

Health and Personal Social Services
Provision of Health Services to Persons Not
Ordinarily Resident Regulations (Northern
Ireland) 2015

Operational Guidance

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Glossary

A1	Form issued to posted workers confirming competent state.
Asylum seeker	A person who has made a formal application with the Home Office to be granted asylum, temporary protection or humanitarian protection.
Authorised child	A child who has been granted leave to enter the United Kingdom with a parent or legal guardian who is receiving a course of treatment in respect of which no charge may be made or recovered under regulation 11; or the child of an authorised companion.
Authorised companion	A person who has been granted leave to enter the United Kingdom to accompany a person who is obtaining a course of treatment in respect of which no charge may be made or recovered under regulation 11.
EHIC	European Health Insurance Card. A valid EHIC or provisional replacement certificate can demonstrate that a visitor is exempt from charge under EU regulations, and is therefore entitled to publicly-funded health service treatment that is medically necessary during their visit until the date of their planned return home.
HRG Costings	Healthcare Resource Groups are clinically meaningful groupings of patient activity, based on procedures and diagnoses, which consume similar resources.
Refugee	Anyone granted asylum, temporary protection or humanitarian protection under the Immigration Rules made under section 3(2) of the Immigration Act 1971.
S1	Form issued to pensioners or frontier workers—and their family members—as a certificate of entitlement to health care in another EEA country or Switzerland, paid for by the authorities in the issuing state.
S2	Payment guarantee from the issuing country for planned treatment.

Abbreviations

BSO	Business Services Organisation
CA	Competent authority
DWP	Department of Work and Pensions
EEA	European Economic Area
EHIC	European Health Insurance Card
HSC	Health and Social Care service (the equivalent of the NHS in Northern Ireland)
MoD	Ministry of Defence
PRC	Provisional replacement certificate (in place of an EHIC)

INTRODUCTION

Article 42 of the Health and Personal Social Services (Northern Ireland) Order 1972 provides for the Department to make health services available to persons not ordinarily resident in Northern Ireland, subject to such charges or exemptions from charge as may be prescribed.

The Health and Personal Social Services Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015 (the Regulations) prescribes how health services shall be made available to visitors to Northern Ireland at a charge, and sets out the services and categories of visitor that are exempt from charge.

The purpose of this guidance is to provide advice to the Health and Social Care (HSC) service in Northern Ireland in implementing the Regulations. It is aimed at all HSC bodies that have a role in assessing people's eligibility to receive publicly-funded health services.

All HSC Trusts should ensure that dedicated staff are in place with responsibility to identify chargeable patients. However, all staff—including senior managers and clinicians—have a responsibility for ensuring the Regulations are implemented effectively.

The guidance is not intended as a substitute for the Regulations themselves and it cannot cover all possible circumstances that may arise. Specific queries regarding entitlement of individuals should be raised in the first instance with the BSO's Access to Healthcare Team:

Access to Healthcare Guidance and Development Team
Counter Fraud and Probity Services
Business Services Organisation
2 Franklin Street
Belfast
BT2 8DQ
Tel: 028 9536 3855
Email: athsc.queries@hscni.net

Ultimately however the decision on whether a patient is eligible to obtain publicly-funded treatment rests with the relevant HSC body providing that treatment. In cases where a patient's circumstances are unclear, unusual or are not provided for in this guidance, HSC providers should seek their own legal advice.

This guidance revokes Circular PCCD 10/2000 and PCCD 01/2012, and may be revised as necessary to reflect amendments to the Regulations.

EXECUTIVE SUMMARY

Eligibility to receive publicly-funded health care in Northern Ireland is based on ordinary residence. **A person will be ordinarily resident here when that residence is lawful, voluntary, and for a settled purpose as part of the regular order of their life for the time being, whether of short or long duration. Nationals of countries outside the EEA must also have indefinite leave to remain in the UK** in order to be considered ordinarily resident.

Anyone who is ordinarily resident in Northern Ireland is entitled to access publicly-funded health services.

The Regulations provide that health services shall also be made available to any visitor at a charge, and detail those services and categories of visitors which are exempt from charge.

A visitor is any person who is not ordinarily resident in Northern Ireland.

The Regulations cover access to general health services—primary medical services, general dental services, general ophthalmic services and pharmaceutical services—as well as secondary care services. The BSO is required to ensure that only those persons who are entitled to access publicly funded health services—either on the basis of ordinary residence or because the individual is an exempt category of visitor according to the Regulations—are included on the list of GP-registered patients. As registration with a GP and issue of a medical card is generally accepted as proof of eligibility to access publicly-funded health service treatment, it is important that the BSO satisfies itself that that an individual has provided sufficient evidence in support of an application to join a GP list. However, Trusts should be aware that not all patients who have registered with a GP practice will be entitled to the full range of health services.

All HSC Trusts have responsibility for establishing whether an individual seeking hospital treatment is eligible to access publicly-funded health services. This will mean establishing whether someone is ordinarily resident or a visitor. If an individual is a visitor, Trusts must then establish whether they or the services they are accessing fall within one of the exemptions set out in the Regulations and should not

therefore be charged (see chapters 2 and 3). Where charges do apply, Trusts must make and recover charges as appropriate (see chapter 7).

Human rights obligations must be taken into account. Chargeable treatment which is considered by clinicians to be immediately necessary must never be withheld from a visitor, even when that visitor has indicated they cannot pay. This does not mean that the treatment should be provided free of charge. Patients or their representatives should be advised at the earliest opportunity that charges may still apply and, if not recovered in advance of treatment, should be pursued after the treatment has been provided. Treatment which is not immediately necessary but is nevertheless classed as urgent by clinicians as it cannot wait until the visitor can be reasonably expected to return home, should not be delayed or withheld for the purposes of securing payment. However, every effort should be made to obtain payment in the period before treatment is scheduled or begins. Non-urgent or elective treatment should not be scheduled until a deposit equivalent to the full estimated cost of treatment has been obtained.

In implementing the Regulations and applying this guidance, all relevant HSC bodies must comply with their statutory obligations of equality and good relations. It is therefore important that a consistent approach is applied for all patients to establish entitlement to publicly funded health services in Northern Ireland.

NOTE:

This guidance is provided without reference to EU Exit and will be updated to reflect any changes in agreements between the UK and EU and the UK and Ireland.

CHAPTER 1: ORDINARY RESIDENCE

- 1.1 Access to publicly-funded health care services in Northern Ireland is residence-based. The test of residence to determine eligibility for health services is known as 'ordinary residence'¹.

A person will be considered ordinarily resident here when that residence is **lawful, voluntary, and for settled purposes as part of the regular order of their life for the time being, whether of short or long duration. Nationals of countries outside the EEA must also have indefinite leave to remain in the UK in order to be considered ordinarily resident.** Anyone who is ordinarily resident in Northern Ireland is entitled to access all publicly-funded health services.

- 1.2 Determining whether an individual is ordinarily resident in Northern Ireland will require an assessment of whether they are:
- a. here lawfully (in the case of non-EEA nationals subject to immigration control, they must have been granted indefinite leave to remain in the UK);
 - b. here voluntarily; and
 - c. properly settled here for the time being.
- 1.3 A person is not ordinarily resident here simply because they are a British or Irish national, hold a British or Irish passport, own property in Northern Ireland, or have paid (or are currently paying) UK National Insurance contributions or taxes.
- 1.4 The checklist attached at **Annex A** to this document may be helpful for HSC organisations in determining whether an individual is ordinarily resident in Northern Ireland. However, this can only ever be a guide to reaching a determination. HSC organisations should exercise discretion and take account of individual circumstances when assessing an individual's residence status. It may be necessary for HSC Trusts or the BSO to seek legal advice in some cases.

¹ Useful support information on Ordinary Residence can be found here:-
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/258236/ordinaryresidence.pdf

- 1.5 Further guidance and background to ordinary residence can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/258236/ordinaryresidence.pdf

Being lawfully in Northern Ireland

British and Irish citizens

- 1.6 British and Irish citizens have an automatic right of abode in the UK and will always be here lawfully. A British or Irish citizen will therefore satisfy the ordinary residence test when they can demonstrate that they are taking up residence here voluntarily and for a settled purpose.

EEA nationals

- 1.7 Nationals from other EEA countries and Switzerland are almost always in the UK lawfully—that is, they are free to enter the UK subject to a passport or identity card check. An EEA national who is not exercising a Treaty right² and does not otherwise have a right of residence in the UK will not automatically be considered to be here unlawfully and may still be considered to be ordinarily resident, provided they satisfy the other requirements of that test—they are here voluntarily and for a settled purpose, as part of the regular order of their lives for the time being.
- 1.8 However, where the non-EEA family member of an EEA national is claiming to be lawfully resident in Northern Ireland, it will be necessary for the EEA national to be exercising Treaty rights (i.e. have a right of residence) or to have permanent residence in order for that family member to meet the conditions of the ordinary residence test. It is therefore important to know when a person has a right to reside or permanent right to reside under EU rules. Further information on the rights of family members of EEA nationals is provided at paragraphs 1.9 – 1.11 below. More information on EU Treaty

² Under Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004, on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

rights, and determining whether a person is exercising a Treaty right, is provided at paragraphs 1.12 – 1.18.

Family members of EEA nationals

- 1.9 Direct family members³ of EEA nationals have an automatic right of residence in the UK if they are accompanying or joining an EEA national who is exercising Treaty rights, or has a permanent right of residence.
- 1.10 Non-EEA nationals who are direct family members of EEA nationals are not required to have a residence card in order to have right of residence, although they may choose to apply for one as confirmation of their right. As long as a person can demonstrate that they are the direct family member of an EEA national, and that that EEA national is exercising Treaty rights (or is within the first three months of the stay or has acquired permanent residence) then the non-EEA family member has the right to reside here. This applies regardless of the previous immigration status of the family member.
- 1.11 Non-EEA nationals who are extended family members⁴ only have a right of residence under EEA Regulations where they hold a valid EEA family permit or residence card issued by the Home Office. Residence where the non-EEA extended family member is not in possession of a valid EEA family permit or residence card is not lawful residence and such a person cannot be classified as an ordinary resident.

