



Department
of Health

Operational overview for organisations newly within scope of the NHS Charges to Overseas Visitors Regulations

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1. Introduction

Purpose

- 1.1. This document aims to help non-NHS bodies that are newly within scope of the NHS (Charges to Overseas Visitors) Regulations 2015, as amended (the "Charging Regulations") understand and meet their new obligations. It signposts them to existing resources available to NHS bodies that will also be of use to non-NHS bodies.

Background

- 1.2. The NHS is a residence based healthcare system. Entitlement to free NHS care is largely based on being ordinarily resident in the UK, or being otherwise exempt from charges under the Charging Regulations. Being ordinarily resident means, broadly, living in the UK on a lawful and properly settled basis for the time being. Non-European Economic Area nationals subject to immigration control also required to have an immigration status of 'indefinite leave to remain'. A person not ordinarily resident in the UK is deemed an overseas visitor.
- 1.3. Providers of 'relevant services' (see paragraph 1.6) are required to identify overseas visitors and make and recover costs from them where no exemption from charge category applies. Commissioners are required not to use NHS funds to pay for overseas visitors that are not eligible to access relevant services for free.
- 1.4. Prior to 23 October 2017, the only bodies that could make and recover charges from overseas visitors for providing them with NHS care were NHS trusts, NHS foundation trusts, and Local Authorities when providing public health functions. This meant that an overseas visitor might be charged for receiving NHS services if they were provided by one organisation, but not if the same services were provided by another organisation.
- 1.5. From 23 October 2017, any provider of 'relevant services', including private providers and those from the voluntary, charitable and social enterprise sector, (known as 'relevant bodies') must, having made such enquiries that it is satisfied are reasonable in all the circumstances, make and recover charges from an overseas visitor where no exemption category applies.
- 1.6. 'Relevant services' are those provided or arranged under the 2006 NHS Act except for
 - primary medical services provided under part 4 of that Act
 - primary dental services provided under part 5 of that Act
 - primary ophthalmic services provided under part 6 of that Act and
 - equivalent services provided under that Act.
- 1.7. Some relevant services, however, are exempt from charge so they are free to all overseas visitors. These include diagnostic tests and investigations for infectious diseases, and, if positive, treatment for those diseases, and accident and emergency services (not including emergency treatment provided after admission to a hospital).
- 1.8. Some groups of overseas visitor are exempt from charge for all, or some, of their treatment. One principal group is in relation to those covered by an immigration health charge (the 'surcharge') which was introduced in 2015. Another is in relation to those who are insured for healthcare in an EEA member state, usually evidenced by presenting a valid, non-UK European Health Insurance Card (EHIC). Where no

exemption applies an overseas visitor must be charged for being provided with relevant services.

2. Resources

Available guidance, tools and training

- 2.1. Extensive guidance ("Main Guidance") on the Charging Regulations, associated law and best practice is available at <https://www.gov.uk/government/publications/guidance-on-overseas-visitors-hospital-charging-regulations>.
- 2.2. An explanation of the main points of this is provided below. However, those tasked with implementing the Charging Regulations will need a greater understanding and should refer to the Main Guidance in detail.
- 2.3. For those who may only need an overview of the rules or as a quick reminder, a 'two-pager' explanation of the charging regime is provided at Annex A. This could be useful for those with no experience of the Charging Regulations to provide a simple overview of the rules and considerations to be made.
- 2.4. The following tools and resources are also available. These can assist providers in the making and recovering of charges:

Supplementary guidance documents

- Ways in which people can be lawfully resident in the UK
- Ordinary Residence tool
- BRPs – overseas applicant and sponsor information
- Information sharing with the Home Office: guidance for overseas patients
- EEA countries and contact points
- Leaflet – Healthcare information for visitors and students from the EEA
- Useful links to national organisations who support vulnerable people
- Useful contacts for NHS Overseas Visitor Managers

Letters and forms

- Example pre-attendance form
- Example letter – request for advice from doctor/dentist
- Example form – undertaking to pay NHS costs
- Example letter – Request for patient information
- Example letter – Reminder for patient information
- Example letter – Document acknowledgement: patient non-chargeable
- Example letter – Document acknowledgement: patient chargeable
- Example letter – No documents received: patient chargeable
- Example letter – payment request
- Example letter – Advice to doctors and dentists
- Immigration information request form

Posters

- Poster – Map of EEA countries
- Poster – S1 forms
- Poster – S2 forms
- Poster – Show your EHIC
- Poster – NHS healthcare not free for everyone – visiting England
- Poster – NHS healthcare not free for everyone – proof of address

- Poster – Outstanding debt
- Poster – health insurance/surcharge
- Poster – Apply for EHIC
- Poster – British national living abroad

The toolkit can be found here: <https://www.gov.uk/government/publications/help-for-nhs-to-recover-costs-of-care-from-visitors-and-migrants> . It is subject to frequent update and improvement.

