

Policy on increasing the Immigration Health Charge

The Government is seeking to double the Immigration Health Charge (“the Surcharge”) from £200 to £400 per person per year, with the discounted rate for students and those on the Youth Mobility Scheme increasing from £150 to £300 per year.

On 6 April 2015, the Home Office introduced a requirement that most temporary migrants who make an application to come to the UK for more than six months, or to extend their stay in the UK, pay the Surcharge. The Surcharge aims to ensure that temporary non-EEA migrants make a financial contribution to the cost of healthcare in the UK, in line with their period of stay. The Department of Health and Social Care estimates that the NHS in England spends on average £480 per person per year, on treating Surcharge payers.

The Surcharge increase will apply to immigration applications made after the increase comes into force and will also apply to people already in the UK who seek to extend their stay after the increase has come into force.

Doubling the Surcharge may generate approximately double the current income - an increase of around £220m on current levels – assuming there is no behavioural response from migrants. Income from the charge is distributed between the devolved health ministries for the purposes of health spending, under the Barnett Formula.

Who will be affected

Temporary, non-EEA migrants who apply for leave to enter the UK for more than six months, or who apply to extend their stay for any length of time, subject to certain exceptions set out in Schedule 2 to the Immigration (Health Charge) Order 2015.

Summary of the evidence considered in demonstrating due regard to the Public Sector Equality Duty.

The Equality Act is described as:

An Act to make provision to require Ministers of the Crown and others when making strategic decisions about the exercise of their functions to have regard to the desirability of reducing socio-economic inequalities; to reform and harmonise equality law and restate the greater part of the enactments relating to discrimination and harassment related to certain personal characteristics; to

enable certain employers to be required to publish information about the differences in pay between male and female employees; to prohibit victimisation in certain circumstances; to require the exercise of certain functions to be with regard to the need to eliminate discrimination and other prohibited conduct; to enable duties to be imposed in relation to the exercise of public procurement functions; to increase equality of opportunity; to amend the law relating to rights and responsibilities in family relationships; and for connected purposes.

The following characteristics are protected characteristics—

age;
disability;
gender reassignment;
marriage and civil partnership;
pregnancy and maternity;
race;
religion or belief;
sex; and
sexual orientation.¹

Public Sector Equality Duty

The Public Sector Equality Duty is set out in section 149 of the Equality Act 2010 (available at <http://www.legislation.gov.uk/ukpga/2010/15/section/149>).

The Public Sector Equality Duty states that a public authority must, in the exercise of its functions, have due regard to the need to—

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.²

Schedule 18 to the Act provides for limited exceptions from the Duty. In relation to the exercise of immigration and nationality functions, section 149 has effect as if the duty to advance equality of opportunity did not apply to the protected characteristics of age, race or religion or belief; but for that purpose “race” means race so far as relating to—

(a) nationality, or (b) ethnic or national origins.

The relevant protected characteristics are—

age;
disability;
gender reassignment;

¹ <http://www.legislation.gov.uk/ukpga/2010/15/part/2>

² <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

pregnancy and maternity;
race;
religion or belief;
sex; and
sexual orientation.

It also applies to marriage and civil partnership, but only with respect of the requirement to have due regard to the need to eliminate discrimination of this group.

Overall summary

Either no disproportionate impact on particular groups has been identified as a consequence of doubling the Surcharge, or, where potential adverse impacts have been identified, these have been assessed as a proportionate means to achieve the legitimate policy aim of ensuring that relevant migrants make a fair and proportionate contribution to the NHS.

The principal impact of the Surcharge increase is likely to be in relation to immigration and may mean that fewer people apply for a visa or, if they are already in the UK, apply for leave to remain or extend their visa. An impact assessment was published alongside the draft Order on the potential impacts of increasing the surcharge and it estimates that a small number of migrants, relative to the total volume of applications, may be deterred from coming to the UK. Due to the complexity and numerous factors influencing migration flows, the results should, however, be considered indicative.