Determining if an individual is exercising EU Treaty rights

³ Direct family members are spouse/ civil partner of EEA national; direct descendants of the EEA national, or their spouse/ civil partner, who are under 21 or are dependent on the EEA national or their spouse/ civil partner; direct ascendants (parents, grandparents, great grandparents) of the EEA national or their spouse/ civil partner, who are dependent on the EEA national or their spouse/ civil partner. For EEA nationals exercising their Treaty rights as students in the UK, only the spouse/ civil partner and dependent children qualify as direct family members. Being dependent on the EEA national means that the family member is financially dependent on the EEA national for the majority of their essential needs.

⁴ Extended family members are other relatives of the EEA national or their spouse/ civil partner who were dependent on the EEA national or a member of the EEA national's household before coming to the UK, and are dependent on a member of the EEA national's household in the UK; on health grounds strictly require the personal care of the EEA national or their spouse/ civil partner; or would meet the requirements under the Immigration Rules for indefinite leave to remain to enter as the dependent relative of a British citizen or settled person; or are the durable partner of the EEA national.

- 1.12 It must be emphasised that exercising Treaty rights or having a permanent right to reside are not necessary for an EEA national to meet the ordinary residence test and thereby be entitled to access health services in Northern Ireland. However, the question of whether an EEA national is exercising Treaty rights is relevant when assessing whether their non-EEA family members can then be lawfully in the UK. Therefore it may be necessary to determine whether an EEA national is exercising Treaty rights.
- 1.13 EEA nationals are entitled to reside in the UK for an initial period of three months without needing to exercise a Treaty right. An EEA national in the UK for more than three months will have a right of residence for as long as they remain a qualified person. A qualified person is an EEA national who is in the UK and is exercising a Treaty right as any of the following:
- a. a worker⁵
 - b. a self-employed person
 - c. a student
 - d. a self-sufficient person
 - e. or, a job-seeker (but only up to 91 days).
- 1.14 An EEA national who wishes to exercise a Treaty right as a student or self-sufficient person must have sufficient resources to prevent themselves and their family members becoming an unreasonable burden on the social assistance system in the UK and must have comprehensive sickness insurance (CSI) for themselves and their family members. Health service treatment is not classed as social assistance.
- 1.15 A person would be considered as having CSI if:
- a. he or she has a comprehensive private health insurance policy, or
 - b. he or she is validly entitled, in accordance with Regulation (EC) 883/2004 on the coordination of social security systems to access health care in the UK (for example, under the S1 or EHIC schemes).

⁵ Nationals of Croatia do not have an automatic right to work in the UK as employees and generally require permission from the Home Office before they can start working. They are not entitled to reside in the UK as jobseekers and only have a right to reside as workers if they hold a valid accession worker authorisation document and are working in accordance with the conditions of that document. Not all Croatian nationals are subject to these restrictions—those who are exempt include those who have worked without a break for 12 months in accordance with a valid accession worker authorisation document, spouses and civil partners of British citizens, and family members of EEA nationals who have a right to reside in the UK and are not themselves subject to restrictions. The restrictions do not impact on Croatian nationals' right to reside as a student, self-employed or self-sufficient person.

- 1.16 Students from other EEA countries who are insured in their home member state and who intend to return home after their studies in the UK will usually have a valid EHIC, even if they intend to be here for several years. The registration in the UK of an S1 form for an EEA or Swiss pensioner who moves their residence to the UK also satisfies the CSI requirement.
- 1.17 Once an EEA/ Swiss national has been resident for a continuous period of five years in accordance with EU law (i.e. he or she has been exercising Treaty rights), they acquire a right of permanent residence which can be lost through an absence from the UK of more than two consecutive years. EEA nationals with a right of permanent residence are not required to exercise Treaty rights in order to have an ongoing right of residence in the UK.
- 1.18 More information on the rights of EEA/ Swiss nationals and their families in the UK is available online at the following links:

<https://www.gov.uk/eea-registration-certificate/overview>

<https://www.gov.uk/apply-for-a-uk-residence-card>

<https://www.gov.uk/government/collections/eea-swiss-nationals-and-ec-association-agreements-modernised-guidance>

Non-EEA nationals

- 1.19 Non-EEA nationals usually need permission to be here—ie. they need to hold a visa, except in some circumstances when they are not subject to immigration control, for example if they are a diplomat or due to their relationship to an EEA national who is resident here.
- 1.20 Section 39 of the Immigration Act 2014 changed the meaning of ordinary residence in Article 42 of the Health and Personal Social Services (Northern Ireland) Order 1972 as it relates to non-EEA nationals who are subject to immigration control. Such individuals, in addition to satisfying the existing test for ordinary residence, must also now have indefinite leave to remain in the UK in order to be ordinarily resident here.

Being properly settled for the time being

- 1.21 There is no requirement for any person to actually be living here permanently or indefinitely in order to meet the ordinary residence test and there is no minimum period of residency that confers ordinarily resident status (although non-EEA nationals must usually have an immigration status of indefinite leave to remain indicating the right to live here on a permanent basis).
- 1.22 It is perfectly possible to be ordinarily resident here from the day of arrival, when it is clear that an individual has, upon arrival, taken up settled residence. In each case, it is for the relevant HSC organisation (the BSO in the case of GP registrations and HSC Trusts in the case of individuals presenting for hospital treatment) to decide whether the criteria within the ordinary residence test have been met.

Assessing Ordinary Residence in particular circumstances

Family members

- 1.23 A person who is ordinarily resident will be so in their own right and it is not transferable to other family members, except in certain circumstances regarding children. Where a child⁶ who normally lives elsewhere is visiting an ordinarily resident parent, they can take on the ordinarily resident status of the parent if the parent can show that the child normally lives with both parents, for example on a shared residence order.

Former residents

- 1.24 Former residents who have emigrated and no longer reside here are not ordinarily resident when they visit for a holiday. Even when they are visiting for an extended period, unless they can demonstrate that they are here for settled purpose in the regular order of life for the time being, they cannot be classified as ordinary resident. The questionnaire at **Annex A** can provide a basis for establishing this.

⁶ PNOR 2015 - definition "child" means a person who is— (a) under the age of sixteen; or (b) a qualifying young person within the meaning of section 138 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(4) (or section 142 of the Social Security Contributions and Benefits Act 1992(5) ("Child" and "qualifying young person");

People who work or volunteer outside Northern Ireland

- 1.25 A person can be absent from Northern Ireland for a temporary or finite period of time and still be ordinarily resident here. For example, staff, workers and volunteers for UK charity and missionary agencies may not intend to live overseas indefinitely and may maintain a base in Northern Ireland to which they return regularly or periodically between assignments. This base may be their own home or the home of close friends or family. A letter from the UK-based organisation for which they have gone overseas, confirming that their assignment is temporary, may be useful. On the other hand, if there are no indicators that the person remains, or has ever been, properly settled here, it is unlikely that they would pass the ordinary residence test.
- 1.26 Similarly a person whose work takes them away from Northern Ireland for the majority of the time (for example a pilot or cabin crew) but whose home—which they return to between trips—is still here, is likely to be ordinarily resident here. People who are posted overseas temporarily as part of their contract and who maintain a base here that they return to (even if only for short stays) may be considered ordinarily resident.
- 1.27 However, someone who works and is settled elsewhere and only spends a few weeks of the year here visiting family is not likely to be properly settled and is therefore unlikely to be considered ordinarily resident.

People who split their time between more than one country

- 1.28 A person can be ordinarily resident in more than one country at once. As long as they can demonstrate that they are here lawfully and are properly settled here for the time being, they will meet the ordinary residence test. There is no requirement that their time should be equally split between Northern Ireland and another country in order to maintain ordinary residence. Where a person has lived in more than one country for several years, consideration needs to be given to whether there is a pattern of regular trips to Northern Ireland over the years that demonstrates a sufficient degree of continuity to establish ordinary residence here. The length and number of trips, family and other relationships, and financial/ property connections will all be relevant factors in

determining if the person is ordinarily resident here despite spending time living in another country.

Students

- 1.29 Someone who has been ordinarily resident in Northern Ireland studying outside of Northern Ireland temporarily can still be considered ordinarily resident here if, for example, they plan to return here after their studies. However, if it is not their intention to return to live here and they have moved residence and are simply visiting, they will not be ordinarily resident.
- 1.30 Students in Northern Ireland from an EEA country or Switzerland who intend to return home after their studies may continue to be insured by their home state. These students should be asked to provide a valid EHIC or PRC so that the costs of treatment can be recovered. If a student cannot provide a valid EHIC or PRC, their eligibility to access publicly-funded health care should be assessed against the Regulations (and in particular regulation 6(2)(d)).
- 1.31 Non-EEA students who hold a valid biometric residence permit indicating that they have paid the immigration health surcharge (or are exempt from paying the surcharge) will be entitled during their stay to health care on the same basis as someone who is ordinarily resident here. See chapter 6 for more information on the health surcharge.

CHAPTER 2: HEALTH SERVICES EXEMPT FROM CHARGE

2.1 This chapter sets out details of **regulation 4** which sets out health services which are free of charge to all visitors, **except where the visitor has travelled specifically for the purpose of receiving treatment (regulation 4 (2)).**

2.2 No charge may be made or recovered in respect of the following services provided to visitors (except for those who travelled to Northern Ireland specifically to receive them):

- **Accident and emergency services, whether provided at a hospital accident and emergency department, a minor injuries unit or elsewhere.**

This does not include emergency services that are provided once the visitor has been accepted as an inpatient (for example, for emergency surgery or intensive care), or at a follow-up outpatient appointment. These services will be chargeable unless the visitor is exempt from charge in their own right;

- **Services provided outside a health service hospital, except where the staff providing the services are employed at or working under the direction of, a health service hospital and in line with part 3 of the Regulations; General Health Services.**

This means that health services provided in the community will be chargeable where the staff providing them are employed by or on behalf of a health service hospital;

- **Family planning services**, that is services that supply contraceptive products and devices to prevent pregnancy—this does not include termination of pregnancy;
- **The treatment (including diagnosis) of certain infectious diseases as specified in Schedule 1 to the Regulations** (and replicated at **Annex B** of this guidance), to protect the wider public health. This exemption from charge applies to tests to diagnose the condition, even where the outcome is a negative result. It will also apply to any treatment provided where a

specified condition is suspected, up to the point that it is negatively diagnosed;

- **The treatment (including diagnosis) and of sexually transmitted infections.** This exemption from charge applies to tests to diagnose the condition, even where the outcome is a negative result. It will also apply to any treatment provided where a specified condition is suspected, up to the point that it is negatively diagnosed;
- **Treatment (including diagnosis) in respect of infection with any human immunodeficiency virus.** This exemption from charge applies to tests to diagnose the condition, even where the outcome is a negative result. It will also apply to any treatment provided where a specified condition is suspected, up to the point that it is negatively diagnosed;

2.1 Anyone receiving compulsory treatment under a court order or who is liable to be detained in a hospital, or received into guardianship under the Mental Health (Northern Ireland) Order 1986).

