Department of Health & Social Care

NHS cost recovery - overseas visitors

Guidance for NHS service providers on charging overseas visitors in England

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Introduction

1. Purpose: This document gives advice on charging overseas visitors (an overseas visitor is defined as someone who is not ordinarily resident in the UK) for some NHS services, as required by law under the National Health Services (Charges to Overseas Visitors) Regulations 2015 ("the Charging Regulations").

2. While this guidance document is designed to support effective delivery of the Charging Regulations, it cannot cover all circumstances and is not a substitute for the Regulations themselves, which contain the legal provisions. Organisations to which the Charging Regulations apply, including NHS and non-NHS bodies, should seek their own legal advice on the extent of their legal obligations when necessary.

Scope

3. This guidance only covers charging for “relevant NHS services” (see chapter 4 for further information) that are within scope of the Charging Regulations. It does not cover other legislative charging regimes, such as those which govern prescriptions or social care.

Audience

4. This document is aimed primarily at Overseas Visitor Managers (OVMs), their teams and those responsible for checking patient eligibility for NHS care without charge. However, we encourage all staff in organisations that provide relevant services to familiarise themselves with the principles set out in this guidance. Chapter 2 includes further information about the cost recovery process.

5. Where the guidance refers to "you" it refers to an OVM. Where the guidance refers to "we" it refers to the Department of Health and Social Care.

Territorial extent

6. Health is a devolved matter and this guidance only covers the law in England. It does not cover charging arrangements in Wales, Scotland or Northern Ireland, which are governed by separate legislation under the jurisdiction of each respective devolved administration.

Further information

7. If you need advice about any aspect of the Charging Regulations or this guidance, you can visit the NHS visitor and migrant cost recovery programme pages on GOV.UK or access the OVM online forum (access restricted to those involved in overseas visitor cost recovery). Where issues are not covered by the guidance or are not answered by the above route, policy questions can be directed to the DHSC Cost Recovery Team (nhscostrecovery@dhsc.gov.uk) or where related to operational activity, to the NHS England Overseas Visitors Improvement Team (england.overseascostimprovement@nhs.net).

Throughout this document, we use the word "must" to denote something that is a legal requirement, and the word "should" to denote actions that we encourage you to take because they support best practice and the implementation of legal responsibilities.

Chapter 1: Executive summary

8. Charging overseas visitors for some NHS services in England – also known as 'cost recovery' – is set out in law under the NHS (Charges to Overseas Visitors) Regulations 2015. The current "Charging Regulations" came into force on 6 April 2015 and apply to all "relevant bodies" (providers of NHS care) and delivery of relevant treatment commenced on or after that date. We have summarised the key aspects of the Regulations below.

When accessing the Charging Regulations, please ensure that you click on the "latest available" button on the left-hand side of the page. You can then view the entirety of the Regulations by clicking "print options" on the right-hand side and "whole instrument" (PDF or webpage). Amendments to the Charging Regulations are summarised in Annex A.

9. Some relevant NHS services are free at the point of delivery for everyone**,** either because they are out of scope of the Charging Regulations (for example primary care), or because they are covered by a specific legal exemption in the Charging Regulations (for example treatment of certain diseases). More detail of services that are out of scope or exempt can be found in Chapter 3.

10. Overseas visitors are required to pay for NHS services in scope of the Charging Regulations ('relevant services') unless they, or the services they receive are exempt.

11. For the purposes of cost recovery, an overseas visitor is defined as someone who is not 'ordinarily resident' in the UK. Being ordinarily resident broadly means living here on a lawful, voluntary and settled basis for the time being. Anyone who is subject to immigration control (meaning they need permission to enter or remain in the UK, per section 115(9) of the Immigration and Asylum Act 1999), cannot be ordinarily resident in the UK unless they have Indefinite Leave to Remain, or pre-settled or settled status under the EU Settlement Scheme (EUSS). We look at this in more detail in Chapter 5.

12. Treatment must be paid for upfront unless doing so would delay urgent or immediately necessary care (as determined by a clinician). Urgent or immediately necessary care must never be withheld or delayed, even if the patient is unable or unwilling to pay, although they remain liable for the charges where they're not otherwise exempt. In this context, whether treatment is 'urgent' is directly dependent on how long a person is expected to remain in the UK, meaning that elective care can sometimes be considered urgent. We explore what this means in practice in Chapter 4.