Forum and E-learning

- 2.5. Further resources can be found within an [existing](#) online forum, offering peer support to Overseas Visitors Managers and those tasked with operating the Charging Regulations within non-NHS organisations. This can be found here <https://dhexchange.kahootz.com/connect.ti>. It is necessary to set up an account by emailing nhscostrcovery@dh.gsi.gov.uk.
- 2.6. Various E-learning modules are available to those with a role to play in implementing the Charging Regulations, now including staff from non-NHS providers, so that they can become trained to the extent necessary to fulfil their requirements. These can be accessed at <https://www.e-lfh.org.uk/programmes/overseas-visitors-cost-recovery/>.
- 2.7. Where a query is not covered in the Main Guidance or other tools and resources and cannot be answered eg via the forum, support can be provided by emailing nhscostrcovery@dh.gsi.gov.uk

3. What non-NHS providers of NHS-funded care have to do

Legal obligations

- 3.1. Non-NHS providers of NHS-funded care must have appropriate systems in place to ensure that they meet their obligations under the Charging Regulations to make and recover charges from overseas visitors when providing relevant services and where no exemption category applies. The legal duties of non-NHS providers in this respect are set out in Chapter 2 of the Main Guidance, including obligations under other legislation such as the Human Rights Act 1998. The Department of Health recommends all relevant bodies have a designated person whose duties include overseeing the implementation of the Charging Regulations (referred to as an Overseas Visitors Manager (OVM)).
- 3.2. A provider of relevant services has a legal obligation, having made such enquiries that it is satisfied are reasonable in all the circumstances, to make and recover charges for those services from the person liable where no exemption category applies.
- 3.3. Relevant services are those provided under the 2006 NHS Act except for primary medical, primary dental, primary ophthalmic and equivalent services provided under the NHS Act. Therefore primary care services such as those provided by GPs, school nurses and health visitors are not relevant services so overseas visitors cannot be charged for them.
- 3.4. The person liable to pay the charge is usually the overseas visitor who has received the services. Where the patient is a child it is the person with parental responsibility for that child who is liable for the charge.

Exemption categories

- 3.5. Both (i) exempt services that are free to all and (ii) exempt groups of overseas visitors that are exempt from charge for all, or some (depending on the category) of their treatment are listed in Chapter 1 of the Main Guidance (they are also within the 'two pager' in Annex A). More detailed explanation of the categories, including what evidence might be appropriate to demonstrate exemption under a particular category, can be found in:
 - Chapter 4 (exempt services)
 - Chapter 5 (exempt under surcharge, or transitional, arrangements)
 - Chapter 6 (exempt groups of former UK residents)
 - Chapter 7 (exempt groups of vulnerable patients and those detained)
 - Chapter 9 (exemption under EU law) and
 - Chapter 10 (exemption under international agreements).

Establishing chargeable status

- 3.6. In some cases, especially where the patient is one covered under surcharge arrangements, the chargeable status of overseas visitors may have already been established, and if so, this should be visible on the patient's NHS record when viewed through the Summary Care Record Application (SCRa) (note that this is different from

the Summary Care Record (SCR), for which access is not required to see the chargeable status). Information about accessing the SCRa is available at Annex B.

- 3.7. Where a patient is referred to a non-NHS provider from an NHS trust or NHS foundation trust provider, if the chargeable status is not already known the NHS trust/FT should have established it before referring the patient to the non-NHS provider. The non-NHS provider will need to be satisfied that the chargeable status is accurate. If a chargeable status assessment has not been done, non-NHS providers will need to establish the chargeable status.
- 3.8. Where a patient is referred to a non-NHS provider by a GP practice, it is the non-NHS provider's responsibility to establish chargeable status if it is not already known. Whilst relevant bodies can work with GPs locally to encourage the sharing of any known chargeable status, GPs are not required to establish this before referring patients.