2.2 Unlike the exempt categories of visitors specified in the Regulations and detailed in the following chapter, charges will apply in respect of the services listed above if it appears that a visitor has travelled to Northern Ireland specifically to receive those services.

2.3 Even though the services listed above are exempt from charge, where appropriate Trusts should still seek to record and report details of patients with an EHIC/ PRC, so that costs of treatment can be recovered from the country with which the individual is insured. Also any visitors to Northern Ireland from other parts of the UK should be assessed and treated as a visitor. They are more than likely to be exempt from charge under regulation 4 or 5. However, where appropriate Trusts should still seek to record details of patients so that costs of treatment can be recovered from the responsible commissioner. For more information see Finance Circular HSC (F) 30-2017 and when updated at <https://www.health-ni.gov.uk/publications/external-financial-guidance-2018>.

CHAPTER 3: VISITORS EXEMPT FROM CHARGES

- 3.1 This chapter provides more detail on the categories of visitors who are eligible to access publicly-funded health services while on a visit to Northern Ireland.
- 3.2 The table at **Annex C** summarises exempt categories of visitors, the extent of any exemptions which apply and suggests the sorts of documentary evidence that HSC organisations might ask for to assess a visitor's eligibility under these exemptions. However, the suggested documentary evidence is not intended to be an exhaustive list and the BSO's Access to Healthcare Team is available to provide further advice where required.
- 3.3 Regulations 5 to 22 make provisions for certain categories of visitor to Northern Ireland to be exempt from charges, except where charges would apply to persons who are ordinarily resident. This is prescribed in **Regulation 23: extent of exemption from charges**.
- 3.4 **If any of the categories of visitor is here from the EEA or Switzerland and exempt from charge, where appropriate Trusts should still seek to record and report details of patients with an EHIC/ PRC, so that costs of treatment can be recovered from the country with which the individual is insured. Also any visitors to Northern Ireland from other parts of the UK should be assessed and treated as a visitor. They are more than likely to be exempt from charge under regulation 4 or 5. However, where appropriate Trusts should still seek to record details of patients so that costs of treatment can be recovered from the responsible commissioner. For more information see Finance Circular HSC (F) 30-2017 and when updated at <https://www.health-ni.gov.uk/publications/external-financial-guidance-2018>.**
- 3.5 **Regulation 5: lawful residence for 12 months**—a person who has been living lawfully in the UK for a period of not less than 12 months immediately preceding the time services were provided is exempt from charge. Where, on a date during a course of treatment for which charges would have been made, a person meets the requirement to be lawfully resident in the UK for 12 months, no charge should be made for any services received after that date. Any

services provided prior to the date on which the person meets the 12 months residency period will continue to be chargeable.

3.6 Most visitors who have been in the UK for 12 months will be either ordinary resident or in the case of non EEA citizens will have the correct visa (to be lawful) and will have paid or be exempt for the immigration surcharge and as such be entitled to access healthcare at no charge.

3.7 **Regulation 6: presence for work, study etc.**—a person who is present in Northern Ireland for the purpose of:

- engaging in employment with an employer whose principal place of business is in the UK or which is registered in the UK as a branch of an overseas company;
- being a self-employed person whose principle place of business is in the UK;
- working as a volunteer with a voluntary organisation;
- pursuing a full time course of study which is substantially funded by the Northern Ireland departments, the Secretary of State, the Welsh Ministers or the Scottish Ministers or which is of at least 6 months duration; or
- taking up permanent residence in the United Kingdom

is exempt from charge.

NOTE: permanent residence or indefinite leave to remain can be applied for to the Home Office if you have continuously lived legally in the UK for 5 years (in most cases).

3.8 It is not sufficient for individuals to have the right to work here in order to be covered by this exemption—they must be actually in employment (or due to be imminently in employment) or be self-employed.

3.9 **Regulation 7: EU Rights**—under this regulation, any visitor who is entitled to the provision of services at no charge under EU Regulations, an agreement with the EU and any other country or virtue of an enforceable EU right is exempt from charge.

- 3.10 In most circumstances this will mean that on presentation of a valid EHIC or PRC, registration of an S1 or arrangement of an S2, an EEA visitor can access treatment. NOTE: ROI residents do not need to present an EHIC or S1 but must prove residency in ROI. These are explained more in Chapter 5.
- 3.11 This exemption may also apply to visitors who have a right to be with an EEA citizen while they are exercising Treaty rights.
- 3.12 **Regulation 8: reciprocal healthcare agreements**—a visitor from a country or territory specified in Schedule 2 to the Regulations is exempt from charge. **Annex D** lists the reciprocal healthcare agreements and their extent.
- 3.13 **Regulation 9:** refugees, asylum seekers and children in care—the following categories of visitor are exempt from charge:
- 3.14 Regulation 9(a): refugees—anyone granted temporary protection, asylum or humanitarian protection under the Immigration Rules made under section 3(2) of the Immigration Act 1971 is recognised as a refugee and is exempt from charges.
- 3.15 Regulation 9(b): asylum seekers and others seeking refuge—anyone who has made a formal application to the Home Office to be granted temporary protection, asylum or humanitarian protection is exempt from charges.
- Under this regulation anyone who has made an application for asylum even when it is failed is still exempt from charge. However this only applies from the introduction of these Regulations i.e. any failed asylum seekers pre 2015 are not exempt from charge.
- 3.16 Regulation 9 (c): children who have been taken into the care of an authority under the Children (Northern Ireland) Order 1995—children who are looked after by an authority under the Children (Northern Ireland) Order 1995 are exempt from charges. This includes the following children:
- children taken into care by virtue of a care order (by a court) made under the Children (Northern Ireland) Order 1995;

- children who are in Northern Ireland unaccompanied by a parent or guardian, are abandoned, or for whom there is no one with parental responsibility; and,
- children who are voluntarily accommodated by an authority (without the need for intervention by a court) under the Children (Northern Ireland) Order 1995.

3.17 There may be occasions when a Trust treats a child visitor who is unaccompanied or abandoned, or for whom there is no one with parental responsibility, and whom the relevant Trust believes should be in the care of or looked after by an authority under the Children (Northern Ireland) Order 1995.

Regulation 10—victims, and suspected victims, of human trafficking

3.18 Human trafficking is defined as:

“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”⁷

3.19 A person who is thought to be a victim of human trafficking can be referred to the competent authorities (CAs) of the UK to be identified as such. The CAs are the UK Modern Slavery Human Trafficking Unit—which deals with referrals from the police, local authorities, hospital trusts and others—and the Home Office Immigration and Visas—where cases are linked to immigration/asylum applications.

3.20 Referral to a CA is voluntary and can happen only if the potential victim gives permission. More information on making a referral to the CA—including the referral form—is available at

⁷ Article 4(a), Council of Europe Convention on Action Against Trafficking in Human Beings.

<https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms>.

- 3.21 The CAs will consider if there are reasonable grounds to consider the person to be such a victim and, if so, will issue a reasonable grounds decision. Individuals given a reasonable grounds decision are suspected victims of human trafficking and are exempt from charge during the recovery and reflection period (45 days in the UK). They will continue to be exempt from charge if the CAs confirm them as being a victim of trafficking with a conclusive grounds decision.
- 3.22 Those whom the CAs confirm not to be victims of trafficking are no longer exempt from charge.
- 3.23 **Regulation 11: exceptional humanitarian reasons**—this regulation allows the Department to determine an individual as exempt from charges on exceptional humanitarian grounds, as long as certain specified criteria are met. It is envisaged that the powers will only be used very rarely, where there is a clear humanitarian imperative to do so. **As far as relevant HSC bodies are concerned, their role in the context of the Regulations is to establish whether such a determination has been made by the Department, not to make the determination themselves.**
- 3.24 Where the Department has made such a determination, it will inform the relevant Trust and will provide supporting documentation (although in an emergency this may arrive after the patient).
- 3.25 Where such a determination is made, the person will be allowed to be accompanied by an authorised companion (which need not be their spouse/civil partner) and any authorised children, who will be exempt from charges for treatment the need for which arises while they are here, but not for other treatment (Regulation 21.1.d).
- 3.26 **Regulation 12: diplomats posted to the UK**—diplomats posted to the UK are exempt from charges. This includes staff working in embassies in the UK, but does not include diplomats from embassies in another country who happen to be visiting here on business or on holiday.

- 3.27 **Regulation 13: NATO forces**—the eligibility of NATO personnel and attached civilians in the UK is governed by the NATO (Status of Forces Agreement) 1955. This regulation provides an exemption from charge for anyone who is carrying out official duties and their dependants while serving in the armed forces of a country which is part of NATO. A full list of NATO countries is available at http://www.nato.int/cps/en/natohq/nato_countries.htm.
- 3.28 **Regulation 14: long-term visits by UK pensioners**—this regulation concerns a person who is in receipt of a UK state pension and who lives both in the UK and another EEA State and Switzerland. As long as they spend at least six months living in the UK, and are not registered as a resident in another EEA State and Switzerland, they are exempt from charges for treatment they receive during the period they live here. This exemption does not apply if they are living in a non-EEA country during the period of absence.
- 3.29 **Regulation 15: war pensioners and armed forces compensation scheme payment recipients**—people who receive UK war pensions or war widows' pensions are exempt from charges, as are recipients of armed forces compensation scheme payments.
- 3.30 **Regulation 16: armed forces, Crown servants and others**—members of UK regular and reserve forces, UK recruited Crown servants, British Council staff and Commonwealth War Graves Commission staff; and those in employment (paid or unpaid) financed in part by the UK government (in arrangements with the government or public body of another country or territory) are exempt from charge.
- 3.31 **Regulation 17: former residents working overseas**—any visitor who has had (at any time) lawful residence in the UK for ten continuous years and are employed or self-employed outside the UK for a period that has not exceeded five years are exempt from charge.
- 3.32 **Regulation 18: missionaries**—people acting as missionaries (i.e. doing religious and social work) overseas for an organisation established in the UK, regardless of whether they are drawing a salary or wage or receiving any kind of funding or financial assistance from that organisation, are exempt from charges.