13. All maternity services are immediately necessary (regulation 3(7) of the Charging Regulations), and every effort should be made to avoid deterring patients from seeking maternity care.

14. Some overseas visitors are exempt from paying for relevant services, including asylum seekers, some types of detainee and victims of modern slavery. Each exemption is subject to its own legal criteria and scope. For example, some exemptions will allow an overseas visitor to access all relevant services without charge, while other exemptions are more limited. We look at the people who are exempt from charge and the services they are eligible for in Chapter 8.

15. In some cases, an overseas visitor will be exempt because:

    - they have paid the Immigration Health Surcharge (IHS) as part of their visa application. This gives them access to all NHS services on the same basis as an ordinary resident, except for assisted conception services, while their visa is valid. Further information on the IHS can be found in Chapter 7

    - they are covered by an international healthcare arrangements . In such cases, the overseas visitor cannot be charged directly for most relevant services (subject to some limitations), but the relevant body may still be able to claim back the cost of the patient's care from the contracting state where an EHIC or S2 has been used, depending on the nature of the arrangement. See Chapter 9 for more information

16. Relevant bodies do not have the power to waive or cancel charges, and Secretary of State for Health and Social Care can only do so in certain situations where there are exceptional humanitarian reasons. However, in some circumstances, a relevant body can choose not to pursue a debt for the time being (by 'writing it off' in their accounts), for example, if a patient is destitute or at risk of destitution. We cover this in more detail in Chapter 6.

17. Legal responsibility for identifying chargeable patients and recovering the cost of their care lies with the relevant body, that is the NHS service provider. This means that:

    - relevant bodies must first establish whether a person is an overseas visitor to whom charges apply, or whether they are exempt from charges. The legal obligation applies to any provider of relevant services including non-NHS organisations such as private and voluntary providers supplying relevant services (regulation 2 of the Charging Regulations)

    - if charges do apply, relevant bodies must make and recover 150% of the cost of treatment from the liable overseas visitor (unless the patient is covered by the Withdrawal Agreements, or certain healthcare arrangements with other countries, in which case at 100% cost of treatment). As noted above, these charges must be recovered in full and in advance of receiving treatment, unless doing so would prevent or delay treatment that a clinician has said is

immediately necessary or urgent (regulations 3(1A) and 7 of the Charging Regulations)

18. In complying with the Charging Regulations, relevant bodies must also give due regard to their other legal obligations under the Equality Act 2010 and the Human Rights Act 1998. Further information on this subject can be found in Chapter 2.

19. DHSC strongly recommends that relevant bodies appoint designated Overseas Visitor Managers (OVMs) who are responsible for ensuring that their organisation is fulfilling its legal obligations under the Charging Regulations and implementing best practice. Please note that while we refer to 'OVMs' in this document, we recognise that they may in practice be a team of people, or a person without managerial responsibilities.

20. It is essential that OVMs are supported and enabled by senior leaders and clinicians to carry out their role effectively. This includes ensuring that they receive appropriate training and empowering them to seek relevant information from all departments. We have included a charter governing the expectations and relationships between OVM, patients and other staff. This is available to those with access to OVM Forum, which can be requested by NHS, NHS England and government employees only by emailing DHSC Cost Recovery team (nhscostrecovery@dhsc.gov.uk)

21. The latest version of this guidance can always be found on the NHS visitor and migrant cost recovery programme pages on GOV.UK, alongside a toolbox of supporting resources, which will continue to be reviewed and refined. We ask that relevant bodies check this website regularly for updates and use the OVM online forum to seek any further information and stay updated.

Chapter 2: The cost recovery process

22. Under the Charging Regulations, relevant bodies (for example providers of NHS-funded relevant services) must:

- make and recover charges for the provision of relevant services when a relevant body determines, (having made such enquiries that they consider are reasonable in the circumstances, including in relation to the patient's state of health), that the patient is not entitled to receive those services without charge (regulation 3(1) of the Charging Regulations)

- secure payment for the estimated cost of that service before providing it, unless doing so would prevent or delay the provision of an immediately necessary or urgent service (regulation 3(1A) of the Charging Regulations)

23. We have summarised below the actions that relevant bodies might take to meet these legal requirements. These steps are intended only as a guide, the order and specific implementation of which may differ depending on the patient's circumstances and entry point onto a treatment pathway, as well as a relevant body's organisational processes.

