

Independent Patient Choice and Procurement Panel

Review of a proposed contract award

Mandatory Dental Services in Oxfordshire

Case Reference: CR0029-25

3 December 2025

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1. Executive Summary

1. On 11 September 2025, Bloxdent Limited (Bloxdent) asked the Panel to advise on the selection of a provider by NHS Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board (BOB ICB) for mandatory dental services in Oxfordshire. The Panel accepted Bloxdent's request on 18 September 2025 in accordance with its case acceptance criteria.
2. On 25 October 2024, BOB ICB published a notice setting out its intention to select additional providers of mandatory dental services in Oxfordshire using the competitive process. The procurement was divided into five lots, based on location. Each contract is for ten years, without the option of extending, and the five contracts were intended to commence sometime between 1 April and 30 September 2025. The Cherwell East (Lot 5) contract, which is the subject of this review, has a total value of approximately £4.9 million (excluding VAT).
3. Bloxdent and Haddenham DC Limited (Haddenham) were two of the six bidders for the Cherwell East (Lot 5) contract. Bloxdent was ranked first (scoring 81.50%) while Haddenham was ranked a close second (scoring 80.75%).
4. On 14 April 2025, BOB ICB published an intention to award notice announcing Bloxdent as the successful bidder. On 28 April 2025, before the standstill period ended, Haddenham made representations to BOB ICB about the provider selection process for the Cherwell East (Lot 5) contract, raising concerns about the evaluation of responses to questions MP01 (Mobilisation of the service), WF01 (Staffing structure) and WF02 (Workforce).
5. On 8 May 2025, having reviewed Haddenham's representations, BOB ICB told bidders that it had decided to re-evaluate their responses to questions MP01, WF01, and WF02 so as to "avoid a time consuming and potentially costly representation".
6. The re-evaluation took place between 21 May and 2 June 2025. After combining the scores from the three re-evaluated questions with the scores from the earlier evaluation of the other questions, Haddenham was now ranked first, with a score of 85.00%, and Bloxdent was ranked second, with a score of 80.00%.
7. On 25 June 2025, BOB ICB informed bidders, including Bloxdent, that Haddenham had now been selected as the preferred bidder for the Cherwell East (Lot 5) contract.
8. After being told that Haddenham was the preferred bidder, Bloxdent raised concerns with BOB ICB about the provider selection process. On 16 July 2025, while still within the standstill period, Bloxdent made representations to BOB ICB, and requested information regarding the provider selection process. BOB ICB responded to Bloxdent's information request on 24 July and Bloxdent, having reviewed this information, made further representations on 30 July.
9. On 8 September 2025, having reviewed Bloxdent's representations, BOB ICB told Bloxdent that it had decided to proceed with the contract award to Haddenham.
10. The Panel, in reviewing Bloxdent's representations, has assessed whether BOB ICB complied with the PSR regulations when:
 - responding to Haddenham's representations; and

- responding to Bloxdent's representations.

11. The Panel's findings are that BOB ICB has breached the PSR regulations in several respects:

- First, BOB ICB, in not keeping any record of its reasons for its 'further decision' (i.e. to re-evaluate bidders' responses to three questions following Haddenham's representations), breached the PSR regulations and in particular Regulation 24(g), which requires commissioners to keep a record of reasons for decisions under the PSR regulations.
- Second, BOB ICB, in not providing sufficient reasons to Bloxdent when communicating its 'further decision', breached the PSR regulations and in particular Regulation 12(6), which requires commissioners to include the reasons for their decision in this communication.
- Third, BOB ICB, in not providing a sufficient response to Bloxdent's request for information about its 'further decision', breached the PSR regulations and in particular Regulation 12(4)(b), which requires commissioners to promptly provide any information requested by an aggrieved provider where the commissioner has a duty to record that information under Regulation 24.
- Finally, BOB ICB, in treating Bloxdent and Haddenham differently when responding to their representations without any apparent justification for this difference in treatment, breached its obligation under the PSR regulations to act fairly.

12. Given the Panel's conclusion that BOB ICB breached the PSR regulations, three options are open to the Panel. The Panel may advise that:

- the breaches had no material effect on BOB ICB's selection of a provider and it should proceed with awarding the contract as originally intended;
- BOB ICB should return to an earlier step in the provider selection process to rectify the issues identified by the Panel; or
- BOB ICB should abandon the current provider selection process.

13. The Panel's view is that the breaches it has identified may have had a material effect on BOB ICB's selection of a provider. That is, if BOB ICB had complied with the PSR regulations, then its selection of a provider may have been different.

14. The Panel has considered whether BOB ICB should return to an earlier step in the provider selection process to rectify the issues identified by the Panel or whether it should abandon the current provider selection process. The Panel's view is that it would be more proportionate for BOB ICB to return to an earlier step in the provider selection process as a means of addressing the concerns identified by the Panel.

15. The Panel's view is that the breaches of the PSR regulations it has found with respect to BOB ICB's review of Haddenham's representations, mean that it is necessary to return to a sufficiently early step in the provider selection process such that these breaches can be rectified.

16. As a result, the Panel recommends that BOB ICB returns to Step 4 in the competitive process (i.e. the step before BOB ICB informed Bloxdent that its offer had been

successful and informed other bidders that their offers had been unsuccessful), and then repeat the subsequent steps in the competitive process. This will allow BOB ICB to make a new decision as to the successful provider, based on its evaluation of bidders' proposals at that point in the procurement process. It will also allow BOB ICB to evaluate any subsequent representations in a way that complies with the requirements of the PSR regulations.