3.33 **Regulation 19: prisoners and detainees**—any visitor who is detained in a prison, young offenders centre or juvenile justice centre in Northern Ireland or who is detained under particular immigration legislation is exempt from charge.

3.34 **Regulation 20: employees on ships**—people working on ships registered in the UK are exempt from charges. The exemption applies to any visitor who is employed or engaged or working in any capacity on board a UK-registered ship and whose normal place of work is on board a UK-registered ship.

3.35 **Regulation 21: treatment the need for which arose during a visit**—this regulation lists categories of visitors who are exempt from charge for treatment the need for which only arose during the visit to Northern Ireland.

For the purposes of this exemption, ‘treatment’ includes medical, dental and nursing services, required for the prevention or diagnosis of an illness or for the care of women who are pregnant or in childbirth.

3.36 The following categories of patients are exempt from charge under this regulation:

- People in receipt of a pension or benefit under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 or the Social Security Contributions and Benefits Act 1992 who have at any time lived lawfully in the UK, or been employed by the UK government, for ten continuous years at some point.
- People who are living in an EEA country, Switzerland or a non-EEA country with which the UK has a reciprocal healthcare agreement (see annex D) and who have lived lawfully for at least ten continuous years in the UK at any time.
- Nationals of countries that are contracting parties to the European Convention on Social and Medical Assistance 1954 or the European Social Charter 1961, who are lawfully present in the United Kingdom and without sufficient resources to pay. Other reciprocal arrangements have generally superseded these arrangements.
- An authorised child or an authorised companion.

An authorised child or an authorised companion accompanying someone deemed exempt from charges under regulation 11 is exempt from charge for treatment the need for which arises during the visit.

- 3.37 **Regulation 22: family members of visitors**—this regulation describes the circumstances in which the family members of visitors, exempted in certain regulations, are also exempt from charges. For the purposes of this regulation, family members are spouses or civil partners of visitors and children (under the age of 16 or under the age of 19 in full time education) in respect of whom the visitor is a parent or legal guardian.
- 3.38 Family members are required to provide proof that they are lawfully in the UK and evidence of their family connection to the exempt visitor—for example, a valid passport and marriage or birth certificate.
- 3.39 No charge may be made to a visitor who is a family member of a person who is exempt under one of the following regulations, where they are lawfully present in the UK.
- Victims of human trafficking (Reg 10);
 - NATO forces (Reg 13);
 - HM UK Forces, Crown servants and others (Reg 16);
 - Missionaries (Reg 18).
- 3.40 No charge may be made to a visitor who is a family member of one of the following exempt categories of visitor, where they are lawfully present with that other visitor for the entire duration of their stay in Northern Ireland:
- Lawful residence for 12 months (Reg 5);
 - Presence for work, study, or to settle (Reg 6);
 - EU rights (Reg 7);
 - Refugees (Reg 9a);
 - Diplomats (Reg 12);
 - Long-term visits by UK pensioners (Reg 14);

- War pensioners and armed forces compensation scheme payment recipients (Reg 15);
- Former residents working overseas (Reg 17);
- Prisoners and detainees (Reg 19);
- Employees on ships (Reg 20)

3.41 No charge may be made in respect of services provided to a visitor who is the family member of another visitor and is present with that other visitor whilst they are residing in or visiting the UK, if that other visitor is an asylum seeker (Reg 9(b)).

Chapter 4: Exemptions that apply to General Health Services

- 4.1 This chapter identifies the exemptions that apply to general health services which include: GP-led services, general dental services, general ophthalmic services and pharmaceutical services.
- 4.2 **Regardless of entitlements under this regulation, GPs are required—under the terms of their contract—to provide immediately necessary treatment in the event of an accident or emergency within core hours.**
- 4.3 **Regulation 24: visitors to whom general medical health services will be available**—this regulation makes available general health services to various classes of visitors who are exempt from charge.
- 4.4 These categories of visitors are entitled to register with a GP practice for the duration of their stay and are therefore entitled to access the full range of health services during their stay, as though they were ordinarily resident here.
- Lawful residence for 12 months (Reg 5);
 - Presence for work, study, or to settle (Reg 6);
 - Reciprocal arrangements (Reg 8)
 - Refugees, asylum seekers, children in care (Reg 9);
 - Victims of human trafficking (Reg 10);
 - Exceptional humanitarian reasons (Reg 11);
 - Diplomats (Reg 12);
 - NATO forces (Reg 13);
 - Long-term visits by UK pensioners (Reg 14);
 - War pensioners and armed forces compensation scheme payment recipients (Reg 15);
 - HM UK Forces, Crown servants and others (Reg 16);
 - Former residents working overseas (Reg 17);
 - Missionaries (Reg 18).
 - Prisoners and detainees (Reg 19);
 - Employees on ships (Reg 20)
 - Family members of visitors (reg 22)
 - Article 18 (1) of Regulation (EC) No 883/2004

- 4.5 It is worth noting that categories of visitor exempt under regulation 7 (visitors with EU rights) and regulation 21 (treatment the need for which arose during a visit) are not covered by regulation 24.
- 4.6 **Regulation 25: visiting patients under Directive 2011/24/EU**—this regulation prescribes certain general health services which are available to visiting patients exercising rights under Directive 2011/24/EU on the application of patients' rights in cross border healthcare. These are however at a charge as determined by the Department.

CHAPTER 5: EU RIGHTS AND EXEMPTIONS

Regulation 7 principally concerns those visitors who are entitled to access publicly funded health care by virtue of EU rights arising under Regulations (EC) 883/2004 and 987/2009. This chapter provides advice on the entitlements afforded to nationals from other EEA countries or Switzerland under these European Regulations.

This section also provides advice on rights of visiting patients from Europe under the provisions of Directive 2011/24/EU on the application of patients' rights in cross-border healthcare ('the Directive').

European Health Insurance Card (EHIC)

- 5.1 A valid EHIC or PRC demonstrates that a visitor is insured by another EEA country or Switzerland and is therefore entitled to publicly-funded health service treatment that is medically necessary during their visit, provided that they have not travelled with the purpose of receiving treatment.
- 5.2 As a result of an agreement in place between the UK and Irish governments—which means that costs of cross-border health care between the two countries are recovered on the basis of fixed amounts—visitors to Northern Ireland from RoI do not have to present an EHIC or PRC in order to avail of medically necessary treatment during their visit. They only need provide evidence that they are resident in the Republic of Ireland (although a valid EHIC can be used).
- 5.3 A person with a valid EHIC/ PRC is exempt from charges for all medically necessary treatment during their stay in Northern Ireland. This means:
 - diagnosis of symptoms or signs occurring for the first time after the visitor's arrival here;
 - the treatment of chronic or pre-existing conditions, including routine monitoring;
 - any other treatment which, in the opinion of a health service medical or dental practitioner, is required promptly for a condition which:
 - arose after the visitor's arrival; or
 - became acutely exacerbated after their arrival; or

- would be likely to become exacerbated without treatment.

5.4 The EHIC also covers;

- All maternity care, including antenatal and postnatal care, provided that the reason for the woman's visit was not specifically to give birth or receive maternity treatment (paragraphs 5.14 – 5.19 provide further detail on the S2 route for planned treatment—including maternity services).
- Dialysis treatment which is required during a visitor's stay, provided that the patient has made an advance booking and that facilities are available at the time requested.
- Home oxygen services. Patients should make advance arrangements for provision during their visit, usually with a GP practice, and should ensure that they have enough oxygen to travel to their destination in Northern Ireland and return home. Oxygen for travel must be arranged privately and is not covered by the EHIC scheme.

5.5 If a person living in Northern Ireland temporarily is able to show that they remain insured by another EEA state or Switzerland, the costs of any treatment provided to them can be recovered by the Treasury from the state with which they are insured. For example, students from another EEA state or Switzerland who are temporarily studying in Northern Ireland may remain insured in their home state. These students should be asked to show a valid EHIC/ PRC. If they cannot provide a valid EHIC/PRC their eligibility to access publicly-funded health services should be assessed under regulation 6.

5.6 Where a visitor from an EEA state or Switzerland is unable to provide an EHIC or PRC (or—in the case of visitors from RoI—acceptable proof of eligibility) charges will apply unless they are exempt from charge under a different category of the Regulations.

Reporting EHIC treatment

5.7 The UK Treasury is able to recover the costs of treatment provided to visiting patients covered by the EHIC scheme from their home state. HSC Trusts are able to recover an incentive payment of 25% of all EHIC treatment costs.

When a Trust treats a patient covered by a valid EHIC or PRC, the patient's EHIC details, the costs of treatment and the end date of the treatment episode should be reported to the Overseas Healthcare Team at DWP, via the Trust's secure account on the EEA web portal.

Visitors insured by the UK (S1/ A1 route)

- 5.8 There will be some people who, while resident in another EEA state or Switzerland remain insured by the UK and who are therefore entitled to access publicly-funded treatment during a stay in Northern Ireland, on the same basis as someone who is ordinarily resident here. These are;
- cross-border/ frontier workers—a person who lives in one member state but who travels daily, or at least once a week, to another for work; and
 - posted workers—a person who, for a limited period of time, carries out his or her work in the territory of an EU member state other than the state in which he or she normally works.
- 5.9 Individuals who are entitled to access publicly-funded health services on this basis should have a valid UK-issued S1 form (or A1 form in the case of posted workers). In order to check that an individual is insured by the UK in this way, HSC organisations should contact the Overseas Healthcare Team at DWP at OHT@overseasvisitorsteam@dwp.gsi.gov.uk.
- 5.10 Because of the agreement between the UK and RoI which means that the costs of cross-border health care between the two countries are reimbursed on the basis of fixed amounts, there is no requirement for an individual living in RoI but insured by the UK to apply for or register a UK-issued S1. It will be sufficient for these individuals to provide evidence of their identity, their residence in RoI, and that they are employed/ self employed in the UK.
- 5.11 Individuals insured by the UK in this way, and their family members (with the exception of family members of cross-border workers), are entitled to access health care during a stay in Northern Ireland, as though they were ordinarily resident here. They should not be charged, except where charges would apply to Northern Ireland residents.

Family members of cross-border workers

- 5.12 Family members of cross-border workers who reside in another member state are generally entitled to access publicly-funded health services where this becomes necessary on medical grounds during a visit to Northern Ireland. However, in some circumstances family members of cross-border workers will be eligible to access other health care services free of charge under the provisions of the Directive 2011/24/EU. See paragraphs 5.30 for further details.