Throughout this process, relevant bodies should consider how to keep the patient informed and identify and support patients who may be vulnerable. They must also ensure treatment is never delayed or withheld unless a clinician has determined that treatment is non-urgent, because of following any of these steps.

Steps to help relevant bodies identify overseas visitors

Step 1: Confirm the service is chargeable

24. The Charging Regulations only apply to 'relevant services' which means accommodation, services or facilities which are provided (or whose provision is arranged) under the National Health Service Act 2006, except for primary care (and any equivalent) services.

25. In practice, this means that:

- it is free for overseas visitors to access a GP

- the usual prescription charges and exemptions apply to overseas visitors in the same way as they do for ordinary residents. Further information is available on the prescriptions and pharmacies pages on NHS.UK

- overseas visitors can access NHS dentists and opticians but will be subject to the same charging rules as ordinary residents. Further information is available about dentists page and opticians page on NHS.UK
- any service that is 'equivalent' to a primary care service is also free to overseas visitors

26. Some relevant services are specifically 'exempt' from charge, meaning that overseas visitors can access them for free. This includes: sexual health services, treatment in emergency departments or urgent care centres and the diagnosis and treatment of some infectious diseases (regulation 9 of the Charging Regulations and see Chapter 3 for a detailed list).

27. In some cases, relevant bodies may still be able to claim back the cost of providing an 'exempt' service if the patient receiving them is covered by a healthcare arrangement that allows for reimbursement and is carrying the right documentation (for example an EHIC). See Chapter 9 for more information.

Step 2: If the service is chargeable, confirm with a clinician whether treatment is urgent or immediately necessary

28. OVMs must not determine treatment urgency – this can only be done by a clinician (regulation 3(7) of the Charging Regulations). Where a clinician determines that care is urgent or immediately necessary – which includes all maternity services and any services needed to determine urgency – it must go ahead without delay. This does not mean that the charge is cancelled, it is likely to apply after such treatment unless an exemption applies. It also does not necessarily mean that no attempt can be made beforehand to determine a patient's chargeable status or recover costs upfront – it simply means that such actions cannot be undertaken if it would result in care being delayed or withheld.

Step 3: Determine whether the patient is likely to be an overseas visitor

29. Relevant bodies must make reasonable enquiries to establish whether a patient is ordinarily resident, or an overseas visitor to whom charges apply (regulation 4 of the Charging Regulations). This may happen in several stages but will generally involve collecting information from relevant sources, including the patient themselves (through baseline questioning, or subsequent evidence gathering if required), GP referral letters 'and or 'or' patient-facing administrative teams and relevant digital tools (see Chapter 5).

30. Overseas visitors should be identified and informed about potential charges at the earliest possible opportunity (CQC regulation 19, fees) to maximise cost recovery and ensure that patients can make informed choices about their care. If baseline

questioning or other early evidence indicates that the patient is not ordinarily resident in the UK, they should be informed that:

- they may need to be interviewed to determine their chargeable status
- urgent or immediately necessary treatment will never be withheld
- they are eligible to receive some treatment services for free, including primary care and accident and emergency
- in some circumstances, failure to pay healthcare bills could result in a future immigration sanction from the Home Office
- there are organisations they can speak to if they require further support

Step 4: If the patient is an overseas visitor, identify any relevant exemptions

31. If a relevant body suspects that their patient is an overseas visitor, they must take reasonable steps to determine whether they or their care are covered by an exemption in the Charging Regulations. Patients receiving relevant services should not be told by anyone that charges will not apply unless or until it has been definitively established that they are eligible to receive their treatment without charge.