Baseline questions

- 3.9. To avoid discrimination and ensure that staff comply with legal duties under the Human Rights Act and Equality Act 2010, the same questions must be asked of every single patient, in every single department, whose chargeable status is not known. It is recommended that the standard baseline questions are used although other wording can be used as long as the meaning of the questions remains.
- 3.10. The standard baseline question is: "Where have you lived in the last 6 months?" If the patient has lived anywhere outside the UK, the member of staff asking the question should then ask whether the patient has documentation to demonstrate they are entitled to free NHS care, which might include a non-UK EHIC.
- 3.11. Where a patient declares that they have not lived in the UK for the last 6 months, they may not be ordinarily resident here (and if not they would be an overseas visitor). These patients should then be assessed by someone whose role it is to implement the Charging Regulations to establish if they are, in fact, ordinarily resident here or, if not, whether an exemption from charge category applies or if charges are liable.
- 3.12. More information about ordinary residence is available in Chapter 3 of the Main Guidance, and for particularly unusual cases where it is difficult to establish ordinary residence, a tool is available in the toolbox to help. There is also more information about asking patients questions about their residence status and interviewing them for an eligibility decision to be made in Chapter 11 of the Main Guidance, and in the Upfront Charging Operational Guidance document (see below). E-learning modules may also be used.
- 3.13. In some cases it may be necessary to know a person's immigration status to know if they are exempt from charge. Chapter 12 of the Main Guidance sets out how relevant bodies can share non-clinical data with the Home Office for them to provide their immigration status. It is very important that due process is followed correctly.

Process once chargeable status is established

- 3.14. Where it is established that an exemption category applies to an overseas visitor, they will not be charged. Where the exemption is because they are insured for healthcare purposes in another EEA member state or Switzerland and present a valid EHIC from that country, the details should be reported to the Department of Work and Pensions' Overseas Healthcare Team, so that they can secure funding for the UK for having provided any necessary healthcare to one of their citizens (although it is the

commissioner that funds the provider directly). Chapter 9 of the Main Guidance covers these arrangements in detail.

- 3.15. Where no exemption category applies to an overseas visitor, they will have to be charged in full. Where, in a clinical opinion, the treatment a chargeable overseas visitor needs is non-urgent in that it can safely wait until the patient returns to their country of residence, (which may be more likely when being provided by a non-NHS provider, though each case would have to be considered) payment is required in full before the treatment can be provided.
- 3.16. However, where the treatment needed is immediately necessary (which will include all maternity treatment) or urgent, in that it cannot, in the opinion of a clinician, safely wait until the patient can reasonably be expected to return to their country of residence, the treatment must not be withheld or delayed pending payment. However, the provider is responsible for recovering the charge afterwards, if it has not already been received.
- 3.17. Upfront Charging Operational Framework to supplement the Main Guidance is available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/653670/Upfront_charging_operational_framework.pdf. This also includes information on pricing up the cost of treatment, payment arrangements and risk-sharing arrangements with commissioners.
- 3.18. When it established that charges need to be made and recovered, the relevant body will need to inform the patient with a written explanation of why the charge applies, the estimated charge and how they can pay. The Upfront Charging Operational Framework, as well as Chapter 13 of the Main Guidance, provides detailed advice for providers and commissioners on charging categories, funding arrangements and pricing. Further, a price list has been created by NHS Improvement to support upfront charging which can be used by relevant bodies to estimate costs of treatment, available here <https://improvement.nhs.uk/resources/overseas-patient-upfront-tariff/>.
- 3.19. Where a provider determines that an overseas visitor is chargeable, the commissioner is no longer responsible for funding that patient (who should pay the provider directly). If the patient resides outside the EEA the charge must be calculated at 150% of tariff (but can only be at 100% of tariff where the overseas visitor resides in the EEA or Switzerland). Where urgent or immediately necessary treatment is provided to an overseas visitor who does not pay the provider for that treatment, risk-share arrangements are in place between provider and commissioner, whereby the commissioner funds the provider 50% of the tariff which is then returned to the commissioner if the patient pays. This is set out Chapter 13 of the Main Guidance with the details provided in NHS England's guidance Improving Systems for Cost Recovery for Overseas Visitors, available on this page: www.england.nhs.uk/resources/resources-for-ccgs/
- 3.20. Chapters 11 and 13 set out other points of consideration on implementing the Charging Regulations effectively and the financial issues to consider.