Retired cross-border workers

- 5.13 Retired cross-border workers who reside in another member state are no longer entitled to access the full range of publicly-funded health services in Northern Ireland. However, they are entitled to access continuing treatment which began before they retired if they are in receipt of a UK state pension. Retired cross-border workers can apply to re-register with a GP on that basis.

Planned treatment (S2 route)

- 5.14 Patients from other EEA states or Switzerland can apply to the social security institution in their state of residence, via the S2 application process, for approval to travel to another state for planned treatment.
- 5.15 Only treatment in the state sector is available via the S2 route and patients must have obtained authorisation from their state of residence in advance of treatment. An approved S2 form is an undertaking that the costs of treatment will be met by the social security institution in the patient's state of residence, meaning that the patient should not be charged for their treatment.
- 5.16 There may be occasions when patients will apply to the authorities in their state of residence to access planned treatment in Northern Ireland.
- 5.17 It is normally the case that a patient will only be issued with an S2 certificate to travel to another member state after the consent of the provider in the country they are travelling to has been sought. Therefore, HSC Trusts should be made aware of cases of S2 requests from other member states in advance. However, it is possible that a patient (or their clinician) may contact an HSC

clinician directly about treatment under the S2 route. HSC clinicians should be advised of the appropriate Trust contact in such circumstances, to ensure that all relevant staff are involved in handling requests for treatment in Northern Ireland under the S2 route.

5.18 HSC Trusts should consider all requests for S2 treatment on a case by case basis. Applications should not be automatically rejected, but neither is it the case that all applications must be accepted. For example, HSC Trusts may consider it appropriate to refuse a request for treatment under the S2 route if:

- the service requested is not one which is available within the HSC to patients who are ordinarily resident in Northern Ireland; or
- the service
- the service requested is not one which is available within the HSC to patients who are ordinarily resident in Northern Ireland; or
- there is no capacity within the HSC to facilitate the requested treatment.

5.19 If an application for treatment under the S2 route is accepted, this should be on the same basis as for someone ordinarily resident in Northern Ireland. For example, if there is a waiting list for the service the visiting patient should be added to the list at the point at which their request for treatment is accepted. Patients travelling to Northern Ireland for treatment under the S2 route will continue to be covered for all medically necessary treatment for any other conditions, if they show a valid EHIC/ PRC. It is important to note that, while patients from Rol do not need to provide an EHIC/ PRC or S1 form, all patients seeking planned treatment under the S2 route are required to present a valid S2 form.

Reporting treatment provided under S2 route

5.20 The costs of cross-border health care under the S2 route are recovered on a state-to-state basis between the UK government and the relevant member state. Although HSC Trusts do not recover money directly for treatment

provided to patients with a valid S2, treatment details should be recorded and reported to the Overseas Healthcare Team at DWP to allow the Treasury to recover costs.

- 5.21 If an HSC Trust accepts a request for planned treatment under the S2 route, it should take a copy of the S2 certificate, cost out the treatment received and forward this information to the Overseas Healthcare Team at DWP at OHT@overseasvisitorsteam@dwp.gsi.gov.uk.

Directive 2011/24/EU⁸

- 5.22 Directive 2011/24/EU on the application of patients' rights in cross-border healthcare ('the Directive') sets out the entitlement of residents from one EU member state to travel to another to access health services. The Directive covers both planned and emergency care and patients exercising their rights under the Directive can access treatment in either the state or private sectors.
- 5.23 Under the terms of the Directive, patients are required to pay the costs of any health care they receive and apply to the health authorities in their state of residence for reimbursement.
- 5.24 HSC providers should be aware that visiting patients may choose to exercise their rights to travel for emergency or planned treatment under the Directive. For example, a patient may choose to travel to another EEA member state to receive treatment at a hospital emergency department or seek a consultation with a GP.
- 5.25 The Directive does not require providers to accept visiting patients for planned health care if this would be to the detriment of ensuring sufficient access for patients resident here with similar needs. It also does not require providers to

⁸ Directive 2011/24/EU on the application of patients' rights in cross-border health care was transposed in Northern Ireland in December 2013 by the following implementing legislation—The Health Services (Cross-border Health Care Regulations (Northern Ireland) 2013 (SR 2013 No. 299); The Health and Personal Social Services (General Medical Services Contracts) (Amendment No 2) Regulations (Northern Ireland) 2013 (SR 2013 No. 301); The General Dental Services (Amendment) Regulations (Northern Ireland) 2013 (SR 2013 No. 300); The Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2013 (SR 2013 No. 258); and the Provision of Health Services to Persons Not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2013 [subsequently revoked and replaced by the Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015 (SR 2015 No. 27)].

prioritise visitors to the detriment of other patients, for example if this would cause an increase in waiting times. However, as with requests for planned treatment under the S2 route, HSC providers must consider all requests for treatment under the Directive on a case by case basis. Where a request for treatment under the Directive is refused, providers need to be able to explain and evidence that this refusal is justified (for example, because of a lack of capacity).

5.26 When treating patients exercising their rights under the Directive, HSC Trusts must:

- a. provide patients with relevant information on treatment options, quality and safety;
- b. provide clear price information, invoices and receipts;
- c. apply fees in a non-discriminatory manner;
- d. ensure transparent complaints procedures and procedures to obtain redress are in place;
- e. apply adequate systems of professional liability insurance or similar;
- f. respect privacy in the processing of personal information;
- g. supply patients with a copy of the record of their medical treatment.

Patients exercising their rights to access cross-border health care services under the Directive should be charged the cost of treatment received, based on the Schedule of Treatment Costs published on an annual basis by the Department and available online at <https://www.health-ni.gov.uk/sites/default/files/publications/health/Statement-of-Treatment-Costs-2016-17.pdf>

5.27 Where a particular procedure is not listed on the Schedule of Treatment Costs, each element should be coded and costed appropriately. For dental treatment, visiting patients under the Directive will be charged the patient charge rate for each dental service provided as set out in the Statement of Dental Remuneration available at <http://www.hscbusiness.hscni.net/2069.htm>.

Persons who are entitled to access services free of charge under the Directive

5.28 The provisions of the Directive have a particular bearing on the rights and entitlements of patients resident in another EEA state for whom the UK

remains the competent state, and for their family members.⁹ This includes cross-border workers and their family members, who are entitled to access cross-border services under the terms of the Directive free of charge, unless that service is subject to prior authorisation. A service is subject to prior authorisation if:

- it involves an overnight stay in hospital accommodation for at least one night, or requires the use of highly specialised and cost-intensive medical infrastructure or medical equipment;
- it involves treatments presenting a particular risk for the eligible person or the population; or
- it is provided by a health care provider that, on a case-by-case basis, could give rise to serious and specific concerns relating to the quality or safety of the care.

5.29 Where one or more of these categories apply, approval to access cross-border services must have been granted in advance by the state of residence and the patient is required to pay the costs of treatment and seek reimbursement from their state of residence.

5.30 Where prior authorisation is not required, individuals for whom the UK remains the competent state—and their family members—are able to access planned and unplanned treatment in Northern Ireland free of charge. Unless a service is subject to prior authorisation, family members of cross-border workers are entitled to access treatment in the United Kingdom and will be exempt from charge.

⁹ Regulation 12, The Health Services (Cross-Border Health Care) Regulations (Northern Ireland) 2013.

CHAPTER 6—VISITORS FROM NON-EEA COUNTRIES: IMMIGRATION HEALTH SURCHARGE

- 6.1 Since April 2015, an immigration health surcharge has been payable by non-EEA nationals who apply for a visa to enter or remain in the UK for more than six months. The health surcharge is paid to the Home Office at the same time as a visa applicant pays their visa application fee. There are exemptions from paying the health surcharge for certain people, and the Home Secretary has the discretion to reduce, refund or waive all or part of the health surcharge. **A visitor who has paid or is exempt from paying the health surcharge is exempt from charge and is entitled to access health services in the UK on the same basis as someone who is ordinarily resident, for as long as their visa remains valid.**

Identifying patients who have paid the surcharge

- 6.2 The Home Office issues a biometric residence permit (BRP) to non-EEA nationals coming to the UK for longer than six months, in order to evidence their status. The vast majority of non-EEA nationals will only have been issued with a BRP if they have paid the health surcharge, are exempt or waived from payment of the surcharge, or were granted leave to remain in the UK prior to the surcharge being implemented. The BRP provides a means of determining and verifying a person's immigration status and entitlements. It contains the holder's biographical and biometric information as well as their immigration status.
- 6.3 There is one exceptional category of individuals who will be issued a BRP but who are chargeable for health services. This is a small number of visitors—for example visiting students and academics—who are permitted to stay for longer than six months but less than a year. These individuals will be issued with a BRP but will not have paid the surcharge, and will therefore be liable to charges for health services accessed while on a visit to Northern Ireland (unless an exemption under the Regulations applies). Their BRPs will be marked to demonstrate their visitor status.
- 6.4 **Therefore, in the vast majority of cases a valid BRP will indicate that an individual is lawfully in the UK and is eligible to access health services on**

the same basis as someone who is ordinarily resident until their visa expires - unless it indicates a visitor status.

- 6.5 Non-EEA nationals coming to Northern Ireland for six months or less as a visitor will not be exempt from charges unless an exemption under the Regulations applies.
- 6.6 The only exception to this is a sub-category of intra-company transfers known as 'skills transfer', where leave is only granted for a maximum of six months. The 'skills transfer' category is not a visitor route and the person's visa (a category D visa) will be distinct from a visitor visa. The visa will clearly state the immigration category of intra-company transfer and this will indicate eligibility to access free health services.

Extent of exemption following payment of health surcharge

- 6.7 The exemption from charges applies to the period of leave to enter or remain in the UK granted to an individual. Once that leave expires or is curtailed, the person becomes liable for charges from then on including where the person is part-way through a course of treatment.
- 6.8 The BRP is only valid for the period shown on the card, which covers the period of leave to enter or remain in the UK which has been granted to the individual. If the card has expired, and the person has not obtained a new card to extend their stay or cannot provide evidence that they are in the process of making an in-time application (i.e. they submitted their application before their previous leave expired), then they are likely to be chargeable for health services.

