

The history of dental bodies corporate and the role of the BDA in their development

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Key points

Provides an overview of the history of dental corporates in the UK.

Provides an overview of the concerns held over dental corporates and the actions of the British Dental Association to address these.

Illustrates that some of the concerns held by the profession over corporate practice remain the same now as over 100 years ago.

Dental bodies corporate are not a new phenomenon with companies having practised dentistry in the UK for over a hundred years. At the turn of the twentieth century, unregistered practice was common with dental companies resulting in extensive malpractice. Corporate dentistry introduced commercial interests into the profession and brought further dangers such as treatment not being patient-centred. The British Dental Association (BDA) was among those who continuously worked to mitigate these effects. Increasingly strict measures were introduced by governments to protect the public from harm from corporate practice with the government eventually remedying concerns, in the 1950s, by restricting corporate practice. In 2006 this restriction was lifted, with the support of the BDA, in an effort to increase competition and choice and open up the market to new providers. While the profession continues to develop, concerns remain. Some are long held with others, such as a negative effect on working conditions and UDA values, being relatively recent developments.

Introduction

This paper builds an understanding of the dental bodies corporate (DBC) sector by examining their development in the UK and the role played by the BDA. It is one of a series aimed at providing context and developing an understanding of dental corporates and their impact on UK dentistry. DBCs have been contentious since their conception and this paper explores the concerns held by the profession for over a century. Dental corporates are a cause for uncertainty following the lifting of restrictions over ten years ago. This led to an increase in the number of dental multiples in the UK and while consolidation continues, it is not clearly established how dental corporates affect the profession and how they will affect the dental landscape in the future. This overview comes

at a time when dentists, and the profession, are facing a challenging environment with some hardships, such as the current orthodontic procurement process, contributed to by the presence of multi-site providers.

The history of dental bodies corporate

Dental bodies corporate (DBC) have existed in the UK for over a century.¹ Companies were set up as 'hygienic institutes' and other such establishments and flourished for a short period from 1906. At this time it was not necessary to have a dental qualification to provide dental care² because while The Dentists Act 1878 established a dental register for those who were qualified or met certain criteria and had been practising when the Act was introduced, it did not prevent unqualified, unskilled or untrained persons from practising dentistry. Unqualified practice was possible as long as the individual did not imply, for example by using the title dentist or dental practitioner, that they were registered.² Unregistered practice, especially by dental companies, was on the increase before the start of the First World War with business

being pursued by canvassers and dishonest advertising.

In 1907 the Dental Companies (Restrictions of Practice) Bill was put before the House of Lords and efforts were made to alter the law regarding the practice of dentistry by companies.³ The Bill, which allowed for a company to practise dentistry provided that all the managers and assistants were registered, received three readings and was referred to a select committee before being dropped later that year following a lack of support by the BDA and the General Medical Council (GMC).⁴⁻⁶ The Medical Bill, also before the House of Lords at this time, prohibited companies but the Dental Companies Bill, applying to dentistry, permitted them. At the time the BDA would not have welcomed legislation dealing with company practice as company practice was regarded as unnecessary, objectionable in the interest of the public and derogatory to the well-being of the dental profession. The Association would have only been happy with legislation dealing with dental practice by companies if the practice of dentistry by a company, whether by those registered or unregistered, was entirely prohibited³ and began to record evidence of company malpractice.⁷

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Fig. 1 (a) Rare examples of outdoor enamel signs advertising new teeth and painless extractions by Templar Malins (date unknown); (b) A 1988 calendar produced by a dental company with sites in Northern England advertising their services

The Acland Report

Concern over the damages caused by unqualified practitioners led to the formation on 12 July 1917 of the Dentists Act Committee convened, by the Lord President of the Council the Right Honourable Earl Curzon of Kedleston, to examine ‘the evils of dental practice by persons not qualified under the Dentists Act.’ The Committee, chaired by The Right Honourable Sir Francis Dyke Acland, MP, examined aspects of dentistry including dental corporates. The BDA was one of a number of parties who submitted evidence to the Committee with Association evidence collected and submitted in a forty page memorandum.⁸ The practice of dentistry by incorporated bodies was a popular issue covered by the report with the BDA, the London and Counties Medical Protection Society, Ltd (now known as the Medical Protection Society), British Medical Association (BMA) and the Medical and Dental Defence Union of Scotland (MDDUS) all presenting evidence as to the injuries being inflicted by company dental practice.¹ The BDA proposed that dental companies should be prohibited following a winding down period. Difficulties in seeking redress from dental companies following damage or injury, establishing liability and the difficulties in collecting any awards were described and injuries including broken teeth, removal of sound teeth, septic poisoning, syphilis and death were reported. Evidence from the BMA stated that dental companies had one object – to make money – and that their work was uniformly bad. The BMA highlighted the practice of companies

with sullied names changing name or moving to another district. Dishonest advertising was widespread with dental companies employing canvassers who were paid commission on the number of persons they secured for treatment. The main aspect of corporate dentistry was extracting teeth and replacing them with dentures (Fig. 1) and canvassers were known to convince patients to have unnecessary work. The special relationship between practitioner and patient as well as the professional responsibility and ethical standards displayed by registered dentists were highlighted as not being present by those working for companies.