32. Exemptions are explored in more detail throughout this guidance and a full list is included in Annex B, but examples of exemptions include people who:

    - Have been granted a visa for which the IHS applies, which enables them to access all relevant services without charge, except assisted conception services, which is explored further in Chapter 7
    - are covered by a healthcare arrangement and are receiving services within scope of the relevant arrangement , further details are available in Chapter 9
    - fulfil certain conditions, for which specific provision has been made in the Charging Regulations. This applies, for example, to prisoners, members of the armed forces, and some vulnerable groups including asylum seekers, refugees, victims of modern slavery and some victims of sexual violence and domestic abuse

33. These exemptions differ in their scope and application and the relevant body should take care to familiarise itself with each one.

34. As part of the legal obligation to undertake reasonable enquiries, the relevant body should ask the patient to provide evidence that they are covered by an exemption where required (this may include evidence of the patient's identity).

35. In the event of insufficient or no evidence being provided, the relevant body should continue to take reasonable steps to ascertain a patient's claim that an exemption applies before taking a final view. In exceptional circumstances this may include contacting relevant organisations who may be able to provide evidence on the patient’s behalf. Further information on this can be found in Chapters 5 and 6.

36. When assessing a patient’s chargeable status, relevant bodies must not discriminate according to race, nationality or any other protected characteristic and should not make assumptions about a person’s circumstances without evidence.

Step 5: If a healthcare arrangement applies, take relevant action

37. The UK is party to several healthcare arrangements with other countries which are listed in Schedule 2 of the Charging Regulations. Patients who fall within scope of those arrangements will be eligible to receive some relevant services without being charged, although this will often be limited to 'necessary' healthcare.

38. It is important that relevant bodies collect documentation from these individuals (for example an EHIC), as the UK may still be able to claim back 100% of the cost of the patient’s care from the country responsible for their healthcare, even if the service they receive is exempt (for example treatment for an exempt disease or use of an ambulance).

39. Chapter 9 provides further information on these arrangements and the services and patients in scope.

Step 6: If the patient is chargeable, apply the NHS Payment Scheme and recover the cost of treatment from them

40. If, following reasonable enquiries, a relevant body decides that the overseas visitor is not eligible to receive care without charge, they must:

    - give the patient a written statement confirming why charges apply, what the charge is estimated to be in respect of any future treatment and how they can pay (regulation 19 of the Care Quality Commission (Registration) Regulations 2009)

    - take all reasonable measures to recover 150% of the cost of treatment (including the local Market Forces Factor) under the NHS Payment Scheme (unless the patient is covered by the Withdrawal Agreement or a healthcare

arrangement with a relevant country, in which case it is 100%) from the patient in advance of providing it (unless doing so would delay urgent or immediately necessary services)

- if treatment has already been given to a chargeable overseas visitor (either because they were not identified in time or treatment was urgent or immediately necessary), relevant bodies must still issue an invoice and make efforts to recover the charges (debt) afterwards

41. Legally, the person liable for paying the charge is likely to be the patient themselves. There are three exceptions:

    - for a child (someone under 18) at the time of treatment, where no exemption applies, the liable person is the person with parental responsibility for that child
    - for an overseas visitor who is present in the UK in the course of employment on board a ship, the liable person is the owner of that ship
    - for air crew present in the UK in the course of employment on an aircraft, the liable person is the employer of that person

42. Relevant bodies should offer a range of payment options that make it easy for the patient to settle their debt at any time, including the use of the GOV.UK Pay service. Further information is available on the GOV.UK Pay page on GOV.UK.

Step 7: If the patient is unwilling or unable to pay, consider whether to withhold services 'and or 'or' follow debt reporting steps if relevant criteria are met

43. All maternity services must be treated as being immediately necessary (regulation 3(7) of Charging Regulations). This means they must not be withheld, or delayed, based on a patient's status as an overseas visitor or due to charging-related issues.

44. Relevant bodies can ONLY withhold treatment if a clinician has determined that it is not urgent or immediately necessary, there is no exemption from charge and the patient refuses to pay.

45. If treatment is not urgent or immediately necessary and the patient has been identified as chargeable, then payment for those relevant services must be secured by the relevant body upfront before providing those services. In this case, the OVM should send the patient a patient chargeable letter (available on the OVM forum) and send their referring GP (where relevant) the advice to doctors and dentists letter (available on the OVM forum), informing them that the patient is not entitled to relevant services without charge.