CHAPTER 7—DETERMINING ELIGIBILITY AND RECOVERING COSTS

- 7.1 All relevant HSC organisations must have systems in place to determine if:
- a patient is ordinarily resident in Northern Ireland;
 - to identify, without discrimination, potentially chargeable patients;
 - to confirm whether visiting patients—or the services they are accessing—meet an exemption under the Regulations; and,
 - if not, to make and recover charges accordingly.
- 7.2 Ordinary residence or visitor status cannot be judged from external appearance, name, accent or language. It is therefore important that—where there is any doubt about an individual’s residence status ie. they do not have a health and care number—all patients are asked the same questions to establish entitlement to health services in Northern Ireland. For patients seeking to register with a GP, a questionnaire has been developed for use by the BSO in assessing all patients’ entitlement to health services.
- 7.3 All HSC Trusts should have designated staff who will be responsible for identifying whether patients are ordinarily resident or, if not, whether they are chargeable or meet an exemption under the Regulations. These staff will need to be supported in their role by staff across all settings. **To that end, the Access to Healthcare Team in the BSO will continue to offer training to Trust staff on the implementation of, and compliance with, the Regulations.**

Determining patient entitlement

- 7.4 Patients registered with a GP practice are not assessed for entitlement to access publicly-funded health care in Northern Ireland by the BSO until at least three months after registration and issue of HCN number. Therefore when patients present at secondary care their current registration with GP may not on its own be sufficient to determine entitlement.
- 7.5 To ensure an equitable approach to identifying potentially chargeable patients, Trust staff should undertake an electronic data matching exercise of PAS reports on every patient referred or admitted as an emergency, and should

arrange to speak to those patients who do not have a health and care number and/ or are not registered with a GP in Northern Ireland.

- 7.6 Where a patient is not registered with a GP, it is important to establish whether they may still qualify as ordinary resident—for example, they may have recently moved to Northern Ireland with the intention of settling here for the time being—or whether they meet an exemption as set out in the Regulations and are therefore entitled to receive publicly-funded health services.
- 7.7 Trust staff will need to deal sensitively with patients when carrying out interviews to establish ordinary residence or visitor status and, if not ordinarily resident, whether they are exempt from or liable for charges. Interpreting and translation services must be provided where these are required. The questionnaire developed by the Access to Healthcare Team in BSO (Annex A) is intended as an aid to assist Trusts, but it is unlikely that the examples of evidence suggested will fit every circumstance. It is therefore important to consider each individual's entitlement on a case by case basis and Trust staff should be flexible and work with patients to consider what other documentation they may be able to provide to evidence their entitlement.

Determine if the patient is a visitor from the UK

- 7.8 Visitors to Northern Ireland who are resident elsewhere in the UK are entitled to access health services during their visit here. For hospital treatment, Trusts can recover the costs of UK cross-border emergency treatments from the relevant commissioning authority in the patient's jurisdiction. Further information on the process for reclaiming costs is issued on an annual basis by the Department of Health.¹⁰

Determine if the patient is a visitor who remains insured by the UK

- 7.9 As explained at paragraphs 5.8 – 5.12, there will be some people who reside in another EEA country for whom the UK remains the competent state and

¹⁰ For 2016/17 Circular HSC(F) 43/2016 applies. Available on Department of Health's website at <https://www.health-ni.gov.uk/sites/default/files/publications/health/hscf-2016-43.pdf>

who are therefore entitled to health care during a stay in Northern Ireland as though they were ordinarily resident here.

Determine if the patient is a visitor insured by another state

- 7.10 It is possible for a person to stay in one EEA country but remain insured by another, and long-term EEA visitors to Northern Ireland (for example students) may have a health and care number. The UK Treasury can recover the cost of treatment provided to any patient who is insured by another EEA country or Switzerland, either under the EHIC, S1 or S2 funding routes. Chapter 5 provides further information to help identify people who have an EU right to access publicly-funded health care in the UK and outlines the process for recovering the cost of that health care from the competent state.
- 7.11 In addition, retired cross-border workers may remain registered with a GP and have a health and care number but are only entitled to access publicly-funded health care in Northern Ireland, insofar as this is a continuation of treatment which began while they were still a cross-border worker.

Determine if the patient is a visitor from outside the EEA who has paid the immigration health surcharge

- 7.12 Visitors from countries outside the EEA who have paid the health surcharge are exempt from charge and are eligible to access health services during their stay on the same basis as someone who is ordinarily resident here for the duration of their visa (see chapter 6 for more information on the health surcharge).

Determine if the patient is a chargeable visitor

- 7.13 Where there is no evidence that a patient is a visitor from the UK, remains insured by the UK, is insured by another member state, or is a visitor from outside the EEA who has paid the health surcharge and holds a valid visa/BRP, their eligibility to access publicly-funded health services should be assessed against the exemptions from charge set out in the Regulations and summarised in chapters 2 and 3.

7.14 If it is established that the patient is a visitor to whom charges will apply and they indicate that they cannot pay, before the patient has seen the clinician, they must not be prevented from going on to see the clinician for an initial assessment, since it will be necessary for a clinician to determine any treatment needed and the patient's clinical priority. No treatment that is deemed by a clinician to be immediately necessary or urgent should be withheld, regardless of a person's ability to pay. However, routine treatment should not be scheduled until the full estimated cost of that treatment has been secured.

Immediately necessary/ urgent treatment

7.15 Only a clinician can make an assessment of a patient's clinical priority. Any treatment which is determined by a clinician to be immediately necessary or urgent must be provided to any person, even if they have not paid in advance and regardless of their ability to pay. However, the patient or their representative must be informed at the earliest opportunity that charges may apply, and be provided with an estimate of charges and options for payment.

7.16 Immediately necessary treatment is treatment which a patient needs:

- to save their life
- to prevent a condition from becoming immediately life-threatening; or
- promptly, to prevent permanent serious damage from occurring.

NOTE Maternity treatment

7.17 Due to the severe health risks associated with conditions such as eclampsia and pre-eclampsia, **all maternity services—including routine antenatal treatment—must be considered immediately necessary**. No woman must ever be denied, or have delayed, maternity services due to charging or payment issues. Where a woman presenting for maternity services is deemed to be a chargeable visitor (the provisions of the Regulations apply to pregnant women), she must be informed of this. However, she should not be discouraged from receiving the remainder of her maternity treatment and must be advised that further maternity care will not be withheld, regardless of her ability pay.

- 7.18 When a patient is in need of immediately necessary treatment, it may not be possible to assess their eligibility to access publicly-funded health care or to inform them ahead of treatment commencing that charges might apply. Patients who are subsequently identified as a visitor should be notified at the earliest appropriate opportunity that charges might apply and they should be interviewed by relevant Trust staff to establish this definitively, once it is medically appropriate to do so.
- 7.19 In circumstances where it is possible and appropriate to assess charges and request payment before or during a course of immediately necessary treatment, HSC Trusts must make it clear to the patient that treatment will not be withheld or delayed if they do not pay in advance.
- 7.20 Urgent treatment is that which clinicians do not consider immediately necessary, but which nevertheless cannot wait until the person can be reasonably expected to return home. For urgent treatment, every effort should be made to secure payment in the time before treatment is scheduled. However, where this is not possible, the treatment should not be delayed or withheld for the purposes of securing payment.

Non-urgent treatment

- 7.21 Where a clinician considers that a chargeable patient's need for treatment is non-urgent, no further treatment should be initiated or booked until a deposit equivalent to the estimated full cost of treatment has been obtained.

Making and recovering charges

- 7.22 Where a patient is deemed to be chargeable, they or their representative should be asked to sign an undertaking to pay form at the earliest possible opportunity. A patient should be given an estimate of the total charges s/he will incur, based on HRG costings. Patients should be made aware that for inpatient treatment, the charge may be higher than the estimate if they need to stay in hospital longer than expected.
- 7.23 Except where treatment is immediately necessary or urgent, Trusts should seek deposits equivalent to the full estimated cost of the charges to be paid.

Actual costs incurred should be closely monitored and where these are in excess of the deposit paid, efforts should be made to obtain further payment. Where the deposit paid is in excess of actual costs incurred, any overpayment must be rectified on completion of treatment.

- 7.24 Where a patient and the treatment they receive is chargeable, invoices should always be raised and records should be kept of both the amounts settled and amounts outstanding.

UK immigration rules—working with the Home Office

- 7.25 UK immigration rules require that NHS bodies (including the HSC Board and HSC Trusts) notify the Home Office of outstanding debts owed by persons subject to immigration control, as a ground to refuse an application for a new visa or extension of stay.
- 7.26 These rules apply to invoices raised for treatment provided from 1 November 2011 onwards. They require that:
- a. in respect of relevant health services provided from 1 November 2011 up to, and including, 5 April 2016, relevant NHS bodies must notify the Home Office of outstanding debts of £1,000 or more that have been outstanding for three months or more*; and
 - b. in respect of relevant health services provided on, or after, 6 April 2016, relevant NHS bodies must notify the Home Office of outstanding debts of £500 or more that have been outstanding for two months or more*.

Note: the time period starts from when the patient is formally charged, usually with an invoice, rather than the date of treatment, which might be an earlier date.

Informing patients

- 7.27 It is important that patients who are subject to immigration control, and who incur a charge for health services, are made aware at the earliest point—and at each point of interaction (ie. initial interview, at the point of invoicing, and

follow up requests pursuing outstanding payment)—that failure to pay their health care bills could result in their details being shared with the Home Office and in a future immigration sanction under UK immigration rules if the bill remains unpaid.

- 7.28 Where an invoice is particularly large, or where the patient is genuinely willing to provide payment for services provided but cannot meet repayment in full, then Trusts should agree with the patient, at the earliest opportunity, a meaningful repayment plan.
- 7.29 A repayment plan needs to be meaningful to allow for the debt to be repaid within a realistic timeframe. HSC Trusts will therefore need to consider an individual's particular circumstances such as amount of disposable income against the amount of debt to decide whether a repayment plan is a suitable way of recovering the debt.
- 7.30 Payments agreed as part of the repayment plan will need to be made on the specified date. The individual should be made fully aware of the consequences if the plan is not adhered to i.e. the Home Office will be notified of the outstanding debt.

