**Independent Patient Choice and Procurement Panel**

**Case Acceptance Decision**

**Intermediate Minor Oral Surgery Services, Yorkshire and Humber**

1. On 23 July 2025, Barkhill Dental Practice Limited (Barkhill), a dental practice based in Bradford, asked the Panel to advise on NHS Humber and North Yorkshire Integrated Care Board’s (HNY ICB’s) selection of a provider for intermediate oral surgery (IMOS) services in Bradford and Bradford North.
2. The Panel, when deciding whether to accept a case, assesses whether its eligibility criteria are met and, when the Panel is approaching full capacity, the Panel will also assess any new cases against its prioritisation criteria.
3. The Panel has decided that while Barkhill’s request meets the Panel’s eligibility criteria, it will not be accepting the case on prioritisation grounds.
4. This note, which provides the Panel’s reasons for its decision, is set out as follows:

* first, the background to Barkhill’s request is described;
* second, Barkhill’s case is assessed against the Panel’s eligibility criteria; and
* finally, Barkhill’s case is assessed against the Panel’s prioritisation criteria.

**Background**

1. Barkhill’s current representations to the Panel follow an earlier review by the Panel, which considered Barkhill’s concerns about HNY ICB’s provider selection process for IMOS services in Bradford and Bradford North.[[1]](#footnote-1)
2. In that earlier review, the Panel found that HNY ICB breached the PSR regulations, including in relation to Barkhill’s request for information during its representations to the ICB. In particular, the Panel found that HNY ICB breached Regulation 12(4) by failing to provide Barkhill, in response to its request during the representations review process, with its records on:

* its decision making process, including the way in which key criteria were taken into account;
* how the basic selection criteria were assessed and contract award criteria were evaluated;
* the reasons for the decision to award the contract for Lots 11 and 12 to the winning bidder; and
* evaluators’ identities.

1. As a result, the Panel advised HNY ICB to return to an earlier step in the provider selection process, namely Step 8(a) of the Competitive Process (as per Regulation 11(13)).[[2]](#footnote-2) The Panel advised HNY ICB, in returning to this step, to provide Barkhill with the information that it requested (subject to the proper application of any measures in accordance with Regulation 12(5)), allow Barkhill an opportunity to “explain or clarify the representations made” (i.e. make any further representations arising from this information), and then continue to follow the representations review process as laid out in the Regulations and Statutory Guidance, in light of any further representations by Barkhill.
2. Barkhill, having received the records disclosed by HNY ICB, made further representations to the ICB on 13 and 27 June 2025. HNY ICB’s review panel considered these representations and the ICB wrote to Barkhill on 18 July 2025 communicating its further decision to award the IMOS services contracts in Bradford and Bradford North as originally intended. Barkhill has now asked the Panel for its advice (as set out in paragraph 1).

**Eligibility**

1. The Panel’s eligibility criteria set out seven conditions that must be met for a case to be eligible for acceptance by the Panel.[[3]](#footnote-3) These are as follows.
2. The relevant authority intends to make an award under direct award process C, the most suitable provider process, or the competitive process (including a framework agreement or awarding a contract based on a framework agreement following a mini-competition).
3. The request comes from a provider that might otherwise have been a provider of the services to which the contract relates.
4. Following the provider’s representations the relevant authority has conducted a review of its original decision and has decided to enter the contract or conclude the framework agreement as originally intended.
5. The request has been made in writing (which includes electronically) within 5 working days of the provider being notified of the decision by the relevant authority.
6. The provider has set out why it believes the relevant authority has failed to apply the regime correctly.
7. The provider has submitted all of the necessary supporting information for the Panel to carry out its review as requested in the Panel’s pro forma.
8. The representations are not considered by the Panel to be trivial, vexatious, or an abuse of the Panel’s procedures.
9. The Panel is satisfied that Barkhill’s request meets all seven eligibility criteria.

**Prioritisation**

1. In terms of prioritisation, the Panel’s case acceptance criteria states that:

“There will be a particular need for the Panel to apply its prioritisation criteria where the number of requests means that the Panel is close to using its full capacity and the acceptance of further requests may jeopardise its ability to offer advice within an acceptable timeframe. The Panel considers that this is likely to be the case where it has 10 or more cases under review. This guidance on capacity, however, should not be interpreted as a strict limit”.[[4]](#footnote-4)

1. Since publishing its prioritisation criteria in early 2024, the Panel has gained a better understanding of the workload associated with case reviews. The Panel’s current view is that it is approaching full capacity when it has four or more cases under review.
2. As the Panel now has four cases under review, all of which are at an early stage, the Panel is approaching full capacity, and has accordingly considered Barkhill’s request against its prioritisation criteria.
3. The Panel’s case acceptance and prioritisation criteria says that “Factors that the Panel will take into account in applying its prioritisation criteria are set out below. This is not, however, intended to be an exhaustive list. It may also be necessary for the Panel to take other factors into account.