The Surcharge operates as a uniform system of charging for relevant migrants, set at a fixed cost and not linked to individual use of health services, or any assessment of the migrant's health, age or disabilities. Currently all non-EEA migrants subject to immigration control, irrespective of their nationality, coming to work, study or join family in the UK for more than six months are liable to pay the Surcharge (subject to the exemptions set out in Schedule 2 to the Immigration (Health Charge) Order 2015). The proposed increase in the Surcharge, will increase by up to £200 per person per year, the cost of coming to the UK and of renewing permission to be in the UK for applicants who have yet to acquire indefinite leave to remain. The table annexed to this document provides statistics on the visa type and nationality of those who have had visas issued within the last two years.

The average cost of NHS usage in a year by those paying the Surcharge is estimated by the Department of Health & Social Care to be £480 in England. The proposed new amount of the charge will therefore remain below full average cost recovery level. As the Surcharge is set at a fixed amount for each applicant, it takes no account of people's usage, which is likely to benefit those who need to use the NHS more than average, many of whom will have protected characteristics (e.g. pregnancy, disability, age).

The policy retains the existing exemptions for vulnerable groups such as those

claiming asylum, granted refugee status and victims of trafficking/slavery. Although there may be some impact on lower income groups, this is unlikely to be significant, relative to the total cost of coming to and living in the UK, and the impact is justified for the reasons set out in the remainder of this Equality Impact Assessment. Migrants affected by the proposal are already required to demonstrate that they are able to support themselves without recourse to public funds before being granted a visa to come to the UK and are therefore likely to be able to afford to pay the increased Surcharge.

There may be a greater impact on lower income groups who are already in the UK, when they apply for leave to remain. However, where persons applying to extend their stay on the basis of their right to family life are destitute and unable to afford the cost of applying to remain, the Home Office already operates a visa waiver policy.

During the development of the policy, alternatives to doubling the Surcharge have been considered, including tripling the Surcharge. The current proposal is the most reasonable means of delivering the policy objective of ensuring that temporary migrants make a fair and proportionate contribution to the NHS.

Justification and mitigating factors

The Surcharge is part of an overall package of costs for those planning to travel to the UK with a certain level of financial commitment already required when planning travel. Migrants have to demonstrate a certain level of disposable income to meet the relevant Immigration Rules (information that is required when applying for a visa includes an estimate of the cost of the trip and annual income).

Those migrating to other countries need to factor in the cost of health cover/health insurance. Internal DHSC analysis shows that the cost of the Surcharge compares favourably against both countries which require private insurance cover or countries which have state health schemes in which both an individual and employer contribute to health cover.

DHSC compared the cost of the Surcharge to some state supported health schemes and the cost of comparable private health insurance in some other countries, which require migrants have a minimum level of coverage. DHSC concluded that the Surcharge appeared significantly smaller in cost and noted that private insurance also included certain conditions such as not covering pre-existing conditions or maternity care, or limitations on other types of treatment. Other than assisted conception services, the Surcharge does not exclude or limit any health treatment or services.

A comparison of specific health costs for students against the Surcharge showed that the increase will bring the Surcharge into line with costs students face in other countries, although costs in Germany will remain significantly higher and costs in the USA being approximately 5 times the cost of the increased Surcharge.

The financial burden for migrants with dependants will be higher. However, we believe the per-person Surcharge is justified as each individual will have access to the NHS in generally the same way as those who are permanently resident. In 2017, 29% of the total number of visas issued (excluding visitors and transit) were issued to people coming to the UK for the purposes of employment. 37% of the total number of visas issued (excluding visitors and transit) were issued to students (excluding short term students). There is already a discounted rate for students and youth mobility workers in recognition that they are likely to have less disposable income than those in full-time employment. There were 214,140 extensions of leave granted (including dependants) in 2017. Of these 80,000 (37%) were for work, 44,400 (21%) were for study, 71,657 (33%) were for family reasons, and 6,703 (8%) were for other reasons³.

The Surcharge increase may have an impact on health workers on lower incomes. However, these groups will be receiving a minimum of the national living wage and will be aware of the requirement to pay the Surcharge when applying for a visa extension and can prepare in advance to ensure the impact of paying the Surcharge does not have an adverse effect on their lives during the period when they need to make the payment.