46. If treatment has already been provided and the patient indicates that they cannot or will not pay, the relevant body should follow appropriate debt management steps. This includes a requirement on NHS bodies to report to DHSC debts held by individuals subject to immigration control, of more than £500 that have been outstanding for more than 2 months since the date of invoice. Relevant bodies should inform the patient that their debt has been reported and may be used by the Home Office to determine future immigration decisions.

47. Debts cannot be waived or cancelled, but in some instances, a relevant body may choose not to pursue debt collection for the time being, unless or until the patient's financial circumstances change. Further information on debt and destitution can be found in Chapter 6.

48. Any patients with outstanding debt 'and or 'or' patients who have been refused treatment should be signposted to support groups such as the British Red Cross, their embassy, the Home Office (voluntary return), Citizens Advice, MoneyHelper or other organisations or local support groups.

Step 8: Record the patient's chargeable status on their NHS record and collect other key data

49. NHS trusts and foundation trusts must indicate on a patient's NHS Record whether they are an overseas visitor, whether an exemption from charges applies to that overseas visitor and the date on which the latest assessment of their chargeable status took place (regulation 3A of Charging Regulations). This should be done as soon as it is practical to do so, by accredited staff (OVM and patient-facing administrative teams will need to complete all e-learning modules and apply to have RBAC code BO266 added to their smartcards via their providers local registration authority). Other relevant bodies that are not NHS organisations should also record this information where possible.

Overseas visitors who are in possession of an EHIC should also have their EHIC details recorded, where possible.

50. DHSC strongly recommends that relevant bodies should record quarterly management information including number of chargeable patients treated (elective and non-elective); number of patients who did not receive treatment as they were unwilling or unable to pay (and treatment was not urgent or immediately necessary); total income received through upfront charging; and value of debts that are unpaid, unrecoverable 'and or 'or' written off. This information, if it can be collected, should be used by providers to assess how effectively they are implementing upfront charging.

Managing complaints or challenges

51. Overseas visitors should be given information on how to raise any complaints or concerns they may have about decisions made regarding their chargeable status or care.

52. If a patient considers that they have been charged incorrectly, they should collaborate with the OVM to discuss on what basis they have been found to be chargeable and whether the provision of further documentary evidence is required. In some cases, they may be entitled to a reimbursement (see Repayment of charges, below).

53. Where there continues to be a disagreement about how the Charging Regulations have been applied to a particular patient, the patient may want to seek the services of the relevant body's Patient Advice and Liaison Service (PALS) or follow the NHS complaints procedure. Further information can be found in the How to complain to the NHS page on NHS.UK and NHS complaints guidance pages on GOV.UK.

54. OVMs should ensure that both they and chargeable patients are aware of the complaints procedure and that there are effective operational links with the organisation’s complaints manager.

Repayment of charges where someone ceases to be exempt part-way through a course of treatment (if necessary)

55. Some overseas visitors who are receiving a course of free treatment on the basis that they are exempt from charge cannot be charged for the remainder of that course of treatment if their exempt status changes to chargeable part-way through the course of treatment. This exemption is sometimes referred to as the “easement clause” (regulation 3(5) of the Charging Regulations). The easement clause does not apply to those who are exempt under:

    - regulation 10 or 11 (surcharge and transitional arrangements)
    - regulation 25(3) (children born to them in the UK)
    - regulation 14 (reciprocal healthcare arrangements)

56. The easement clause also only applies if the overseas visitor has been properly assessed as exempt from charge to begin with, and where the overseas visitor did not provide fraudulent or misleading information to the relevant body. It applies only until the overseas visitor first leaves the UK. It is a clinical decision as to what constitutes a particular course of treatment.

Repayment of charges already recovered (if necessary)

57. There are some cases in which charges recovered under the Charging Regulations must be repaid. This will only occur if the patient makes a claim under regulation 5 and the relevant body is satisfied that at least one of the following circumstances applies:

    - the patient was not a chargeable overseas visitor at the time the services were provided, or they did not receive the services
    - the patient went on to acquire refugee status or be identified as a victim or suspected victim of modern slavery
    - it is subsequently identified that the charge was for services provided for the treatment of a condition caused by female genital mutilation (FGM)
    - the patient becomes or is being supported under the Care Act 2014
    - an overseas visitor obtains or has obtained settled or pre-settled status under the EU Settlement Scheme (EUSS) following a late application (limited to charges paid during the period between the late application being made and its final determination, where the applicant is unsuccessful. Where a person is granted pre-settled or settled status, they should remain exempt, providing they remain ordinarily resident)

58. The person making a claim for repayment must provide a receipt or other evidence of having paid the sum, a declaration in support of the claim signed by or on behalf of the overseas visitor, and such evidence in support of the claim that the relevant body requires (regulation 5(2) of the Charging Regulations). Where these conditions are met, any charges recovered must be repaid.