Criteria for referring debts to the Home Office

- 7.31 Information relating to cases of outstanding debt owed by a person should only be shared when all of the following criteria are met:
- a. For charges relating to health service treatment from 1st November 2011 until 5th April 2016:
 - Single or multiple invoice debts amount to £1,000 or more; and
 - The debt has been outstanding for three months or more (from date patient is formally charged, rather than date of treatment).
 - b. For charges relating to health service treatment from 6th April 2016 onwards:
 - Single or multiple invoice debts amount to £500 or more;

- The debt has been outstanding for two months or more (from date patient is formally charged, rather than date of treatment);
- Charges relate to health service and not private treatment;
- There are no genuine outstanding challenges to, or doubt about, the legitimacy of the charge¹¹;
- No reasonable arrangement has been made, and is being adhered to, for a schedule of payments to clear the debt. If a patient has entered into a repayment plan, and then subsequently cancels that plan, the debt information should be submitted to the Home Office as described;
- The debt has not been cancelled; and
- The person is not: an EU citizen; a national of an EEA country or Switzerland; or a person from a Third Country (ie. non-EEA) who has a right of residence because of their relationship with an EU citizen¹²

7.32 While it is not necessary to seek the patient's consent before sharing their personal information with the Home Office, it is a requirement under the Data Protection Act 2018 and GDPR, to inform them that you are going to do so, and the reasons for doing so.

Details of the information to be shared with Home Office

7.33 The Home Office requires as many pieces of information as can be reasonably provided in order to verify the unique identity of the person who has incurred the debt. Clinical information relating to the treatment provided

¹¹ Where a person seeks to challenge the legitimacy of the charge through judicial review proceedings, such a challenge must be brought promptly and in any event within three months of the date on which the grounds first arose. This is likely to be the date when the patient is formally charged but may be earlier or later depending on the circumstances. If it is clear that judicial review proceedings may be brought a referral to the Home Office should not be made until after the challenge is resolved. If it is not possible to resolve the challenge and proceedings are not issued within three months, the debt may be referred to the Home Office.

¹² It is unlawful to apply the immigration restriction to an EU citizen or a national of an EEA country or Switzerland, as it would be counter to their rights under the Free Movement Directive. Nationals of other countries who have a right of residence because of their relationship with an EU citizen will also attract these rights (for instance if they are the EU citizen's primary carer or are economically dependent on the EU citizen).

must not be included. Care should also be taken not to provide information from which the clinical history of the patient can be deduced.

Mandatory Information

- Trust
- Invoice Number
- Date of Debt
- Amount of Debt
- Title (Ms, Mr Mrs etc.)
- Forename of debtor
- Surname of debtor
- Date of Birth
- Nationality
- UK address, if applicable
- UK postcode, if applicable

Desired Information – Only if applicable

- CID Person ID (PID)
- Home Office Reference
- Passport reference number
- BRP reference number
- Additional Reference Number (This is any reference supplied by patient, Home Office etc)
- Non UK address

How data should be shared with the Home Office

7.34 HSC Trusts with outstanding debts which meet the criteria outlined at paragraph 7.31 should collate all relevant information and pass it securely to the Access to Healthcare team at the BSO. The BSO will collate Trust returns and pass them securely to the Home Office. The holding and/ or transfer of all personal data must comply with the requirements of the Data Protection Act 2018 and GDPR.

Checklist to help determine ordinary residence in Northern Ireland

A person will be considered ordinarily resident in Northern Ireland if they are residing here lawfully, voluntarily and for a settled purpose as part of the regular order of their life for the time being, whether of short or long duration. The concept of 'settled purpose' has been developed by the courts—there may be one purpose or several, it may be specific or general, and it may be for a limited period. All that is necessary is that the purpose of living in the UK has a sufficient degree of continuity to properly be described as settled.

In addition, non-EEA nationals who are subject to immigration control (the vast majority) must also have indefinite leave to remain in the UK in order to be considered ordinarily resident.

The table below sets out a number of factors that will help to indicate whether an individual is ordinarily resident. Normally, no one factor on its own will determine that a person is, or is not, ordinarily resident. Some of the factors listed below may carry more weight/ importance than others and some should not be taken into account if they are not relevant to the individual patient. The reasons why an individual answers 'no' to a particular question will need to be taken into account. For example, a person may not be able to provide a fixed address because of a lack of means or other reasons, not because they are not ordinarily resident here.

The table below can therefore only be a guide to reaching a determination and is not a substitute for legal advice in individual cases.

If the patient is a child, the questions below should be completed for the parent/ legal guardian they live with.

		Yes	No
1a	How long has the person been in NI? ¹		
1b	How long do they intend to remain in NI? ²		
1c	Is their stay in NI one of a number of regular and significant stays?		

2a	Can the person provide an address of their own in NI?		
2b	Can they show that they are paying utility/ rates bills at their NI address?		
2c	Does their housing situation in NI appear stable and settled, eg. a tenancy agreement in their own name?		
	If the answer to 2a-2c is no:		

¹ The longer a person has been in NI, the stronger the indication that they are ordinarily resident. However, it is important to note that a person can be considered ordinarily resident from the day of their arrival if they can demonstrate that they have come here to settle for the time being.

² See footnote 1 above.

2d	Is the reason due to homelessness?	*	
2e	Is the person a Gypsy or Traveller established in NI ie. a person with a cultural tradition of nomadism or of living in a caravan?	*	
2f	Is there another reason why the person does not have a settled home in NI (eg. see Q7, Q9)?		

* If yes, discount answers 2a-2c.

3a	Is the person employed or self-employed in NI?		
3b	Is the person a recognised job-seeker ³ in NI?		
3c	Do they hold a bank account in NI and is there evidence of recent and regular NI transactions?		

4a	If the person has a spouse/ civil partner or children do they also live in NI? What about parents or extended family?		
4b	Is the person dependent on a family member ⁴ —including an extended family member such as a sibling, unmarried partner—who lives in NI?		
4c	If the person is the primary carer of school-age children, do they go to school in NI?		

5	If an EEA/Swiss pensioner, have they registered an S1 in the UK, to demonstrate their entitlement to health care in the UK for which the UK is reimbursed by the country which pays their pension? ⁵		
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6	If a student, are they attending a course in NI the length of which suggests they would have to settle here for the time being? ⁶		
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³ Receiving Job-seekers' allowance and/ or registered as a job seeker at the job centre.

⁴ Non-EEA nationals who are 'extended' family members of EEA nationals living here are required to have an EEA family permit issued by the Home Office, otherwise they are not in NI lawfully. Non-EEA nationals that are 'direct' family members are not required to have this documentation to be here lawfully, although they can choose to. For more information on family members of EEA nationals, see chapter 4.

⁵ It is important to note that registering an S1 is not a requirement for establishing ordinary residence and individuals might, for example, not have been aware of the process, but it is a strong indicator of ordinary residence. Someone who has registered such a form is entitled to publicly-funded healthcare for which the UK is reimbursed by the state paying their pension.

⁶ For the purposes of EU law, students from the EEA are usually considered to be 'habitually resident' in their home member state when their funding comes from that state, they return there frequently, and intend to reside there again after their studies. This is the case even if they could also be said to have established ordinary residence here. Therefore, they may still have, or be entitled to hold, an EHIC from their home member state, even if they are ordinarily resident here, in which case the relevant HSC bodies should still capture this information and process it for the UK to be reimbursed for the provision of healthcare.

7a	Is there a known reason for the person being in NI, other than for health care, which indicates they are now properly settled here? ⁷		
7b	Are there other indicators that NI is where they live or intend to live as part of the regular order of their life for the time being?		

8	If the person has recently come to NI is there evidence of activity in another country that suggests that they are establishing residence here, for example: ⁸		
8a	Have they sold or rented out their house/ ended a rental agreement in another country?		
8b	Have they ended their employment/ studies in the other country?		
8c	Have they shipped goods to NI?		
8d	Have they transferred their assets to NI?		
8e	Have they ended insurance policies, utility contracts etc in that country?		

9	If they have recently been absent from NI, was that absence temporary and not indicative of emigration overseas, for example:		
9a	Travel for a UK-based business or employment?		
9b	Posting overseas as part of an employment contract for a finite period?		
9c	A defined, temporary period of study?		
9d	Posting overseas as a missionary or volunteer for a UK organisation for a finite period?		
9e	A one-off extended period of travel whilst continuing to be a NI resident?		

⁷ The attached list of questions for the patient may assist with questions 7a and 7b.

⁸ It is important to note that the fact that someone continues to own property or other assets elsewhere does not necessarily mean that they cannot be ordinarily resident in NI, although moving or transferring property or assets to NI may indicate their intention to settle here.

Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015

Schedule 1—Diseases for which no charge is to be made for treatment

Acute encephalitis
Acute poliomyelitis
Anthrax
Botulism
Brucellosis
Cholera
Diphtheria
Enteric fever (typhoid and paratyphoid fever)
Food poisoning
Haemolytic uraemic syndrome (HUS)
Infectious bloody diarrhoea
Invasive group A streptococcal disease and scarlet fever
Invasive meningococcal disease (meningococcal meningitis, meningococcal septicaemia and other forms of invasive disease)
Legionnaires' disease
Leprosy
Leptospirosis
Malaria
Measles
Mumps
Pandemic influenza (defined as 'phase 6' in the WHO's influenza pandemic phases, or influenza that might become pandemic (defined as 'phase 4' or 'phase 5' by WHO)
Plague
Rabies
Rubella
Severe acute respiratory syndrome (SARS)
Smallpox
Tetanus
Tuberculosis
Typhus
Viral haemorrhagic fevers
Viral hepatitis
Whooping cough
Yellow fever

Summary of exempt categories of visitors

Category	Extent of exemption	Family members covered by exemption (Y/N)	Evidence of eligibility
Lawful residence for 12 months (Reg 5)	Exempt from charge for all treatment, including general health services.	Y—when they are here lawfully with the exempt visitor for the entire duration of their stay.	<p>Proof of lawful presence in the UK and identity eg. passport and visa (where appropriate).</p> <p>Proof of period of residence eg. biometric residence permit, payslips, insurance documents, benefit award letter.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
Presence for work, study or to settle (Reg 6)	Exempt from charge for all treatment, including general health services.	Y—when they are here lawfully with the exempt visitor for the entire duration of their stay.	<p>Proof of lawful presence in the UK and identity eg. passport and visa (where appropriate).</p> <p>Proof of reason for presence in UK eg. letter from university along with student card; pay slips; Communities Agency/ DWP benefit award letter.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
EU rights (Reg 7)	Varies according to rights exercised: EHIC/ PRC— Exempt from charge for medically necessary treatment during a visit, unless travel has been	Y—when they are here lawfully with the exempt visitor for the entire duration of their stay.	<p>Proof of lawful presence in the UK and identity along with a valid EHIC/PRC, S1 form (either issued by UK or other member state and registered in UK), or approved S2 form.</p> <p>Note that visitors from RoI</p>