Vulnerable patients

- 3.21. It is very important to consider the position of vulnerable overseas visitors, including those resident in our communities without immigration permission, both those who are exempt from charge and those who are chargeable. Categories of exemption

for vulnerable groups, such as victims of modern slavery, are set out in Chapter 7 of the Main Guidance, along with detailed explanation. Some services are exempt from charge so that they are free to all overseas visitors (and should be charged to the relevant commissioner, but the commissioner must be informed of the exemption). Some of these might be especially applicable to vulnerable groups, such services related to domestic violence.

- 3.22. Not all people who are in vulnerable positions are in an exempt from charge category, but immediately necessary or urgent care, including all maternity services, must always be provided regardless of whether or not they have yet paid for that care. Where payment has not been received in advance of providing urgent or immediately necessary care, it should be recovered as soon as practical, which might include agreeing a reasonable repayment plan with the patient. Where it is clear that a person is destitute or genuinely without access to any funds, a relevant body can conclude that it is not cost effective to pursue payment and write it off in their accounts.
- 3.23. Chapter 8 of the Main Guidance provides detailed information on providing treatment to those not entitled to it free of charge, which will include some groups who may not be in a position to return to their countries of residence quickly.

Annex A - Explanation of 'ordinary residence' in the UK

- 3.24. Unlike some countries, the UK has a residency based healthcare system. This means that entitlement to be treated for secondary care services free of charge is based on 'ordinary residence' in the UK, and not nationality or the past or present payment of UK tax or NI contributions. Having an NHS number or being registered with a GP does not equate to being entitled to free NHS secondary care treatment.

So who is ordinarily resident (OR) in the UK?

British citizens and European Economic Area (EEA) nationals here lawfully, who are properly and voluntarily settled in the UK for the time being, whether of long or short duration, are OR here. This can include those who are temporarily absent from the UK and those who also have a residence overseas, as long as they are still properly settled here.

Those non-EEA nationals who are subject to immigration control also need to have the immigration status of 'indefinite leave to remain', ie permission to reside here permanently.

- 3.25. For anyone who is not OR here (an 'overseas visitor'), providers of NHS secondary care have a legal obligation to make and recover charges, unless an exemption category applies in law to either the person, or the service they are accessing (see table overleaf). Full payment must be received in advance of providing the treatment where clinicians consider it non-urgent.
- 3.26. EEA* residents – visitors (and students) of any nationality who are temporarily in the UK, are exempt from charge for all necessary treatment when they present their valid non-UK European Health Insurance Card (EHIC). The UK is reimbursed for this if EHIC details are reported, even for 'exempt' services, such as A&E treatment, so providers should report EHIC details to the Department of Work & Pensions' Overseas Healthcare Team. If an EHIC is not presented, an EEA visitor should be assessed for charges. For free elective care, they must present an 'S2' form, and again, the UK can then be reimbursed.
- 3.27. British Citizens and EEA nationals, who reside solely outside the EEA, are charged for NHS hospital treatment where no exemption applies. In England they are charged at 150% of tariff.

Non-EEA nationals

- 3.28. Temporary migrants (those here six months or more) pay a health 'surcharge' with their visa which means they can then access the NHS similarly to an OR person (not including assisted conception services) whilst their visa is valid. Some groups are not required to pay the surcharge, but they have the same entitlement as a surcharge payer. They are all likely to have a Biometric Residence Permit and information about their chargeable status is available on NHS Spine, visible via the Summary Care Record Application (SCRa).

3.29. Visitors (those here lawfully for up to six months at a time, plus those here unlawfully) are charged for their healthcare where no exemption applies. In England they are charged at 150% of NHS tariff if resident outside the EEA. The provider's commissioner funds 75% of this until the money is recovered from the patient. Those patients who after two months fail to pay debts over £500 can be denied re-entry to the UK or extension of stay. Providers should follow due process to report these debtors and encourage payment.

** Austria, Belgium, Bulgaria, Croatia, Cyprus (Southern), Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, plus Iceland, Liechtenstein and Norway. Also Switzerland by special arrangement.*

Which visitors do not have to pay for NHS hospital treatment in England?