2. Introduction

17. On 11 September 2025, Bloxdent Limited (Bloxdent)¹ asked the Panel to advise on the selection of a provider by NHS Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board (BOB ICB) for mandatory dental services in Oxfordshire.
18. The Panel accepted Bloxdent's request on 18 September 2025 in accordance with its case acceptance criteria. These criteria set out both eligibility requirements and the prioritisation criteria the Panel applies when approaching full capacity.² Bloxdent's request met the eligibility requirements, and as the Panel was not approaching full capacity, there was no need to apply the prioritisation criteria.
19. The Panel's Chair appointed three members to a Case Panel for this review, namely:
 - Andrew Taylor, Panel Chair;
 - Sally-Ann Collier, Case Panel Member; and
 - Daria Prigioni, Case Panel Member.³
20. The Case Panel's review has been carried out in accordance with the Panel's Standard Operating Procedures ("procedures").⁴
21. This report provides the Panel's assessment and advice to BOB ICB and is set out as follows:
 - Section 3 briefly describes the role of the Panel;
 - Section 4 sets out the background to the Panel's review, including the events leading up to, and including, the provider selection process;
 - Section 5 sets out the concerns raised by Bloxdent;
 - Section 6 identifies the provisions of the PSR regulations relevant to Bloxdent's representations;
 - Section 7 sets out the Panel's assessment of the issues raised by Bloxdent; and
 - Section 8 sets out the Panel's advice to BOB ICB.⁵
22. The Panel thanks BOB ICB and Bloxdent for their assistance and cooperation during this review.

¹ Bloxdent is a provider of NHS and private dental care in North Oxfordshire. Further information can be found on its website at <https://www.bloxhamdentalpractice.co.uk/about-us/>.

² The Panel's case acceptance criteria are available at <https://www.england.nhs.uk/commissioning/how-commissioning-is-changing/nhs-provider-selection-regime/independent-patient-choice-and-procurement-panel/>.

³ Biographies of Panel members are available at <https://www.england.nhs.uk/commissioning/how-commissioning-is-changing/nhs-provider-selection-regime/independent-patient-choice-and-procurement-panel/panel-members/>.

⁴ The Panel's Standard Operating Procedures are available at <https://www.england.nhs.uk/commissioning/how-commissioning-is-changing/nhs-provider-selection-regime/independent-patient-choice-and-procurement-panel/>.

⁵ The Panel's advice is provided under paragraph 23 of the PSR Regulations and takes account of the representations made to the Panel prior to forming its opinion.

3. Role of the Panel

23. The Provider Selection Regime (PSR) regulations, issued under the Health and Care Act 2022, put into effect the Provider Selection Regime for NHS and local authority commissioning of health care services. The Provider Selection Regime came into force with the adoption of the PSR regulations on 1 January 2024, and gives relevant authorities (i.e. commissioners) greater flexibility in the selection of providers of health care services.⁶
24. The Panel's role is to act as an independent review body where a provider has concerns about a commissioner's provider selection decision. Panel reviews only take place following a commissioner's review of its original decision.
25. For each review, the Panel's assessment and advice is supplied to the commissioner and the potential provider that has requested the Panel's review. It is also published on the Panel's webpages. The commissioner is then responsible for reviewing its decision in light of the Panel's advice.

4. Background to this review

26. BOB ICB is the statutory body responsible for planning health services to meet the needs of the Buckinghamshire, Oxfordshire and Berkshire West population and managing the budget for the provision of NHS services to this population.⁷ NHS dental services, including mandatory and other dental services, are commissioned by BOB ICB.⁸ One element of mandatory dental services is routine dental care, which encompasses examination, diagnosis, prevention and urgent treatment.⁹
27. On 25 October 2024, BOB ICB published a notice setting out its intention to select additional providers of mandatory dental services in Oxfordshire using the competitive process. The procurement was divided into five lots, based on location. Each contract is for ten years, without the option of extending, and the five contracts were intended to commence sometime between 1 April and 30 September 2025. The Cherwell East (Lot 5) contract, which is the subject of this review, has a total value of approximately £4.9 million (excluding VAT).¹⁰
28. Bidders' proposals were evaluated between 3 December 2024 and 7 February 2025.¹¹ Bloxdent and Haddenham DC Limited (Haddenham) were two of the six bidders for the Cherwell East (Lot 5) contract.¹² Bloxdent was ranked first (scoring 81.50%) while Haddenham was ranked a close second (scoring 80.75%).

⁶ The PSR Regulations are available at <https://www.legislation.gov.uk/ukssi/2023/1348/contents/made> and the accompanying statutory guidance is available at NHS England, *The Provider Selection Regime: statutory guidance*, <https://www.england.nhs.uk/long-read/the-provider-selection-regime-statutory-guidance/>

⁷ Further information on BOB ICB can be found on its website at <https://bobicb.nhs.uk>.

⁸ Responsibility for commissioning dental services was delegated to ICBs by NHS England (NHSE) in April 2023 (NHS England, *Letter: First stage of dental reform*, 19 July 2022).

⁹ The full list of mandatory services is defined in Regulation 14 of the NHS General Dental Service (GDS) / Personal Dental Services (PDS) Regulations 2005, and is available at <https://www.legislation.gov.uk/ukssi/2005/3361/regulation/14>.

¹⁰ BOB ICB, *Contract Notice on Find a Tender Service*, 25 October 2024.

¹¹ One bidder failed initial completeness and compliance checks and therefore its bid was not evaluated further.