Other statutory obligations that apply to relevant bodies

59. In addition to their obligations under the Charging Regulations, relevant bodies are also subject to other legal duties when exercising their functions to impose charges on overseas visitors. We have included below information on human rights and equality legislation, which are particularly relevant to the charging rules but this is not an exhaustive list of legal duties to which relevant bodies may be subject.

The Human Rights Act 1998

60. Article 14 of the European Convention on Human Rights, which is incorporated into UK law in the Human Rights Act 1998, prohibits discrimination against a person in the exercise of their rights under the Convention, on any ground such as sex, race, colour,

language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Article 14 is not free-standing and can only be invoked in relation to other convention rights (for example Article 8 – the right to private and family life which may be engaged when a person seeks healthcare). There may be a 'reasonable and objective justification' for any difference between patients receiving treatment which may mean that it is not discriminatory under law.

The Equality Act 2010

61. Under the Equality Act 2010, public authorities have a general equality duty in the exercise of their functions to have due regard of the need to:

    - eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act
    - advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not
    - foster good relations between persons who share a relevant protected characteristic and persons who do not share it

62. The Equality Act 2010 prohibits:

    - direct discrimination (section 13)
    - indirect discrimination (section 19), unless the discrimination is a proportionate means of achieving a legitimate aim
    - harassment (section 26)
    - victimisation (section 27)

Under the Equality Act 2010 the protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (which includes nationality and ethnicity), religion or belief, sex and sexual orientation.

The Equality Act 2010: guidance page on GOV.UK, NHS BME Network and the Equality, diversity and health inequalities pages on NHS.UK are useful websites for OVMs in carrying out their duties under equalities legislation.

63. A relevant body discriminates against a person if, because of a protected characteristic, it treats that person less favourably than it treats others. For example, the use of racial profiling (for example targeting a person for questioning as a potential

overseas visitor on the basis of their race) is discriminatory and is prohibited by the Equality Act 2010. An example of more appropriate questioning, would be asking each patient about their nationality through baseline questioning whilst seeking to establish whether they are an overseas visitor.

64. Staff must not judge a patient's chargeable status from their external appearance, name, accent or language and should take care not to apply unconscious bias to a patient's circumstances. It is not discriminatory to ask someone if they are ordinarily resident in the UK as long as all patients are asked the same baseline questions.

65. A relevant body must also take care that, when questioning or engaging with patients, the conduct of staff does not create an intimidating, hostile, degrading, humiliating or offensive environment for that patient.

66. A relevant body, ideally through an OVM, needs to ensure that all staff involved with the identification and interviewing of potentially chargeable people are properly advised of their role and provided with adequate training on how to exercise the general equality duty and how to avoid discrimination. This is part of the mandatory e-learning available on the e-learning for health website.

GDPR and the Data Protection Act

67. The UK General Data Protection Regulation (GDPR) requires that data controllers – which includes relevant bodies – provide certain information to people whose personal data they hold and use. Relevant bodies may wish to set out this information using a privacy notice, which explains the purposes for which personal data is collected and used, how data is used and disclosed – including under what circumstances it might be shared without a patient's consent, how long it is kept, and the controller's legal basis for processing. In the context of cost recovery, the legal basis for processing data will primarily be for the purposes of fulfilling a relevant body's legal obligation for making and recovering charges from overseas visitors or, in the case of debt reporting, for the purposes of implementing the immigration rules. Further information is in Chapter 6.

Transplants and organ donation

68. There are clear Directions in the UK on the allocation of organs from deceased donors. The NHS Blood and Transplant Directions 2005 place patients into two categories – Group 1 and Group 2 – and organs are allocated based on clinical need within these categories.