* The potential benefit to patients arising from the Panel’s advice.
* The potential for the advice to assist relevant authorities in complying with the PSR regulations in the future.
* The potential for the advice to help future interpretation and use of the PSR regulations and guidance.
* The materiality of the relevant authority’s provider selection decision on the provider and/or the relevant authority.
* The advice will deliver a benefit that is proportionate to the Panel’s use of resources in formulating its advice.” [[5]](#footnote-5)

1. In terms of the potential benefit to patients, the Panel notes that the financial value of the two contracts is approximately £8.5 million over their maximum seven year duration. While this is a significant amount of money, it is also at the smaller end of the spectrum in terms of the Panel’s recent cases and therefore likely to impact a smaller number of patients.
2. In terms of the potential for the advice to assist relevant authorities in complying with the PSR regulations in the future, the Panel notes that Barkhill’s representations relate to concerns that HNY ICB:

* failed to properly apply the approach to evaluating bids described in the tender documentation; and
* failed to record and provide adequate reasons for the grades awarded to Barkhill.

1. The Panel notes that it considered the appropriate approach to (1) evaluating bids and (2) recording and providing reasons, in detail in its previous report on this matter (see [Case CR0013-24 and CR0014-24: Review of a proposed contract award for IMOS services in Yorkshire and Humber](https://www.england.nhs.uk/publication/independent-patient-choice-and-procurement-panel-review-of-a-proposed-contract-award-intermediate-minor-oral-surgery-services-for-yorkshire-and-the-humber/)). As a result, the Panel's view is that consideration of further representations as to how the ICB applied that approach in this particular case, is unlikely to provide significant additional assistance to relevant authorities in complying with the PSR regulations. For the same reason, it also appears to have limited potential for advice to help future interpretation and use of the PSR regulations.
2. In terms of the materiality of the provider selection decision on Barkhill, Barkhill says that the loss of its current contract will account for a large share of revenues at its existing practice.
3. In terms of whether the Panel’s advice will deliver a benefit proportionate to the Panel’s use of resources in formulating its advice, whilst the marginal costs to the Panel of any additional case are relatively small, these exist within the confines of the Panel’s finite physical resources and therefore there is a case capacity limit. As a result, considerations about the Panel’s financial resources are not expected to play a significant role (in most cases) where the Panel is considering the prioritisation of a request for advice, but the Panel’s available human resource is taken into account.
4. In summary, the Panel currently has limited capacity to accept new cases and any new case that is accepted will constrain the Panel’s ability to accept other cases in the coming weeks. The potential benefit for patients arising from the Panel’s advice in this case is not insignificant, in terms of the likely number of patients impacted, but is at the smaller end of the spectrum in terms of the Panel’s recent cases. Further, the Panel has already considered the appropriate approach to (1) evaluating bids and (2) recording and providing reasons, in detail in its previous report on this matter, meaning that consideration of further representations is unlikely to provide significant additional assistance to relevant authorities in complying with the PSR regulations, or for further advice to help future interpretation and use of the PSR regulations. Finally, the Panel understands that HNY ICB’s provider selection decision is likely to have a material impact on Barkhill given the share of existing revenues that is accounted for by its current contract.
5. The Panel appreciates that not all of these prioritisation factors point in the same direction. However, on balance, given that the Panel is currently approaching full capacity, the likely number of patients affected by the provider selection decision, and the Panel’s previous consideration of the issues raised by Barkhill, the Panel has decided not to accept Barkhill’s request that it advise on HNY ICB’s selection of a provider for IMOS services in Bradford and Bradford North.

29 July 2025

1. The Panel’s review is available at <https://www.england.nhs.uk/publication/independent-patient-choice-and-procurement-panel-review-of-a-proposed-contract-award-intermediate-minor-oral-surgery-services-for-yorkshire-and-the-humber/>. [↑](#footnote-ref-1)
2. This requires that the relevant authority “carries out the requirements specified in regulation 12(4) where written representations are made in accordance with regulation 12(3)”. [↑](#footnote-ref-2)
3. The Panel’s case acceptance and prioritisation criteria can be found at <https://www.england.nhs.uk/publication/acceptance-and-prioritisation-criteria-independent-procurement-and-choice-panel/>. [↑](#footnote-ref-3)
4. The Panel’s prioritisation criteria can be found at <https://www.england.nhs.uk/publication/acceptance-and-prioritisation-criteria-independent-procurement-and-choice-panel/>. [↑](#footnote-ref-4)
5. See Independent Patient Choice and Procurement Panel, *Acceptance and Prioritisation Criteria*, available at <https://www.england.nhs.uk/publication/acceptance-and-prioritisation-criteria-independent-procurement-and-choice-panel/>. [↑](#footnote-ref-5)