NHS providing cash flow to practices in the short term.

A new arrangement will be drawn up for the remaining nine months of the 2020/21 contract year.

The post-Covid 19 Contract arrangements are some way down the line, and comment at this stage is pure speculation.

### **Private practice**

There is little support available for private practice outside the SEISS, local council grants, and the availability to sidestep the main practice expense by furloughing staff. The first of these is unlikely to yield anything. The banks are generally being helpful, although not always with the preferred interest rates, but support is being given over these few months.

There will be a hole in the practice finances relating to the period of closure. Private practices will likely be concentrating on what their practice will look like after Covid 19, and using the down time in the surgery for repairs, refurbishment, and strategic and marketing planning.

### **Mixed Practice problems - How are associates being remunerated at the moment?**

Payment for private fees is clearcut; under Principal/Associate contracts, payments will usually not be made to Associates as no income is arising to the practice (other than possibly capitation fees which are dealt with below).

Some practices are nevertheless continuing to make a small payment on account to their associates to help ease the financial strain at this time, with an expectation that the Associate will work this back after the Coronavirus situation has passed. Clearly the ability to be able to do this depends wholly on the financial health of the practice.

For NHS associate fees, the situation is fairly clear for the crisis period (initially of the first 3 months); fees are to be paid at the same level as pre crisis.

Some principals are reducing the amount the Associates get paid, by anything up to around an additional 20%, on the grounds that the practices themselves will not be receiving the full contract value from the BSA, so the Associates pay should therefore also be proportionately reduced.

However, the reduction anticipated is supposed to represent the direct costs of the practice such as lab fees, materials costs and other overheads, which will not occur due to the non-trading (leaving aside the perishable nature of some materials). These are in some part already reflected in the Associate calculations, so to reduce the Associates pay again would appear to have at least a small element of double counting.

The post-Covid 19 reduction in the Contract payment to Principals is still unknown, and could yet be different to what is envisaged. It may be sensible for the practice to reduce the associates payment, but perhaps on the grounds that an adjustment to the Associate pay can also be made after the basis of the BSA payment to the practice becomes clear.

**Associate Plan income** - with regard to payments to associates for the capitation plan income, there seems to be no generally agreed approach. Logically, the income belongs to the principal. The associates may indeed be contracted to share in the capitation income as well as the item of service income (fee per item) which arises from those patients. As the practice is still being paid, should the associates not still receive their proportionate share of the capitation income?

Principals can argue that without the fee per item income, the practice could not afford to pay the associates for the capitation income; in other words, you can't have one without the other. They go hand in glove. Some practices are deciding that they cannot afford to pay the associates capitation income, and need this income in order to the practice to survive. Others pay their associates the usual share of the capitation income. Very few practices have a contracted solution! Most practices are recognising that the situation in which we find ourselves is unique and there is no one correct answer. A new mechanism of payment to Associates has to be brought in during this particular period. The simple payment to the associate of anything up to the usual proportion of the capitation income, a slightly diluted amount, with perhaps some understanding that the Associate give something back in their contractual arrangements when all returns to 'normal'.

It is worth remembering that this is a short term situation. There is little substitute for talking things out and working together to balance the books for all parties over these few months.

There is a lot of disinformation around. Whilst those who herald the end of NHS dentistry may well have some valid points to make, taking decisions hastily in the heat of the moment, or without the full information, is not the right thing to do.

### **Furloughing**

The mechanism of furloughing has caused much consternation in the profession for mixed practices. Whilst the issue is not yet resolved in detail, we have as clear a steer from the CDO as we are ever likely to get. The furloughing procedures should be on the basis of the Gross Private/NHS split within the practice. A proportional part of the salaries should be apportioned. Individual members of staff should be allocated (very importantly with their agreement), to one side or the other. The furloughing can then be done with the non-NHS designated staff. The NHS allocated staff should receive their normal full pay.

The amount of salary or wages which goes into the furlough pay does not include bonuses, but guidance is that it is taken as the higher of the February 2020 pay, the 2019 pay, and the average monthly 2019/20 pay. This should take into consideration most of the expected possible fluctuations in employee remuneration.

We are finding that the proposed allocation of individual members of staff can be problematic. For some, it is obvious; for example an employed hygienist will usually go on to the private side. So may potentially vulnerable staff, or those with vulnerable family members who may not be able to go onto the 'front line' if called upon. Otherwise, it falls to the Principal to allocate individuals whose salary adds up to the proportion which must be allocated to the NHS, and who are not able to be furloughed. Once again – with the agreement of those who the principal wishes to furlough.

There can clearly be a certain element of approximation this, as individuals cannot be divided in two. Reasonableness must prevail.

if the practice operates as a limited company, Directors can be furloughed (although great care must be taken as a director who carries out anything other than "Statutory Duties" cannot be furloughed).

The normal salaries of staff who are currently on sick pay or those on maternity leave should be used in the proportional calculations. They are not available for NHS work, so should fall on the 'private' side.

The practice is not entitled to the furloughing grant in addition to the Statutory Sick or Maternity Pay. It is agreed that a person can come 'off' sick and be furloughed instead, essentially choosing between furlough and SSP. This is not the same with Maternity, but of course any employee has the right to choose to come back early from Maternity, at which stage they may be eligible for furloughing. There are long term consequences though and this is not a decision which should be taken lightly.

Practice owners must also consider the need for telephone triage in the practice. Clinical staff retained to do this should have the requisite abilities to communicate on the telephone. Some are good at this, others less so; it would make sense to consider this when deciding who to furlough. Another aspect of staff retention in the practice working environment rather than furlough is the practice's need to continue to communicate with private and plan patients. There will inevitably be a

cancellation of some capitation subscriptions; to keep this to a minimum practices should be contacting their patients and reassuring them that if they are in difficulty, their insurance is still able to help and support, either at a distance over the short period of time of the lockdown, or by referral to a suitable individual at a UDC hub.

Furloughing must last for a minimum of three weeks. It follows that individual staff may be rotated between the private side of the practice (and furloughed) and the NHS side (paid in full and available for frontline duty). The in/out mechanism, will be for the Principal to decide and agree with those concerned.

It is important that the principal writes down the thinking and the decision-making process so that if the practice is subject to an audit in future, the decision making logic can be easily evidenced.

The furlough rebate system is due to come into existence on 20 April with the provision of an HMRC portal, on which staff will be designated as furloughed. It is always worth remembering that this is a short term situation, and practice teams will have to get back together again within a few short weeks. Team balancing and harmony now will have an effect down the track, one way, or the other.

Johnny Minford concluded, "I have said this elsewhere in this piece, but I feel it is worth repeating: principals should consider what they want their practice to look like in six months, and act accordingly now."

**ENDS**

Note to editors:

NASDAL, the National Association of Specialist Dental Accountants and Lawyers, was set up in 1998. It is an association of accountants and lawyers who specialise in acting for and looking after the accounting, tax and legal affairs of dentists. It is the pre-eminent centre of excellence for accounting, tax and legal matters concerning dentists. Its members are required to pass strict admission criteria, and it regulates the performance of its members to ensure high standards of technical knowledge and service.

Nick Ledingham, Chairman of NASDAL, is available for interview. To organise to speak to him or any other members of NASDAL for more information please contact Chris Baker.

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