Students, who are more likely to be younger people and may have low incomes or rely on family support, may be impacted by the increase. However, students will continue to benefit from a discounted rate. The cost of the Surcharge will remain a relatively small part of the overall annual cost of study and students will be aware in advance of the requirement to pay and factor it into their annual budgetary needs.

It is estimated that doubling current rates could bring in an additional income of around £220m per annum for the health administrations across the year, which, minus an amount the Home Office retains to cover administration costs, is directed back to the NHS for the purposes of health funding and helps to ensure its long-term sustainability.

Analysis of each Protected Characteristic

Age

The majority of those granted visas for six months or more (and who therefore pay the Surcharge) are either coming to the UK to work or study, so fall within the 18-67 age range⁴. The Surcharge already includes a discounted rate for students and the youth mobility scheme, many of whom will be younger adults. Older people who are no longer working may be disproportionately affected by the increase in the Surcharge. However, that impact is likely to be small as those who do not have the disposable income to pay the Surcharge are also

³ Immigration statistics October to December 2017

<https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2017/how-many-people-continue-their-stay-in-the-uk>

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/662519/entry-visas2-jul-sep-2017-tables.ods

less likely to be able to meet the requirements of the immigration routes affected. We believe any impact beyond this is proportionate and ensures individuals using the NHS make a fair contribution.

Older people (over 65) are more likely to be greater users of health services than other groups. However, one of the benefits of the Surcharge is that it is a uniform system of charging, not based on potential use of NHS services, so older people that may require greater use of the NHS will not face additional cost.

Marriage and Civil Partnership

No significant impacts on the grounds of marriage or civil partnership have been identified to arise from an increase in the Surcharge. The Surcharge applies irrespective of marital status or where a civil partnership has been entered into. A person who is joining their partner will be subject to the Surcharge prior to their visa being granted irrespective of whether they are married or in a civil partnership. Couples travelling to the UK will need to pay for each person on the application, which may make it more challenging to pay. However, the impact is likely to be small as the Surcharge is part of an overall package of costs for those planning to travel to the UK. The Surcharge is a relatively small proportion of those costs and is not significant when compared against the financial commitment required and evidence of disposable income which must be demonstrated before entry clearance or leave to remain will be granted in accordance with the Immigration Rules. The Government believes it is fair and proportionate to require each person to pay the Surcharge, as each individual will be able to access the NHS.

Sexual Orientation

No significant impacts on the grounds of sexual identity have been identified to arise from an increase in the Surcharge.

Gender reassignment

No significant impacts on the grounds of gender reassignment have been identified to arise from an increase in the Surcharge.

Disability

There is evidence to show that disabled people are less likely to be working and more likely to be less well paid⁵ and therefore may be disproportionately affected by the increase in the Surcharge. However, that impact is likely to be small as those who do not have the disposable income to pay the Surcharge are also less likely to be able to meet the requirements of the immigration routes affected. Any additional impact is proportionate to the wider aims of the policy.

Disabled people are more likely to require more health services than other groups. However, the Surcharge is a uniform system of charging, not based on potential use of NHS services, so people with disabilities who may need to use the NHS more will not face additional cost impacts.

⁵ http://www.npi.org.uk/files/7814/0490/1005/Disability_long_term_conditions_and_poverty.pdf

Pregnancy and maternity

Women on maternity leave may have lower disposal incomes and may therefore be disproportionately impacted by the increase. However, that impact is likely to be small as those who do not have the disposable income to pay the Surcharge are also less likely to be able to meet the requirements of the immigration routes affected.

Pregnant women who do pay the Surcharge and travel to the UK or who apply for, and are granted, an extension of leave will get access to the full range of NHS services generally without further charge.

Since 21 August 2017 NHS-funded assisted conception services in England are not free of charge to people who have paid the Surcharge (or are exempt from paying it or have had the requirement to pay it waived) unless another exemption applies in the Charging Regulations. Although where a course of assisted conception treatment began before 21 August 2017, that particular course of treatment remains free of charge.