Exempt Services	Exempt Groups
No charge to any overseas visitor for these	Will include family members in some cases
A&E services (not including emergency treatment after admission)	UK state pensioners residing in the EEA. Must have registered an 'S1' document there.
Diagnosis and treatment of specified infectious diseases	UK armed forces' members, war pensioners or former UK residents working overseas for the UK Government
Diagnosis and treatment for sexually transmitted diseases	Refugees, asylum seekers and some failed asylum seekers, plus children looked after by a Local Authority
Treatment needed as a consequence of sexual/domestic violence, torture or FGM	Victims, and suspected victims, of modern slavery, including human trafficking
Family planning services (note this does not include terminations of pregnancy)	Prisoners and those detained for immigration or compulsory mental health purposes
	NATO personnel
	Visitors from EEA who have valid EHIC, S1 or S2 documents
	Visitors from countries† with which the UK has a reciprocal healthcare agreement (usually only for immediate needs)
Charges that a resident would pay, e.g. prescription charges, may still apply	

- 3.30. All patients have to be assessed for charges. It is never acceptable to target certain patients based on race, language etc. Baseline questioning of all patients and the use of pre-attendance forms is recommended as well as viewing charging information available for some patients on their NHS records when using the Summary Care Record Application as an accredited person.

Protecting the patient. Chargeable patients must never be denied immediately necessary treatment, including any maternity care. If clinicians consider their need to be immediate or urgent (meaning it cannot be delayed until they return home), care will be provided even if they have not paid in advance, but costs must be recovered afterwards, where possible. However, if clinicians consider the treatment non-urgent

- 3.31. A word about Primary Care: Primary care is free of charge to both ordinarily resident patients and overseas visitors, except where any statutory charges apply, eg prescriptions or dentistry. GPs can register anyone, including those who are not OR in the UK, as an NHS patient and then provide them with free primary medical services. But being registered with a GP does not mean that NHS hospital treatment is then free upon referral. GPs are encouraged to assist providers by sharing information appropriately on potential chargeable status where known, and alert overseas visitors to potential charges upon referral.

- 3.32. Important – This leaflet is a brief guide only and not a full statement of law. Providers of NHS funded secondary or community care must ensure they understand the full scope of the NHS (Charges to Overseas Visitors) Regulations before levying charges. Full guidance can be found here:
<https://www.gov.uk/government/publications/guidance-on-overseas-visitors-hospital-charging-regulations?>

** Anguilla, Australia, Bosnia and Herzegovina, British Virgin Islands, Falkland Islands, Gibraltar, Isle of Man, Jersey, Kosovo, Macedonia, Montenegro, Montserrat, New Zealand, Serbia, St Helena, Turks and Caicos Islands*

Annex B - Summary Care Record Application

Clarification on terminology

- 3.33. The Summary Care Record (SCR) should not be confused with the Summary Care Record Application (SCRa).
- 3.34. The SCR is an electronic record of important patient information, including current medications and allergies, created from GP medical records. It can be seen and used by authorised staff in other areas of the health and care system involved in the patient's direct care
- 3.35. Providers do not need to access a patient's SCR to see their recorded chargeable status information.
- 3.36. The Summary Care Record Application (SCRa) is a National Application which can be used to:
- Access a patient's SCR
 - View and Edit Demographics Data
 - Register Births
 - View Child Protection plans
 - View and Set FGM risk indicators
 - View, Set, & Edit Chargeable Status information

Accessing SCRa

- 3.37. Organisations with an 'N3' connection can access National Applications (eg SCRa).
- 3.38. Consumers are no longer able to order an N3 circuit as the N3 network expired on the 31/3/2017. Currently all legacy N3 customers are using the Transition Network to obtain connectivity but will migrate to an 'HSCN' connection over the coming years. Consumers wanting quick access may contact one of the Transition Network Aggregators to provide a shared connection. Alternatively, quotes for HSCN can be obtained from any Stage 2 compliant supplier. Details of both scenarios can be found on the HSCN webpages - <https://digital.nhs.uk/health-social-care-network/new-to-hscn>
- 3.39. Application access is managed via Rolebased Account Control (RBAC) and requires local 'Registration Authorities' (RA) policies and procedures to manage Smart Cards and user-access to National Applications.
- 3.40. Specifically to access 'Chargeable Status' and associated information via SCRa the key RBAC assignments are:
- B0259 – supporting read-only access
 - B0266 – providing read/write access (requires accreditation)

These RBAC assignments will not give user access to the SCR itself.