Representatives of unregistered practitioners also submitted evidence on the lucrative nature and evils of dental company practice but highlighted that evils were also committed by registered practitioners. Evidence was received by the Committee from one dental company, Macdonald Manufacturing Co., Ltd., who stated that their services allowed those who would otherwise not be able to afford dental services to receive treatment and highlighted the time and expense involved in becoming a registered dentist.

The Committee decided that incorporated companies were associated with gross abuse, malpractice and fraud but that this could have been prevented if companies were subject to registration. The Committee concluded that legislation was needed and considered a number of options.¹ The Committee recommended that dental companies be allowed to practise but with controls. Company operating and managing staff

should be registered dentists and the company should not carry out any other business or trade. The Committee recommended that special provision be given for existing companies.¹

The final Acland report, published in 1919, was important for dentistry and drove the passing of The Dentists Act 1921 that was used as the rule measure as to whether a person was or was not a dentist.⁹ The Committee examined many aspects of the field and when its recommendations were implemented they transformed the profession. Dental companies were confined by The Dentist Act 1921 to carrying out only dentistry or an ancillary business and the majority of the company directors and all operating staff needed to be registered dentists. If companies contravened the act they faced fines of up to £100. The Committee had the opinion that the dental profession should be regarded as one of the outposts of preventive medicine with one result being dentistry becoming a closed profession with practice restricted to qualified and registered dentists. The Dental Board of the United Kingdom was also established as a sub-committee of the GMC.¹⁰

The Teviot Committee

Dentistry was not examined for more than 20 years, then on 8 April 1943 an interdepartmental committee on dentistry was appointed as a result of the Beveridge Report¹¹ and the resulting White Paper on a National Health Service (NHS).² The committee was chaired by The Lord Teviot and was set up to consider

the place of dentistry in the possible NHS.¹⁰ Specific issues considered and reported on by the committee included the existing legislation dealing with the practice of dentistry and the government of the dental profession. It was under this term of reference that dental companies were considered.¹²

Evidence submitted to the committee by the BDA highlighted the turnover of staff registered to dental companies and the refusal of liability making it impossible to obtain redress when unsatisfactory treatment had been provided. It was noted that dental companies were generally run by laymen for their profit and that treatment policy was directed towards the detriment of patients and against the public interest. The Association's evidence surmised that commercialisation of dentistry must result in loss of the best entrants into the profession and deterioration of the value of the dental service to the public. As such the Association recommended that it be made unlawful for dental companies to engage in the practice of dentistry or dental surgery.¹³

The Teviot Committee in its final report, published in 1946, proposed that dental companies should not be prohibited.¹² The Committee agreed that employing dentists by profit making entities had dangers and disadvantages and introduced considerations more appropriate to commercial life but in the absence of evidence of evils were not able to ask Parliament to pass restrictive legislation. The BDA was disappointed with this outcome feeling it illogical that the Committee could agree that dental companies led to the deterioration of the dental service but condone the same companies and not recommend restrictive legislation.¹⁴ The Association maintained the opinion that dental companies under lay control with profits going to lay people was against the public interest.

While the Teviot Committee had refused to restrict dental corporates, the report did recommend the inclusion of a comprehensive dental service as part of a national health service and the establishment of a Dental Council, The General Dental Council (GDC), separate from the GMC, to make dentistry a self-governing profession.¹⁵

The Dentists Act 1956

The Dentists Bill was initially presented in 1951–52 but Parliamentary procedure prevented it from moving forward.¹⁶ The new Dentists Bill was introduced in 1955¹⁷ and provided for the establishment of the General Dental Council



Fig. 2 Postcard of Templar Malins dental rooms in Swansea. Postally used in 1914

and the introduction of new types of ancillary workers to undertake dental work as well as restricting corporate dentistry.¹⁸ When enacted, the Bill prohibited bodies corporate from carrying on the business of dentistry unless they were in existence and carrying out dentistry on 21 July 1955 and such companies had to register with the GDC. The GDC was given the power to control these bodies corporate and were able to withdraw their right to trade if:

- A director of the company had been struck off the Dentists Register
- A lay director has been convicted of illegally practising dentistry
- A dentist employed by the company had been struck off the Dentists Register and one of the company directors had been implicated in his conduct.

A *BDJ* editorial in 1955 expressed regret that though the Bill prevented the formation of new dental companies, bodies corporate were still permitted to have a financial interest in dental practice. The piece suggested that hostile interests were in play against public welfare and the advancement of dentistry.¹⁹ When the Bill received Royal assent on 15 March 1956²⁰ there were 74 DBCs listed with this number falling to 27 in 2002 when dental corporates were the subject of a government consultation.^{21,22} Though the total number of corporates were limited by this Act they could be bought, sold and/or expanded.