Race, Ethnicity, Nationality

“Race” encompasses colour, nationality, and ethnic and national origins. It is likely that certain nationalities will be more affected by the increase in the Surcharge than others because of the numbers of people travelling to the UK on the immigration routes with the Surcharge. Although there may be a greater impact on people from the poorer countries, we consider this a proportionate reflection of the legitimate policy aim of ensuring those who use the NHS contribute to paying for it.

Sex

There is a significant body of evidence to show that – in general – women still earn less than men⁶, and in many countries, there continues to be a prevalence of gender roles, which may impact on a woman’s ability to work. It is likely, therefore, that women may be more affected than men by the increase in the Surcharge.

However, we consider this proposal to be a proportionate reflection of the legitimate policy aim of ensuring that non-EEA temporary migrants make a fair and proportionate contribution to the NHS.

Religion or Belief

No significant impacts on the grounds of religion or belief have been identified to arise from an increase in the Surcharge.

SCS sign off	Philippa Rouse	Name/Title	Director, BICS Policy
---------------------	----------------	-------------------	-----------------------

I have read the available evidence and I am satisfied that this demonstrates

⁶ <https://www.gov.uk/government/news/research-finds-women-paid-less-than-men-in-90-of-sectors>

compliance, where relevant, with Section 149 of the Equality Act and that due regard has been made to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.

Directorate/Unit		Lead contact	
Date		Review Date	

**Retain the completed PES for your records and send a copy to
Diversity team@homeoffice.gsi.gov.uk and your relevant business area Equality and Diversity Lead.**

Annex

The table below includes statistics on all visas issued to non-EEA Nationals. The Immigration Health Surcharge does not apply to visitors or those issued short-term student visas. The table lists the top 15 countries for visa grants that are for validity periods in excess of six months. The figures show the visa type and the nationality of those who have had visas issued for the last two years. The Health Surcharge would have been payable by the all those with visas of over six-month validity, however the total amount payable will depend on the duration of the visa issued. The cost is calculated at £200 per year (pro rata) of each year granted – and is payable in advance of the visa being issued.

Entry clearance visas granted by category and top 15 countries of nationality

Country of nationality	Total visas granted	Total visas granted (excl. visitors and transit)	Total Work	Total Study (excl. Short-term students)	Short-term students (previously Student visitors)	Total Family	Total Dependant Joining or accompanying	Total Other
Year ending September 2016								
*Total	2,453,009	559,133	164,571	207,450	86,320	38,276	8,109	1,948,283
<i>of which:</i>								
China	553,960	102,430	5,135	76,561	16,387	1,025	1,008	453,844
India	475,696	86,928	59,691	11,119	4,830	3,247	515	396,294
United States	34,861	33,317	13,921	14,162	990	1,911	982	2,895
Australia	21,429	20,833	17,161	1,226	365	804	559	1,314
Saudi Arabia	133,322	20,831	474	8,486	10,976	12	76	113,298
Turkey	103,695	18,238	1,817	2,354	11,568	745	696	86,515
Pakistan	58,290	18,163	3,238	3,208	582	5,587	341	45,334
Russia	114,464	17,729	2,507	3,021	10,368	513	71	97,984
Philippines	62,746	14,656	11,511	331	228	1,386	350	48,940
Nigeria	80,011	12,369	1,440	6,859	945	753	136	69,878
Hong Kong	11,929	11,202	1,725	8,923	226	191	39	825
Thailand	71,540	10,403	451	4,486	3,817	1,009	157	61,620
Canada	10,702	10,358	6,003	3,207	250	398	169	675
Malaysia	10,028	9,853	945	8,238	92	257	91	405
Japan	9,168	8,928	4,720	2,799	762	252	156	479
Total - all other nationalities	701,168	162,895	33,832	52,470	23,934	20,186	2,763	567,983
Year ending September 2017								
*Total	2,683,377	589,918	164,383	224,392	105,804	37,839	8,624	2,142,335
<i>of which:</i>								
China	665,851	122,234	5,459	88,258	24,129	981	1,132	545,892
India	518,232	87,032	59,424	14,081	5,415	2,716	375	436,221
United States	35,646	34,078	13,677	15,039	816	2,501	827	2,786
Russia	149,584	24,777	2,387	2,939	17,638	479	68	126,073
Turkey	114,048	21,046	2,472	2,677	12,926	733	1,232	94,008
Saudi Arabia	123,810	20,381	596	8,352	10,591	16	17	104,238
Pakistan	71,493	19,465	2,968	4,349	714	6,338	489	56,635
Australia	19,768	19,218	15,864	1,262	297	674	469	1,202
Philippines	68,738	15,483	12,626	396	233	1,258	293	53,932
Nigeria	67,324	11,788	1,736	6,310	799	1,023	141	57,315
Hong Kong	12,462	11,676	1,743	9,332	241	205	34	907
Thailand	80,317	10,835	488	4,719	4,290	786	106	69,928
Canada	10,720	10,410	5,824	3,456	222	419	179	620
Malaysia	9,315	9,187	889	7,727	90	221	61	327
Japan	9,170	8,930	4,827	2,748	756	213	158	468
Total - all other nationalities	726,899	163,378	33,403	52,747	26,647	19,276	3,043	591,783