¹² Haddenham DC Limited is a provider of NHS and private dental care in Buckinghamshire. Further information can be found on its website at [About Us - Haddenham Dental Clinic](#)

29. On 14 April 2025, BOB ICB published an intention to award notice announcing Bloxdent as the successful bidder.¹³

4.1 Haddenham's representations to BOB ICB on the provider selection process

30. On 28 April 2025, before the standstill period ended, Haddenham made representations to BOB ICB about the provider selection process for the Cherwell East (Lot 5) contract, raising concerns about the evaluation of responses to questions MP01 (Mobilisation of the service), WF01 (Staffing structure) and WF02 (Workforce).
31. On 8 May 2025, having reviewed Haddenham's representations, BOB ICB told bidders that it had decided to re-evaluate their responses to questions MP01, WF01, and WF02 so as to "avoid a time consuming and potentially costly representation".¹⁴
32. Bidders were not asked to resubmit or provide any new information, and a new panel was appointed to conduct the re-evaluation of bidders' answers to the three questions.¹⁵ The re-evaluation took place between 21 May and 2 June 2025. After combining the scores from the three re-evaluated questions with the scores from the earlier evaluation of the other questions, Haddenham was now ranked first, with a score of 85.00%, and Bloxdent was ranked second, with a score of 80.00%.
33. On 25 June 2025, BOB ICB informed bidders, including Bloxdent, that Haddenham had now been selected as the preferred bidder for the Cherwell East (Lot 5) contract.¹⁶

4.2 Bloxdent's representations to BOB ICB on the provider selection process

34. After being told that Haddenham was the preferred bidder, Bloxdent raised concerns with BOB ICB about the provider selection process. Following further correspondence between BOB ICB and Bloxdent, BOB ICB told Bloxdent on 8 July 2025 that it would be proceeding with awarding the contract to Haddenham, and published a new intention to award notice announcing Haddenham as the successful bidder.¹⁷
35. On 16 July 2025, while still within the standstill period, Bloxdent made representations to BOB ICB, and requested information regarding the provider selection process. BOB ICB responded to Bloxdent's information request on 24 July and Bloxdent, having reviewed this information, made further representations on 30 July.
36. On 8 September 2025, having reviewed Bloxdent's representations, BOB ICB told Bloxdent that it had decided to proceed with the contract award to Haddenham.
37. On 11 September 2025, while still within the standstill period, Bloxdent asked the Panel to advise on BOB ICB's provider selection process. The Panel accepted this request on 18 September. On being made aware of the Panel's acceptance decision,

¹³ BOB ICB, *Contract Award Notice on Find a Tender Service*, 14 April 2025

¹⁴ BOB ICB, *Atamis Comms - Rewind and Re-evaluation of MDS 5C2-5 Cherwell East Bloxdent, Atamis Comms - Rewind and re-evaluation MDs 5C2-5 Haddenham*, 8 May 2025. BOB ICB told the Panel that it sent all bidders for Lot 5 an individual message on the e-procurement system, to this effect (Panel meeting with BOB ICB, 17 October 2025).

¹⁵ BOB ICB, *Response to Panel questions*, 25 September 2025.

¹⁶ The preferred bidder period allowed for final due diligence on the award, particularly in the areas of finance, staffing, premises, mobilisation capacity and provider willingness to accept multiple offers, and took place between 19 June and 1 July 2025 (BOB ICB, *Contract Award Recommendation Report*, 11 June 2025).

¹⁷ BOB ICB, *Contract Award Notice on Find a Tender Service*, 8 July 2025.

BOB ICB confirmed that it would hold the standstill period open for the duration of the Panel's review.

5. Representations by Bloxdent

38. Bloxdent's concerns about the provider selection process, as summarised in its submission to the Panel, were as follows:

"Bloxdent were originally awarded the contract and then following a rewind (the reasons for which have not been disclosed), 3 questions were re-assessed and another bidder was awarded the contract in a revised decision.

"The ICB has breached obligations of transparency under Regulation 12 in relation to the disclosure of information pertaining to the original decision to rewind. The evaluation records disclosed demonstrate evidence of manifest error including comparative scoring and failure to consider relevant information and/or consideration of irrelevant information in remarked questions and application of undisclosed award criteria.

"The ICB's review of its decision making has not properly considered all matters raised in the representations made and the ICB has failed to provide full transparency in relation to records it is required to keep pursuant to Regulation 24. We consider all representations to remain outstanding."

6. PSR regulations relevant to this review

39. In its representations to the Panel, Bloxdent suggested that BOB ICB had breached the PSR regulations in relation to the general requirements on commissioners (as set out in Regulation 4), the application of the key criteria (as set out in Regulation 5), the processes to be followed (as set out in Regulation 6), the steps that commissioners must follow when using the competitive process (as set out in Regulation 11), the requirements in relation to responding to representations (as set out in Regulation 12) and the requirement to keep a record of all decisions made under the Regulations and their rationale (as set out in Regulation 24).

40. Those parts of the PSR regulations most relevant to this review are set out below:

- Regulation 4 sets out the general requirements on relevant authorities (i.e commissioners) when selecting a provider of health care services. This states that relevant authorities "must act – (a) with a view to (i) securing the needs of the people who use the services; (ii) improving the quality of the services, and; (iii) improving the efficiency in the provision of the services; and (b) transparently, fairly and proportionately.
- Regulation 11 sets out the obligations that apply to commissioners when following the competitive process. It states that "(1) Where the relevant authority follows the Competitive Process, the process is that the relevant authority follows the steps set out in this regulation ... (5) Step 3 is that the relevant authority assesses any offers received in accordance with the contract or framework award criteria; (6) A relevant authority may carry out step 3 in stages ..."
- Regulation 12 sets out the requirements on commissioners in relation to the standstill period after a contract award decision. It states that "(4) Where the

relevant authority receives representations in accordance with paragraph (3), it must ... (d) make a further decision where to - (i) enter into the contract or conclude the framework agreement as intended after the standstill period has ended; (ii) go back to an earlier step in the selection process and repeat that step and subsequent steps in accordance with the relevant procedure ...; (6) The further decision in paragraph (4)(d) must be communicated promptly, in writing, with reasons to ... (b) each provider to whom the relevant authority intended at the beginning of the standstill period to award the contract ...”