Two mentioned provisions of the Bill, the establishment of the GDC and the introduction of new types of ancillary workers, were widely documented and discussed at the time by the BDA but little documentation is found

covering discussion of dental corporate bodies. The Dental Board were involved in discussions on corporates and believed dental companies detrimental to the relationship between dentists and their patients and detracted from the repute of the profession and general public.²³ In the run-up to the Dentists Act 1956, the Dental Board stated that in addition to an increase in the number of dental companies there was the belief that abuse by them had increased as a result of the NHS²³ with the NHS itself cited as a reason for the redundancy of dental companies. It was suggested that dental companies encouraged the subordination of professional ethics to commercial enterprise and as a result the Dental Board sought to stop their formation and expansion. This influenced the legislation and provisions of the Dentists Act 1956 and 1957.²³

A number of dental corporates on the list at its closure are subsidiaries of current dental corporates or in the case of Bupa and Rodericks the founding entity. Templar Malins, who held a number of practices in Wales including one in Oxford Street Swansea (Fig. 2), became IDH Limited in 2014, one of the main trading entities of mydentist. These companies include:

1. Bupa:
 - Budd C Dentists (Coventry) Limited
 - Matland Limited
 - Kenneth A. Smith & W. Sylvanus Jones Limited
 - Fino (Dental Surgeries) Limited
 - K. L. Administration Limited
 - K. A. Gardner Limited
2. mydentist:
 - Templar Malins Limited
 - Petrie Tucker

- Lacey's Dentistry Limited
 - V. G. Boyle Limited
 - Francis & Rooms Limited
 - A. E. V. Tidd & Company Limited
 - M C Dentistry Limited
3. Rodericks Limited:
- People's Teeth Association (Dentists), Limited.

Dental bodies corporate remained a subject of discussion and by 1999 the BDA had shifted its stance to actively supporting entrants into the dental corporate field.²⁴ Supporting the removal of the restrictions under which dental corporates operated was seen as seeking a level playing field. The topic was widely discussed with the BDA believing that there were probably more opportunities than threats to individual dentists.²⁵

Amending the Dentists Act 1984

The next main legislative change came in 2002 when the Government considered the restriction on dental corporates to be an anachronism and held a consultation to amend the Dentists Act 1984.²⁶ This section of the Act was described, by the Government, as dating back to when there were concerns that corporate bodies could not be held accountable for the protection of patients as effectively as individual dentists. Benefits in removing this restriction, as seen by the Government, were that the entrance of corporate bodies into the market would increase competition and choice, open up the market to new providers and provide a wider range of options for raising funds for the building and equipping of dental practices.²⁷ As a reassurance to removing this restriction, the Government cited the experience of pharmacy and optical services where there was no restriction on the number of corporate bodies that may register with their regulatory bodies and the ability of the regulatory bodies to hold corporate bodies to account for the protection of patients.

The BDA responded supporting the removal of the restriction and agreed that the restriction might result in a less widely available service and that some practices were not as well-resourced and equipped as they might be. They asked that steps be taken to improve the law so that the GDC had more effective mechanisms to regulate corporates as the existing procedures did not allow robust control of professional practice in the current commercial climate – a concern raised in the House of Lords during discussion of the Bill.^{28,29}

At the time, the Association felt that dentists, dental practices and patient care would benefit from the ability to incorporate and the entry of commercial organisations into the profession, and believed that risks to the public interest could be mitigated through regulation.^{28,29}

Some specific benefits were noted as being: freedom from management and financial concerns, pooling of resources, advantages of economies of scale and more flexible arrangements in preparing for retirement. One specific risk of removing the restriction was the risk of it becoming more difficult for independent practices to compete should dentistry become consolidated by companies with large chains of practices. Though this was qualified by the belief that change would be gradual and any such threat would be outweighed by the potential advantages for both the public and the profession. The government itself addressed this concern by acknowledging that some consolidation would result but that major changes in organisation were unlikely in the short or medium term.²⁶

In July 2005 an order to amend the Dentists Act was made. Key restrictions on DBCs were removed permitting any corporate body to carry on the business of dentistry as long as they satisfied the conditions of board membership set out in the amended Dentists Act. New provisions in The Act required the GDC to maintain a list of corporate bodies.³⁰ The regulator planned for corporates to pay an annual fee and submit an annual return giving basic information on the company and its directors and staff.³¹ The list was scheduled to open in 2007. Today the corporate dentistry sector is estimated to consist of over 190 dental groups (companies or organisations that operate three or more practices) that hold more than 14% of the dentistry market – a figure that is increasing. Services are spread over NHS and private care with most dental companies operating on a small scale, local level with three or four practices.

Conclusion

DBC's have existed in the UK for more than a century. The concerns they elicited resulted in increased regulation with this being relaxed in 2005. Since then DBCs have expanded and the market continues to be consolidated. In 2015, corporate groups held over 40% of NHS contracts in England with this worth over £1.3 billion. Advantages they are seen to have continue to unsettle the profession and with concerns being held for over a century it is

difficult to see that these will dispel anytime soon. Multi-site providers are a more mature concept in other countries and looking at these markets may provide insight as to the potential direction of the sector in the UK.

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