	<p>specifically for the purpose of accessing treatment.</p> <p>S1—exempt from charge for all treatment.</p> <p>S2—exempt from charge for pre-arranged planned treatment.</p>		<p>do not need to provide an EHIC or S1, but will need to provide proof of identity and residence in Rol and (in case of cross-border workers or UK state pensioners) copies of pay slips, pension statements or letter from HMRC with Unique Taxpayer Reference confirming Self-Assessment for tax purposes.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
Reciprocal healthcare agreements (Reg 8)	Varies according to country, though generally immediately necessary treatment only (see Annex D for more details)	N—unless they are covered under reciprocal agreement in their own right.	Each agreement sets out the proof required to benefit under that particular scheme. For referrals for elective treatment, confirmation is required from the relevant country/ DWP that the referral has been agreed.
<p>Refugees, asylum seekers and looked after children (Reg 9):</p> <ul style="list-style-type: none"> Refugees 	Exempt from charge for all treatment, including general health services.	Y—when they are here lawfully with the exempt visitor for the entire duration of their stay.	<p>Confirmation from Home Office of asylum, temporary protection or humanitarian protection having been granted.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
<ul style="list-style-type: none"> Asylum seekers and others seeking refuge 		Y—when they are here with the exempt visitor for the entire duration of their stay.	<p>Application registration card (ARC) and IS96 letter issued by the Home Office, showing the individual's current address.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage</p>

			certificate, birth certificate.
<ul style="list-style-type: none"> Children taken into care of an authority under the Children (Northern Ireland) Order 1995 		N/A	Confirmation from relevant authority that the child is a looked after child.
Victims, and suspected victims, of human trafficking (Reg 10)	Exempt from charge for all treatment, including general health services.	Y—providing that they are here lawfully. They do not need to have been here with the qualifying person during the entire period of their stay.	<p>Letter from the CA confirming the person's status as a victim (a 'conclusive grounds' decision), or suspected victim (a 'reasonable grounds' decision).</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
Exceptional humanitarian reasons (Reg 11)	Exempt from charge for all treatment, including general health services.	N, although any authorised companion and authorised children accompanying the qualifying person will be exempt from charge for any treatment the need for which arises while they are here with the qualifying person.	The relevant Trust will be advised by the Department that a determination of exemption on exceptional humanitarian grounds has been made, and supporting documentation will be provided.
Diplomats posted to the UK (Reg 12)	Exempt from charge for all treatment, including general health services.	Y—when they are here with the exempt visitor for the entire duration of their stay.	<p>Visa confirming diplomatic status.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
Nato forces (Reg 13)	Exempt from charge for all treatment, including general health services.	Y—providing that they are here lawfully. They do not need to have been here with the qualifying person during the entire period of their stay.	<p>Appropriate documentation confirming Nato status and official duties in NI.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the</p>

			exempt visitor eg. marriage certificate, birth certificate.
Long-term visits by UK pensioners (Reg 14)	Exempt from charge for all treatment, including general health services.	Y—when they are here with the exempt visitor for the entire duration of their stay.	<p>Proof of residence in UK eg. utility bills, bank statements. An proof that they live in an EEA member state.</p> <p>Proof that person is in receipt of UK state pension eg. pension slip, letter from DWP or Social Security Agency.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
War pensioners and armed forces compensation scheme payment recipients (Reg 15)	Exempt from charge for all treatment, including general health services.	Y—when they are here with the exempt visitor for the entire duration of their stay.	<p>Proof of appropriate pension/compensation scheme payment, pension book/slip, letter from the MoD or DWP.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
Armed forces, Crown servants and UK government-funded employment (Reg 16)	Exempt from charge for all treatment, including general health services.	Y—when they are here with the exempt visitor for the entire duration of their stay.	<p>Proof that person is a serving member of the UK forces, e.g. valid UK forces ID card or confirmation letter from MoD.</p> <p>Proof of appropriate employment eg. letter from employer</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
Former residents working overseas (Reg 17)	Exempt from charge for all treatment, including general	Y—when they are here with the exempt visitor for the entire	Proof of 10 years' continuous residence in UK eg. letter from previous

	health services.	duration of their stay.	<p>employer/ school;</p> <p>Proof of employment elsewhere for no more than five years eg. letter from employer, contract of employment, passport stamps.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
Missionaries (Reg 18)	Exempt from charge for all treatment, including general health services.	Y—providing that they are here lawfully. They do not need to have been here with the qualifying person during the entire period of their stay.	<p>Letter from relevant organisation based in UK, confirming person is carrying out missionary work for them.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
Prisoners and detainees (Reg 19)	Exempt from charge for all treatment, including general health services.	Y—when they are here with the exempt visitor for the entire duration of their stay.	<p>Prisoner/ detainee will have been referred by appropriate authorities.</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
Employees on ships (Reg 20)	Exempt from charge for all treatment, including general health services.	Y—when they are here with the exempt visitor for the entire duration of their stay.	<p>Proof of employment eg. letter or contract.</p> <p>Proof that ship is registered in UK eg. letter from ship's owner</p> <p>Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor eg. marriage certificate, birth certificate.</p>
Treatment the need for which arose during a	Treatment which, in the opinion of a	N	Proof that someone is a UK state pensioner who has

visit (Reg 21)	<p>clinician, is required for the prevention or diagnosis of an illness or for the care of women who are pregnant or in childbirth.</p> <p>Or treatment which, in the opinion of a clinician, is needed quickly to prevent a pre-existing condition increasing in severity.</p>		<p>lived lawfully in UK, or been employed by the UK government for 10 continuous years.</p> <p>Proof that someone has at some point had ten continuous years lawful residence in UK and is now living in an EEA country, or non-EEA country with whom the UK has a reciprocal healthcare agreement.</p> <p>Proof that someone is a national of a country party to the European Convention on Social and Medical Assistance 1954¹ and the European Social Charter 1961², and are genuinely without resources to pay.</p>
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¹ Parties to the European Convention on Social and Medical Assistance 1954 are Belgium, Denmark, Estonia, France, Germany, Greece, Iceland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the UK.

² Parties to the European Social Charter 1961 are Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Luxembourg, Macedonia, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Turkey and the UK.

The UK has reciprocal healthcare agreements in place with some non-EEA countries. Visitors who can demonstrate that they are nationals, citizens or lawful residents (as appropriate—see the table below for details) of one of these countries should be treated as exempt from charges in respect of treatment that they are entitled to under the terms of the relevant agreement.

Visitors wishing to benefit under a reciprocal agreement must provide the evidence required under the terms of the relevant agreement.

Where an agreement makes provision for referrals for elective treatment, confirmation is required from the relevant country/ DWP that the referral has been agreed.

Within the reciprocal agreements, there are variations in the level of free treatment afforded to visitors to the UK. Generally, only immediate medical treatment is to be provided free of charge, to allow the visitor to return home for other needs. Also, the agreements do not usually apply when the person has travelled to the UK for the purpose of obtaining health care. However, this is not always the case. The table below provides further information on the countries with whom the UK has reciprocal agreements, and the level of health care provided by each agreement.

Reciprocal healthcare agreements for visitors to the UK

Country	Level of cover provided (see key below)	Further information
Anguilla	1*	Applies to all residents of that country. Can also refer four patients to the UK for free NHS hospital treatment (persons hoping to be referred should contact authorities in Anguilla in the first instance).
Australia	1*	Applies to all residents of that country.
Bosnia and Herzegovina	3	Applies to all insured persons of that country.
British Virgin	1*	Applies to all residents of that country. Can also

Islands		refer four patients to the UK for free NHS hospital treatment (persons hoping to be referred should contact authorities in the British Virgin Islands in the first instance).
Falkland Islands	4	Applies to all residents of that country. Can refer an unlimited number of patients to the UK for free elective treatment (patient should arrange this with the Falkland Islands).
Gibraltar	3	Applies only to citizens resident in that country when that citizen is not expected to stay in the UK for more than 30 days. Can also refer an unlimited number of patients to the UK for free elective treatment. Patient should arrange this with the Gibraltar authorities.
Isle of Man	2	Applies to all residents of the Isle of Man for a period of stay in the UK that has not exceeded, nor is expected to exceed, three months.
Jersey ³	2	Applies to all residents of Jersey for a period of stay in the UK that has not exceeded, nor is expected to exceed, three months.
Kosovo	3	Applies to all insured persons of that country.
Macedonia	3	Applies to all insured persons of that country.
Montenegro	3	Applies to all insured persons of that country.
Montserrat	1*	Applies to all residents of that country. Can also refer four patients per year for free NHS hospital treatment (persons hoping to be referred should contact authorities in Montserrat in the first instance).
New Zealand	2	Applies only to citizens resident in that country.
Serbia	3	Applies to all insured persons of that country.
St Helena	1*	Applies to all residents of that country. Does not include Ascension Island or Tristan da Cunha.

³ The UK has a reciprocal agreement with Jersey, but not with the other Channel Islands.

		Can also refer four patients per year for free NHS hospital treatment (persons hoping to be referred should contact authorities in St Helena in the first instance).
Turks and Caicos Islands	1*	Applies to all residents of that country. Can also refer four patients per year for free NHS hospital treatment (persons hoping to be referred should contact authorities in Turks and Caicos Islands in the first instance).

Key:

1. Immediate medical treatment only.
2. Only treatment required promptly for a condition which arose after arrival into the UK or became, or but for treatment would have become, acutely exacerbated after such arrival. Services such as the routine monitoring of chronic/ pre-existing conditions are not included and free treatment should be limited to that which is urgent in that it cannot wait until the patient can reasonably return home.
3. All treatment on the same basis as for a person insured in the other country, including services such as the routine monitoring of pre-existing conditions, but not including circumstances where a person has travelled to the other country for the purpose of obtaining health care.
4. All treatment free on the same terms as for an eligible UK resident (an 'ordinary resident'), including elective treatment.

For all levels of coverage, it will be for a doctor or dentist employed by the relevant HSC body to provide clinical input into whether required treatment meets a specific level of coverage.

*For these countries, the agreement will also apply to those persons requiring treatment if they are a member of the crew, or a passenger, on any ship,

vessel or aircraft travelling to, leaving from or diverted to the UK and the need for urgent treatment has arisen during the voyage or flight.