- Regulation 24 sets out the information that must be recorded by commissioners. This includes “(g) the reasons for decisions made under these Regulations ...”

41. The Provider Selection Regime Statutory Guidance “sits along the Regulations to support organisations to understand and interpret the PSR regulations”.¹⁸ Reference is made to relevant provisions of the Statutory Guidance in the Panel’s assessment of the issues in Section 7.¹⁹

7. Panel Assessment

42. This section sets out the Panel’s assessment of whether BOB ICB, in conducting the provider selection process for the Cherwell East (Lot 5) contract, complied with the PSR regulations when:

- responding to Haddenham’s representations (Section 7.1); and
- responding to Bloxdent’s representations (Section 7.2).

7.1 BOB ICB’s response to Haddenham’s representations

43. Bloxdent raised several concerns with the Panel about BOB ICB’s response to Haddenham’s representations. This included concerns about the transparency of BOB ICB’s decision-making and communications, and its response to Bloxdent’s request for information about the review of Haddenham’s representations (see paragraph 38).

44. This section sets out the Panel’s assessment of BOB ICB’s compliance with the PSR regulations when responding to Haddenham’s representations:

- Section 7.1.1 describes BOB ICB’s process for reviewing Haddenham’s representations and the outcome from that review;
- Section 7.1.2 discusses BOB ICB’s recordkeeping in relation to its review of Haddenham’s representations;
- Section 7.1.3 discusses BOB ICB’s communication to bidders of its ‘further decision’ to re-evaluate bidders’ responses to the three questions where Haddenham raised concerns;
- Section 7.1.4 discusses BOB ICB’s response to Bloxdent’s request for information about its ‘further decision’; and
- Section 7.1.5 summarises the Panel’s conclusions.

¹⁸ NHS England, *The Provider Selection Regime: statutory guidance*, 21 February 2024, p.2.

¹⁹ The PSR Statutory Guidance was updated in April 2025. However, references to the Statutory Guidance in this report are to the February 2024 guidance as this was the version in force during this provider selection process.

7.1.1 BOB ICB's process for reviewing Haddenham's representations

45. Haddenham's representations to BOB ICB, made on 28 April 2025, raised concerns about the evaluation of responses to three questions, namely MP01 (Mobilisation of the service), WF01 (Staffing structure) and WF02 (Workforce).²⁰
46. BOB ICB told the Panel that its response to Haddenham's representations was first considered on 30 April 2025 at a meeting between staff from BOB ICB and South Central and West Commissioning Support Unit (SCW CSU).²¹ SCW CSU agreed to pull together the information requested by Haddenham, and to start looking at the merits of Haddenham's representation.²² No record was taken of this meeting.
47. BOB ICB told the Panel that Haddenham's representations were "entirely focused on those three questions, WF01, WF02 and MP01 ... our focus was therefore immediately on WF01, WF02 and MP01".²³ It said that an SCW CSU staff member carried out a "headline review" of Haddenham's representations, focusing on these three questions, but also looking "at every other question ... to see if there were any other obvious errors or omissions".²⁴ The Panel notes that there are no contemporaneous documents setting out how this "headline review" was conducted or its conclusions.
48. On 6 May 2025, following the headline review's completion, SCW CSU staff met and concluded that there was "arguable merit" to Haddenham's representations.²⁵ On 7 May, SCW CSU and BOB ICB staff met and "concluded that it could be argued that the ICB had erroneously and unfairly evaluated Haddenham's and Bloxdent's bids, and incorrectly scored three specific questions: MP01, WF01 and WF02".²⁶ No record was taken of the meetings on 6 and 7 May.
49. BOB ICB decided at, or soon after, the 7 May meeting that a new evaluation panel should re-evaluate responses to questions MP01, WF01 and WF02 by all bidders for the Cherwell East (Lot 5) contract (the 'further decision').²⁷ On 8 May, this decision was communicated to bidders.
50. BOB ICB told the Panel during this review that the "headline review" and the subsequent decision to re-evaluate bidders' responses to the three questions "was done with the right intentions, but was actually done too fast". It said that "very quickly, perhaps too hastily, [we] immediately decided to ... not necessarily say that these scores were wrong, but they deserve to be re-scored". It went on to say that "we immediately saw that there was a problem and we therefore didn't see the point in dragging things out".²⁸

²⁰ Haddenham, *Representations to BOB ICB*, 28 April 2025.

²¹ SCW CSU supported BOB ICB in carrying out the procurement.

²² Panel meeting with BOB ICB, 17 October 2025; BOB ICB Response to Panel questions, 7 November 2025.

²³ Panel meeting with BOB ICB, 17 October 2025. (The Panel meeting with BOB ICB on 17 October 2025 included representatives from both BOB ICB and SCW CSU. As representatives from SCW CSU were appearing as part of the team that carried out the provider selection process on behalf of BOB ICB, all comments at this meeting are attributed to BOB ICB regardless of whether they were made by individual employees of BOB ICB or SCW CSU.)

²⁴ Panel meeting with BOB ICB, 17 October 2025. (BOB ICB also addressed this point in its response to Panel questions, dated 7 November 2025.)

²⁵ Panel meeting with BOB ICB, 17 October 2025.

²⁶ BOB ICB, *Response to Panel questions*, 7 November 2025.

²⁷ The re-evaluation was carried out for the five bidders that submitted compliant bids (see footnote 11).