Source: Quarterly Immigration Statistics July to September 2017: Entry clearance visas granted outside the UK data tables immigration statistics July to September 2017 volume 3, table vi_06_q

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/662520/entry-visas3-jul-sep-2017-tables.ods

Part 2 - Policy Equality Sign-off

N.B. The PES can be completed throughout the development of a policy but is only signed at the point the policy is made public i.e. finalised and implemented.

To assist in evaluating whether there is robust evidence that could withstand legal challenge, the following questions must be asked prior to sign-off.

- Q.** Has ‘due regard’ been made to the three aims of the General Duty (Section 149 of the Equality Act 2010)?
- **Eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act;
 - **Advance equality of opportunity** between people who share a protected characteristic and people who do not share it; and
 - **Foster good relations** between people who share a protected characteristic.
- Q.** Have all the **protected characteristics** been considered – age; disability; gender reassignment; pregnancy and maternity; race (includes ethnic or national origins, colour or nationality); religion or belief (includes lack of belief); sex; and sexual orientation?
- Q.** Have the relevant stakeholders been involved and/or consulted?
- Q.** Has all the relevant **quantitative and qualitative data** been considered and been subjected to **appropriate analysis**?
- Q.** Have lawyers been consulted on any legal matters arising?
- Q.** Has a date been established for reviewing the policy?

Further resources including: Case Law; Equality Assurance Table; examples of best practice are available on Horizon.

Family test

Introduction

The Government is seeking to double the Immigration Health Charge (“the Surcharge”) from £200 to £400 per person per year, with the discounted rate for students and those on the Youth Mobility Scheme increasing from £150 to £300 per year.

On 6 April 2015, the Home Office introduced a requirement that most temporary migrants who make an application to come to the UK for more than six months, or to extend their stay in the UK, pay the Surcharge. The Surcharge aims to ensure that temporary non-EEA migrants make a financial contribution to the cost of healthcare in the UK, in line with their period of stay. The Department of Health and Social Care estimates that the NHS in England spends on average £480 per person per year, on treating Surcharge payers.

The Surcharge increase will apply to immigration applications made after the increase comes into force and will also apply to people already in the UK who seek to extend their stay after the increase has come into force.

Doubling the Surcharge may generate approximately double the current income - an increase of around £220m on current levels – assuming there is no behavioural response from migrants. Income from the charge is distributed between the devolved health ministries for the purposes of health spending, under the Barnett Formula.

Who will be affected

Temporary, non-EEA migrants who apply for leave to enter the UK for more than six months, or who apply to extend their stay for any length of time, subject to certain exceptions set out in Schedule 2 to the Immigration (Health Charge) Order 2015.

