

# **This publication was withdrawn on 2 January 2024**

The guidance has been withdrawn because it is out of date.

The regulations that this guidance was based on have been revoked - [The National Health Service \(Cross-Border Healthcare\) Regulations 2013 \(revoked\)](#) were revoked on 31 December 2020 by [The National Health Service \(Cross-Border Healthcare and Miscellaneous Amendments etc.\) \(EU Exit\) Regulations 2019](#).



Department  
of Health

# EU Cross-Border Healthcare Directive:

How the Directive affects your  
NHS trust

How to manage payment  
pathways for visiting  
European patients

August 2014



# EU Cross-Border Healthcare Directive:

## Introduction

This document provides guidance to NHS providers on the EU Directive on Cross Border Healthcare. It briefly sets out the background of the Directive and how it relates to providers when managing visiting European patients who are resident outside the UK but seeking NHS healthcare here.

This document only deals with “incoming” patients (i.e. not UK-based patients seeking healthcare in another EEA country). For more detail on the Directive, and the workings for “outgoing” patients, please refer to the following documents:

- *Cross Border Healthcare and Patient Mobility in Europe: **DH Information Document***<sup>1</sup>
- The National Health Service (Cross Border Healthcare) Regulations 2013 (S.I. 2013/2269)<sup>2</sup>

In addition to this, Directions from the Secretary of State set out the obligations of the NHS Commissioning Board (NHS England) and Clinical Commissioning Groups (CCGs) in relation to the Directive.

You may also wish to refer to the recent public consultation document and the Government’s response, which explain the Government’s overall approach to implementing the Directive.<sup>3</sup>

## Information for patients

Please refer patients to the NHS England website for more information: [www.nhs.uk/nationalcontactpoint](http://www.nhs.uk/nationalcontactpoint). Patients can also find information on the European Union online portal: [http://europa.eu/youreurope/citizens/health/index\\_en.htm](http://europa.eu/youreurope/citizens/health/index_en.htm)

## What is and isn’t covered by this document

The scope of this guidance extends only to patients from the EEA purchasing planned treatment on the NHS. It does not cover cases where:

- There are arrangements across borders *within* the UK
- The European Health Insurance Card (EHIC) is used
- There are reciprocal arrangements with other non-EEA countries
- If the patient is seeking treatment under the S2 provision

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1 [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/252940/Cross\\_Border\\_Healthcare\\_Information.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/252940/Cross_Border_Healthcare_Information.pdf)

2 [www.legislation.gov.uk/uksi/2013/2269/contents/made](http://www.legislation.gov.uk/uksi/2013/2269/contents/made)

3 [www.gov.uk/government/consultations/migrants-and-overseas-visitors-use-of-the-nhs](http://www.gov.uk/government/consultations/migrants-and-overseas-visitors-use-of-the-nhs)

These rules apply to all EU countries as well as Norway, Lichtenstein and Iceland but excludes Switzerland.

## About the Cross-Border Directive (CBD)

The Directive allows European citizens to *purchase* medically necessary healthcare in another Member State to the one where they are normally resident. The patient then applies for reimbursement from their home system, for the cost of that healthcare treatment.

To be reimbursed, the treatment the patient receives abroad must be one they are entitled to in their Member State of residence. They can request treatment in either state (in the case of the UK, provided by the NHS) or private sector hospitals.

The Directive mechanism is mostly used for pre-arranged healthcare. It does not include treatment classed as 'needs-arising' that a patient receives during a temporary stay as this is covered by the European Health Insurance Card (EHIC).

Alongside the Directive is an alternative mechanism known as the S2 route (formerly known as the E112). This is another function which allows EU Citizens to seek pre-arranged care in other EEA countries. The differences between the two are explained below.

## How the Cross Border Directive differs from the S2 Route

Both the Directive and the S2 allow EU Citizens to seek planned healthcare in another EEA country. However, there are two key differences between the two mechanisms:

	Directive	S2
<b>Who pays the NHS provider?</b>	You should <b>bill the patient</b> directly, normally before the treatment is given. You should provide the patient with all necessary receipts so they can reclaim the costs when back home.	You should not charge the patient but you should ensure that they hold an S2 form signed by their home country.  You should <b>bill your commissioner AND report this activity</b> on the Department of Health / Overseas Healthcare Team's online portal.
<b>Where can the patient seek treatment?</b>	The patient can receive reimbursement from their home country for <b>either state OR private treatment</b> purchased in another EEA country.	S2 arrangements are <b>not valid in the private sector</b> . Only treatment provided by the NHS will be refunded by the patient's home country.

For more information on the details of the S2 Route please visit NHS Choices<sup>4</sup>

## Obligations of the Directive on Providers

### Billing

As the Provider, you should recover the full cost of the healthcare from the patient. This can be done in advance of the treatment. The following rules should be followed:

- You should not seek to recover costs through any other mechanisms, including provisions such as the EHIC mechanisms *and*
- You should not invoice your NHS commissioner for the treatment.

### Pricing

Pricing must be non-discriminatory; as the Provider, you cannot make up a price or seek to charge more just because the person is a visiting patient seeking treatment under the Directive. Healthcare providers must apply the same scale of fees for healthcare to visiting patients as for domestic (i.e. UK-resident) patients. If there is no comparable price for domestic patients, the price must be based on objective, non-discriminatory criteria.

The NHS (Cross-Border Healthcare) Regulations 2013 state that where a visiting patient receives an NHS service for which a charge can be made, the visiting patient must not be charged more than the amount that an NHS commissioner would have been charged if that service had been provided to an NHS patient.

Healthcare providers must provide visiting patients with clear information on prices and clear invoices. To calculate the NHS costs, trusts should use the latest mandatory tariff or published national average reference costs online.<sup>5</sup>

### Waiting lists

Providers do not need to prioritise visiting EEA patients to the detriment of 'home' patients. They will be expected to join any relevant waiting list as if they were a 'home' patient.

If you have any questions about the Directive, for example around the impact on waiting times, please refer to the contact section below to discuss this further with the DH Cross Border Healthcare Team.

## Summary of Obligations from the Directive

The Directive places some clear obligations on healthcare providers who treat visiting patients. To be compliant you must:

- Provide patients with relevant information on treatment options and quality and safety;
- Provide clear invoices and price information;
- Apply fees in non-discriminatory manner;
- Ensure transparent complaints procedures and procedures to obtain redress;
- Apply adequate systems of professional liability insurance or similar;
- Respect privacy in the processing of personal information;
- Supply patients with a copy of their medical treatment record.

## Contact Details for NHS providers

Enquiries on the detail of the governing European legislation may be made to the Department of Health Cross-border Healthcare mailbox:

**[eucross-borderhealthcare@dh.gsi.gov.uk](mailto:eucross-borderhealthcare@dh.gsi.gov.uk)**

For general queries regarding overseas visitors please call: **0113 254 5819**