²⁸ Panel meeting with BOB ICB, 17 October 2025.

51. Table 7.1 provides a chronology of key events in BOB ICB's review of Haddenham's representations.

Table 7.1: Key dates in the review of Haddenham's representations

Date	Event
14 Apr 2025	BOB ICB publishes an intention to award notice announcing Bloxdent as the successful bidder for the Cherwell East (Lot 5) contract.
28 Apr 2025	Haddenham makes representations to BOB ICB.
30 Apr 2025	BOB ICB and SCW CSU staff meet to discuss Haddenham's representations. SCW CSU staff commence a "headline review" of Haddenham's representations.
1-5 May 2025	"Headline review" of Haddenham's representations carried out.
6 May 2025	SCW CSU staff meet and, on the basis of the "headline review", conclude that there is "arguable merit" to Haddenham's representations.
7 May 2025	BOB ICB and SCW CSU staff meet and conclude that "it could be argued that the ICB had erroneously and unfairly evaluated Haddenham's and Bloxdent's bids, and incorrectly scored three specific questions: MP01, WF01 and WF02".
8 May 2025	BOB ICB tells bidders that it has decided to re-evaluate all bidders' responses to three questions (MP01, WF01 and WF02).
21 May – 2 Jun 2025	Re-evaluation of all bidders' responses to the three questions carried out.
25 Jun 2025	Bidders informed that, following the re-evaluation, Haddenham had been selected as the successful bidder for the Cherwell East (Lot 5) contract.

7.1.2 BOB ICB's recordkeeping in relation to its review of Haddenham's representations

52. The Panel notes that BOB ICB, in reviewing Haddenham's representations, did not keep any records of the key meetings where decisions were made about its process for reviewing Haddenham's representations, its assessment of Haddenham's representations and its 'further decision' (i.e. the decision to re-evaluate bidders' responses to the three questions) (see paragraphs 46 and 48). The Panel also notes that there was no documentary record of the "headline review" of Haddenham's representations carried out by SCW CSU on behalf of BOB ICB (see paragraph 47).

53. PSR Regulation 24(g) requires commissioners to keep a record of the reasons for decisions made under the PSR regulations, and as noted in the previous paragraph BOB ICB did not keep any records of the key meetings or "headline review" that would have set out its reasons for its 'further decision'.

54. As a result, the Panel finds that BOB ICB, in not keeping any record of its reasons for its 'further decision' (i.e. to re-evaluate bidders' responses to three questions following Haddenham's representations), breached the PSR regulations and in particular Regulation 24(g), which requires commissioners to keep a record of reasons for decisions under the PSR regulations.

7.1.3 BOB ICB's communication to Bloxdent of its decision to re-evaluate

55. The Panel notes that BOB ICB's 'further decision' to re-evaluate bidders' responses to questions MP01, WF01 and WF02 was a decision to "go back to an earlier step in the selection process and repeat that step and subsequent steps in accordance with the

relevant procedure" as per Regulation 12(4)(d)(ii) of the PSR regulations (even if this was not necessarily acknowledged by BOB ICB at the time).

56. As this was a return to an earlier step in the selection process, Regulation 12(6) required that "the further decision ... must be communicated promptly, in writing, with reasons" to "each provider from which the relevant authority received representations" and "each provider to whom the relevant authority intended at the beginning of the standstill period to award the contract".
57. BOB ICB, in writing to Bloxdent (which was the "provider to whom the relevant authority intended at the beginning of the standstill period to award the contract") on 8 May 2025, said:

"Following on from our correspondence of 1st May when we made you aware of a query from another bidder raised during the standstill period, the ICB has decided to rewind the procurement for Cherwell East (Lot 5) and re-evaluate questions MP01, WF01 and WF02. The ICB has taken this decision to avoid a time consuming and potentially costly representation".²⁹

58. When responding to Bloxdent's representations about the lack of reasons for its 'further decision', BOB ICB said:

"The reason that the ICB has received a 'query from another bidder raised during the standstill period' was clearly provided. Additionally, the ICB clearly stated the effect of this further decision was to 'rewind the procurement for Cherwell East (Lot 5) and re-evaluate questions MP01, WF01 and WF02. The ICB has taken this decision to avoid a time consuming and potentially costly representation'."³⁰
59. During this review, BOB ICB told the Panel that it could "have made this [the communication to Bloxdent] more expansive but feel this was the correct decision, particularly given the scale and the importance of the procurement and all parties explicitly accepted this, including Bloxdent".³¹ Bloxdent also told the Panel that it "didn't realise that this [the decision to re-evaluate responses to the three questions] was a part of the process that we could appeal or do anything about because the standstill period hadn't ended".³²
60. The Panel's view is that BOB ICB's explanation of its reasons for its 'further decision' was not sufficient to meet its obligations under the PSR regulations. In particular, BOB ICB's explanation that it had received a "query from another bidder" and had taken the 'further decision' "to avoid a time consuming and potentially costly representation" does not give any information on the nature of the query that was received or the ICB's assessment of that query.
61. As a result, the Panel finds that BOB ICB, in not providing sufficient reasons to Bloxdent when communicating its 'further decision', breached the PSR regulations and in particular Regulation 12(6), which requires commissioners to include the reasons for their decision in this communication.

²⁹ BOB ICB, *e-correspondence to bidders*, 8 May 2025.

³⁰ BOB ICB, *Full Representations Review Appendix*, 8 September 2025.

³¹ Panel meeting with BOB ICB, 17 October 2025.

³² Panel meeting with Bloxdent, 14 October 2025.