Overall Impact

Migrants subject to immigration control who are applying to join family in the UK are required to meet the family provisions of the UK’s Immigration Rules. These are designed to ensure that families formed in this way are supported in the UK without recourse to public funds, and those sponsoring family members must demonstrate they meet the specified minimum earnings threshold. The increase to the Surcharge represents an increase per family member to the cost of migrating to the UK and of being in the UK until indefinite leave to remain is granted. The provisions of the Immigration Rules mean that some lower income families are unlikely to meet the entry requirements before the issue of the Surcharge is considered. It is possible therefore that the increase in the Surcharge will be seen as an additional barrier to family formation or family reunion for family members already in the UK.

There is a potential impact on low-income groups from the Surcharge increase. This may particularly affect older people and people with disabilities, who are more likely to be retired or not working and may therefore have a lower-than average income. There may therefore be a risk that for lower income groups paying for the Surcharge increase may come at the expense of other standard living costs that would impact

the family, such as food or clothing, or even leisure activities. There is also a risk that some migrant families with children will seek to mitigate the additional cost by not including these children in their applications for an extension of stay until the point when indefinite leave to remain is granted.

However, those who do not have the disposable income to pay the Surcharge are also less likely to be able to meet the requirements of the immigration routes affected. The cost of the Surcharge is a fixed, upfront payment made by visa applicants prior to entering the UK which allows all migrants to manage their finances prior to travel when it is affordable to do so. Those extending their stay in the UK are also liable to pay the Surcharge, but migrants applying for or granted indefinite leave to remain (in many cases after five years of arriving in the UK) are exempt from the Surcharge which limits the impact of the policy on long term residents of the country.

Specific groups

Students

Students from different income groups arrive in the UK to study and pay the same (reduced) fixed fee. Although we would not expect that the Surcharge increase would have a significant impact on higher income groups, it may have an impact on lower income groups who would be faced with a further fee on top of their other expenses such as travel costs, accommodation and other cost of living. However, as a percentage of total costs this would not be a significant amount and, as it is a fixed fee set in advance, students would be able to suitably plan and make arrangements that would reduce the impact of this additional cost.

A potential impact of the increase may be that students have to seek additional financial support from parents, which for low income families may have a greater impact than others. However, although there may be a need for some financial management it would not be expected to impact the family significantly and as the fee is fixed and would be well communicated in advance, there would be sufficient time to ensure the family could prepare financially for the additional cost without impacting on essentials such as food, clothing and heating.

To mitigate any impacts, we will ensure that suitable communications are in place to inform students who are considering applying to UK universities of the cost of the Surcharge and also the benefits they gain. Comparatively the cost of the Surcharge remains very competitive compared to the cost of acquiring health cover in other countries and we would not expect that this would prove detrimental to the attractiveness of studying in the UK.

Family unit

We do not expect the Surcharge to have an impact on families in other ways such as becoming parents, getting married or fostering and adopting. In relation to average income of people who work it is a small, upfront charge and those who are unable to pay it are also likely to be able to meet the requirements of the Immigration Rules it affects

General public

There will be no impact on the general public other than positive, as the NHS will recover a larger amount of money from overseas visitors that will be reinvested into the NHS.

Older people

Older people are more likely to visit the UK (an activity/immigration route not covered by the Surcharge) than to migrate here for work or study. The Immigration Rules restrict the circumstances in which elderly dependant relatives can qualify to join relatives in the UK permanently. The Surcharge increase is likely to have limited impact on this group.

Children

A parent sponsoring a migrant child to join them in the UK will be liable to pay the Surcharge in respect of the child for a period in which their immigration status remains time-limited (i.e. before they obtain indefinite leave to remain). The family provisions in the Immigration Rules already provide that families formed from overseas must demonstrate they can support themselves in the UK without additional resource to public funds. The proposed increase to the Surcharge will give rise to an additional cost for parents wishing to bring such children to join them in the UK. Once the parent/guardian has paid the Surcharge this entitles the whole family, including all children, access to most health services.

If the child is part of a family breakdown due to, for example, domestic abuse between the parents, the parent who has been abused can apply for indefinite leave to remain in the UK (permanent residence) if they are here in the family route under the Immigration Rules. Such an application would not be liable to the Surcharge. This application can include children who would therefore not be chargeable for healthcare.

Illegal Migration, Identify Security and Enforcement Team. 18 April 2018