7.1.4 BOB ICB's response to Bloxdent's request for information about its decision to re-evaluate

62. Bloxdent told the Panel that in its representations to BOB ICB it requested, but did not receive, information about the ICB's 'further decision' to re-evaluate responses to the three questions (see paragraph 38).
63. In particular, in its representations to BOB ICB on 16 July 2025, Bloxdent requested "copies of all records required to be kept by the ICB under Regulation 24 in relation to the decision to rewind the procurement in respect of Lot 5".³³ In its further representations to BOB ICB on 30 July 2025, Bloxdent said "we note that the ICB has not, despite our request, provided any explanation for the previous decision to rewind the Lot 5 procurement".³⁴
64. Regulation 12(4)(b) states that where a commissioner receives representations, it must "provide promptly any information requested by an aggrieved provider where the relevant authority has a duty to record that information under Regulation 24".
65. The Panel notes that no records were provided to Bloxdent in response to its request. The Panel also notes that a contributing factor to BOB ICB's difficulties in responding to Bloxdent's information request may have been the lack of recorded reasons for BOB ICB's decision, as discussed in Section 7.1.2.
66. The Panel finds that BOB ICB, in not providing a sufficient response to Bloxdent's request for information about its 'further decision', breached the PSR regulations and in particular Regulation 12(4)(b), which requires commissioners to promptly provide any information requested by an aggrieved provider where the commissioner has a duty to record that information under Regulation 24.

7.1.5 Summary of Panel conclusions on BOB ICB's response to Haddenham's representations

67. In summary, the Panel finds that BOB ICB breached the PSR regulations in several respects in its handling of Haddenham's representations. In particular:
 - The Panel finds that BOB ICB, in not keeping any record of its reasons for its 'further decision' (i.e. to re-evaluate bidders' responses to three questions following Haddenham's representations), breached the PSR regulations and in particular Regulation 24(g), which requires commissioners to keep a record of reasons for decisions under the PSR regulations.
 - The Panel finds that BOB ICB, in not providing sufficient reasons to Bloxdent when communicating its 'further decision', breached the PSR regulations and in particular Regulation 12(6), which requires commissioners to include the reasons for their decision in this communication.
 - The Panel finds that BOB ICB, in not providing a sufficient response to Bloxdent's request for information about its 'further decision', breached the PSR regulations and in particular Regulation 12(4)(b), which requires commissioners

³³ Bloxdent, *Representations letter to BOB ICB*, 16 July 2025.

³⁴ Bloxdent, *Representations letter to BOB ICB*, 30 July 2025.

to promptly provide any information requested by an aggrieved provider where the commissioner has a duty to record that information under Regulation 24.

7.2 BOB ICB's response to Bloxdent's representations

68. This section sets out the Panel's assessment of BOB ICB's compliance with the PSR regulations when responding to Bloxdent's representations:

- Section 7.2.1 describes Bloxdent's representations and BOB ICB's review of these representations;
- Section 7.2.2 sets out the Panel's assessment of BOB ICB's response to Bloxdent's representations; and
- Section 7.2.3 sets out the Panel's conclusions.

7.2.1 Bloxdent's representations and BOB ICB's review

69. Bloxdent, in its representations to BOB ICB, raised concerns about the evaluation of nine questions. This included the three questions where responses were re-evaluated following Haddenham's representations and six questions where responses had not been re-evaluated.³⁵

70. Bloxdent's concerns about BOB ICB's evaluation of bidders' responses to the nine questions fell into seven broad topics, namely:

- (i) incorrectly using material supplied by a bidder in answering one question to assist with the evaluation of its response to another question;
- (ii) inappropriately copying evaluations from other lots into the evaluation for Lot 5;
- (iii) failing to consider relevant material and/or taking into account irrelevant material;
- (iv) favourable treatment of Haddenham in the evaluation process;
- (v) criticisms in moderated comments that were not reflected in individual evaluator notes;
- (vi) inconsistencies in the scoring of Bloxdent responses compared to Haddenham responses; and
- (vii) evaluators making inappropriate comparisons between Haddenham and Bloxdent during the evaluation and scoring process.

71. Bloxdent supplied BOB ICB with approximately forty examples within the seven areas of concern across the nine questions.

72. BOB ICB set up a "Local Representation Panel"³⁶ to consider Bloxdent's representations.³⁷ The Local Representation Panel had the following members:

- Director, Primary Care, BOB ICB (as Chair of the Local Representation Panel);
- Business Manager, Primary Care, BOB ICB;
- Associate Director - Pharmacy, Optometry and Dentistry, BOB ICB;
- Head of Pharmacy, Optometry and Dentistry, BOB ICB;

³⁵ Bloxdent, *Representations to BOB ICB*, 16 and 30 July 2025.

³⁶ All references to the "Local Representation Panel" in this report use its full name, while references to the Panel refer to the Case Panel from the Independent Panel on Patient Choice and Procurement that has conducted the review which is the subject of this report.

³⁷ "The ICB established a Local Representation Group as required by the Regulations, including at least one member that had no presence in the original procurement. Other members were taken from relevant commissioners and procurement staff to ensure a detailed understanding of the process that was undertaken. Bloxdent was provided the disclosure requested and was given an opportunity to further clarify their representation" (BOB ICB, *Response to Panel questions*, 25 September 2025).

- Deputy Director of Procurement, SCW CSU;
- Lead Senior Procurement Manager, SCW CSU; and
- Clinical Procurement Manager, SCW CSU.

73. Three members of the Local Representation Panel, namely Director (Primary Care, BOB ICB), Business Manager (Primary Care, BOB ICB) and Lead Senior Procurement Manager (SCW CSU) were not previously involved in the provider selection process for the Cherwell East (Lot 5) contract.³⁸

74. The Local Representation Panel met on 14 August, 15 August and 4 September 2025 to consider Bloxdent's representations. No minutes were taken at these meetings. However, the Local Representation Panel's conclusions in relation to each of the approximately forty examples supplied by Bloxdent were recorded in a spreadsheet. (BOB ICB told the Panel that it was more efficient to populate the spreadsheet rather than minute the discussions and then transfer the findings to the spreadsheet.³⁹)

75. The Local Representation Panel identified two concerns raised by Bloxdent that it regarded as having some merit, but concluded that these concerns were not sufficient to "warrant any change" to the evaluation or scoring of Bloxdent's proposal or to justify re-evaluation of bidders' responses to these questions.

76. Following the completion of the Local Representation Panel's review, its conclusions were approved by BOB ICB's Pharmacy, Optometry and Dental Oversight Group.⁴⁰ BOB ICB subsequently wrote to Bloxdent on 8 September 2025 setting out its decision to proceed with the contract award to Haddenham.⁴¹

77. BOB ICB told the Panel that the Local Representation Panel's review of Bloxdent's representations was "much, much more thorough" than BOB ICB's earlier review of Haddenham's representations. It said that the Bloxdent representations "required and justified a substantive response", but also said that Haddenham's representations could immediately be identified as "clearly arguable", while this "thinking didn't exist with the Bloxdent representation when we looked through it".⁴²

78. Table 7.2 provides a chronology of key events in relation to Bloxdent's representations.

Table 7.2: Key dates in the review of Bloxdent's representations

Date	Event
25 Jun 2025	Bidders are informed that, following the re-evaluation, Haddenham has been selected as the successful bidder for the Cherwell East (Lot 5) contract.
26 Jun – 7 Jul 2025	Correspondence between Bloxdent and BOB ICB regarding the provider selection process following BOB ICB's further decision to award the Cherwell East (Lot 5) contract to Haddenham.

³⁸ The PSR statutory guidance states that commissioners "should ensure that appropriate internal governance mechanisms are in place to deal with representations made against provider selection decisions. To this end, relevant authorities should, where possible, ensure that decisions are reviewed by individuals not involved in the original decision. Where this is not possible, relevant authorities should ensure that at least one individual not involved in the original decision is included in the review process" (p.33).

³⁹ "In a stretched NHS, we do choose to make decisions and record the outcome directly into relevant documents, which is then passed through the appropriate governance route" (BOB ICB, *Response to Panel questions*, 1 October 2025).

⁴⁰ Panel meeting with BOB ICB, 17 October 2025.

⁴¹ BOB ICB, *Response to Bloxdent's representations*, 8 September 2025.

⁴² Panel meeting with BOB ICB, 17 October 2025.

8 Jul 2025	BOB ICB informs Bloxdent that it will continue with awarding the contract to Haddenham, and publishes an intention to award notice to this effect.
16 Jul 2025	Bloxdent makes representations to BOB ICB about the provider selection process.
18 Jul 2025	BOB ICB establishes a Local Representation Panel to consider Bloxdent's representations.
30 Jul 2025	Additional representations by Bloxdent following receipt of documentation from BOB ICB.
14 Aug, 15 Aug and 4 Sep 2025	First, second and third meetings of the Local Representation Panel to discuss Bloxdent's representations.
8 Sep 2025	BOB ICB informs Bloxdent that it has decided to proceed with contract award to Haddenham.

7.2.2 Panel assessment of BOB ICB's response to Bloxdent's representations

79. The Panel in assessing BOB ICB's response to Bloxdent's representations has considered:

- first, the process employed by BOB ICB for reviewing Bloxdent's representations; and
- second, whether Bloxdent raised issues in its representations to BOB ICB that merited re-scoring or re-evaluation.

Process for reviewing Bloxdent's representations

80. The Panel notes that, in reviewing Bloxdent's representations, BOB ICB established a Local Representation Panel, which met several times and carried out an in-depth review of the issues raised by Bloxdent. BOB ICB described this process to the Panel as "much more thorough" than its earlier review of Haddenham's representations (see paragraph 77).

81. The Panel also notes that, in reviewing Haddenham's representations, BOB ICB used a single staff member to carry out a fast-paced review (which was not documented). BOB ICB described this process to the Panel as having been "done too fast" (see paragraph 50).

Merits of Bloxdent's representations

82. The Panel, having reviewed each of the approximately forty concerns raised by Bloxdent in its representations, agrees with the assessment of BOB ICB's Local Representation Panel that these concerns do not "warrant any change" to the evaluation or scoring of Bloxdent's proposal or justify re-evaluation of bidders' responses to these questions.

83. The Panel in carrying out its review of Bloxdent's representations noted several similarities between the issues arising in Bloxdent's representations and those arising in Haddenham's earlier representations.

84. The Panel notes that BOB ICB does not appear to have responded consistently to these similar issues.⁴³ For example:

⁴³ During this review BOB ICB provided to the Panel a written explanation of its rationale for its 'further decision' (i.e. the decision to re-evaluate bidders' responses to the three questions). This conclusion is based on the Panel's analysis of that

- Both parties raised concerns about the number of feedback comments and the relationship between this and the score that was awarded (Haddenham in relation to the original evaluation of WF01 and Bloxdent in relation to the re-evaluation of WF01). When Haddenham made this point, it contributed to BOB ICB's 'further decision' to re-evaluate WF01, but when Bloxdent made this point BOB ICB decided that this was not sufficient to warrant any change to the evaluation.
- BOB ICB, when reviewing Haddenham's representations, identified a concern with the evaluation of WF02, namely that it was arguable that Haddenham's response in the original evaluation should have been awarded a score of '1' as it did not address how it would work with the commissioner prior to contract commencement (and this was a mandatory requirement of the question). This contributed to BOB ICB's 'further decision' to re-evaluate WF02. However, when Bloxdent raised this concern in its representations (after Haddenham was scored a '3' following the re-evaluation of WF02), BOB ICB decided Bloxdent's concern was not sufficient to warrant any change to the evaluation.
- BOB ICB, when reviewing Haddenham's representations, identified a second concern about the evaluation of WF02, namely that the discussion notes for the evaluation of Bloxdent's response lacked detail in explaining why an evaluator increased their individual score from '3' to a moderated score of '4'. This contributed to BOB ICB's 'further decision' to re-evaluate responses to WF02. Bloxdent, in its representations raised a concern about the evaluation of CSD01 and a lack of detail explaining why evaluators both individually scored the Haddenham response as a '3' but then moved to a '4' during moderation. However, BOB ICB decided Bloxdent's concern was not sufficient to warrant any change to the evaluation (even though there appears to have been a similar level of detail).

7.2.3 Panel conclusions on BOB ICB's response to Bloxdent's representations

85. In summary, BOB ICB treated Bloxdent differently to Haddenham in relation to both: (i) the process that it employed for reviewing its representations; and (ii) its decisions about the merits of those representations.
86. The Panel's view is that these differences in the treatment of Bloxdent's and Haddenham's representations, without objective justification, mean that BOB ICB did not act fairly when evaluating these representations. As a result, the Panel finds that BOB ICB, in treating Bloxdent and Haddenham differently when responding to their representations without any apparent justification for this difference in treatment, breached its obligation under the PSR regulations to act fairly.
87. The Panel does not, however, believe that BOB ICB should have used the same process for reviewing Bloxdent's representations that it used for Haddenham's representations. This is because the process for reviewing Haddenham's

written explanation. As noted earlier in this report, BOB ICB did not record the reasons for its 'further decision' at the time it was made.

representations was clearly inferior to that which was used for reviewing Bloxdent's representations.

88. Nor does the Panel believe that the similarities between Bloxdent's and Haddenham's representations give rise to grounds for concluding that BOB ICB should have carried out a further re-evaluation in response to Bloxdent's representations. As set out above, the Panel agrees with BOB ICB that Bloxdent's representations do not give rise to concerns that "warrant any change" to the evaluation or scoring of Bloxdent's proposal or justify re-evaluation of bidders' responses to these questions.
89. Rather, the similarities between Bloxdent's and Haddenham's representations give rise to further concerns about the merits of BOB ICB's 'further decision' in response to Haddenham's representations (i.e. the decision to re-evaluate bidders' responses to the three questions).
90. The Panel has not, however, drawn any further conclusions about the merits of BOB ICB's response to Haddenham's representations given the lack of documentary records relating to its evaluation of these representations. Moreover, such a conclusion is not necessary given the findings that the Panel has already made regarding BOB ICB's response to Haddenham's representations.

8. Panel Advice

91. In summary, the Panel's findings on the provider selection process carried out by BOB ICB for the Cherwell East (Lot 5) contract for mandatory dental services are that BOB ICB has breached the PSR regulations in several respects:
 - First, BOB ICB, in not keeping any record of its reasons for its 'further decision' (i.e. to re-evaluate bidders' responses to three questions following Haddenham's representations), breached the PSR regulations and in particular Regulation 24(g), which requires commissioners to keep a record of reasons for decisions under the PSR regulations.
 - Second, BOB ICB, in not providing sufficient reasons to Bloxdent when communicating its 'further decision', breached the PSR regulations and in particular Regulation 12(6), which requires commissioners to include the reasons for their decision in this communication.
 - Third, BOB ICB, in not providing a sufficient response to Bloxdent's request for information about its 'further decision', breached the PSR regulations and in particular Regulation 12(4)(b), which requires commissioners to promptly provide any information requested by an aggrieved provider where the commissioner has a duty to record that information under Regulation 24.
 - Finally, BOB ICB, in treating Bloxdent and Haddenham differently when responding to their representations without any apparent justification for this difference in treatment, breached its obligation under the PSR regulations to act fairly.
92. Given the Panel's conclusion that BOB ICB breached the PSR regulations, three options are open to the Panel. The Panel may advise that:

- the breaches had no material effect on BOB ICB's selection of a provider and it should proceed with awarding the contract as originally intended;
- BOB ICB should return to an earlier step in the provider selection process to rectify the issues identified by the Panel; or
- BOB ICB should abandon the current provider selection process.

93. The Panel's view is that the breaches it has identified may have had a material effect on BOB ICB's selection of a provider. That is, if BOB ICB had complied with the PSR regulations, then its selection of a provider may have been different.

94. The Panel has considered whether BOB ICB should return to an earlier step in the provider selection process to rectify the issues identified by the Panel or whether it should abandon the current provider selection process. The Panel's view is that it would be more proportionate for BOB ICB to return to an earlier step in the provider selection process as a means of addressing the concerns identified by the Panel.

95. The Panel's view is that the breaches of the PSR regulations it has found with respect to BOB ICB's review of Haddenham's representations, mean that it is necessary to return to a sufficiently early step in the provider selection process such that these breaches can be rectified.

96. As a result, the Panel recommends that BOB ICB returns to Step 4 in the competitive process (i.e. the step before BOB ICB informed Bloxdent that its offer had been successful and informed other bidders that their offers had been unsuccessful), and then repeat the subsequent steps in the competitive process. This will allow BOB ICB to make a new decision as to the successful provider, based on its evaluation of bidders' proposals at that point in the procurement process. It will also allow BOB ICB to evaluate any subsequent representations in a way that complies with the requirements of the PSR regulations.