69. Decisions about whether to put someone on the transplant waiting list and determining whether they are in Group 1 or Group 2 for the purposes of the Directions are a matter for the relevant clinicians and NHS provider to consider.

Groups under the NHS Blood and Transplant Directions 2005

70. Group 1 includes people who are ordinarily resident in the UK and the Channel Islands, members of the UK armed forces serving abroad, Government and British Council employees working abroad, UK-insured state pensioners ordinarily resident in an EEA state or Switzerland at 31 December 2020 and nationals of other countries who are entitled to healthcare in the UK under a healthcare arrangement and people covered by the Withdrawal Agreement. This last cohort consists of EU citizens who were living or working in the UK at 31 December 2020, as well as certain other groups.

71. Group 2 comprises those who are not included in Group 1.

72. The Directions set out that anyone who is ordinarily resident in the UK would be in Group 1 (see ordinary residence section for more information about ordinary residence). Persons who have paid, or are exempt from paying, the Immigration Health Surcharge and have been granted permission, will very likely meet the caselaw test and may be able to be placed in Group 1.

73. The Directions make it clear that a person in Group 2 cannot receive an organ if there is a clinically suitable person in Group 1.

Charging status of the groups

74. Patients in Group 1 will not be chargeable for treatment associated with an organ transplant (except those resident in the Channel Islands).

75. It is unlikely that a patient in Group 2 would be allocated an organ in line with the Directions, because organs are a scarce resource, so available organs are nearly always allocated to Group 1 patients. It is also unlikely that an organ transplant would be urgent or immediately necessary treatment to save life, but if both of those scenarios were to arise, the rules about urgent or immediately necessary treatment not being withheld from a recipient who is ineligible for free NHS care but cannot pay would apply.

76. Some overseas visitors come to the UK to donate live organs to residents of the UK. The cost of medical treatment specifically for the purposes of donating an organ (donor assessment, donor surgery and out-patient follow-up appointments) will be covered by the NHS (for example, a kidney donation). Treatment without charge is not available to them after they have returned to their own country at the end of the 6-month period or for any treatment outside of the donor process (unless they are otherwise exempt).

Stem cell donation

77. There may be some cases where an overseas visitor comes to the UK to provide stem cells as a donor to someone in the UK. There is no exemption within the Charging Regulations specifically for stem cell donation.

78. However, the Human Tissue Act 2004 is clear that it is not an offence to provide expenses to an individual supplying controlled material, which consists of human cells, removed from a human body for the purpose of transplantation.

79. Therefore, even though a charge may apply to the overseas visitor for any relevant services provided to them as part of stem cell donation, they would be expected to have those relevant services funded by the trust as an ‘expense’ (this is likely to include donor assessment, donor surgery and out-patient follow-up appointments). They may be chargeable for other services which are not related to the stem cell donation unless another exemption applies.

Chapter 3: Exempt and out of scope services

80. In this chapter, we look at:

- services that are out of scope of the Charging Regulations
- relevant services that are within scope of the Charging Regulations but are specifically exempt from charge

Services that are out of scope of the Charging Regulations

81. Under the Charging Regulations, relevant bodies must only make and recover charges for 'relevant services', which are defined as accommodation, services or facilities which are provided, or whose provision is arranged, under the National Health Service Act 2006 other than:

- primary medical services provided under Part 4 (medical services)
- primary dental services provided under Part 5 (dental services)
- primary ophthalmic services provided under Part 6 (ophthalmic services)
- equivalent [primary care] services which are provided, or whose provision is arranged, under the 2006 Act

82. It is the responsibility of the relevant body to determine whether a service is a relevant service and therefore chargeable. To support such assessments, we have included some case studies below.

Relevant services: Case Study 1 (drug and alcohol services)

Drug and alcohol services provided by a GP practice, such as pharmacotherapy and behavioural support services are primary medical services and so are not chargeable. Other providers of drug and alcohol services will need to look at the detail of the service to determine whether they might be considered a relevant service. For example, a first point of contact service is likely to be considered 'equivalent' to a primary medical service and therefore exempt from charge. However, in-patient and residential rehabilitation services are considered to be relevant services, regardless of whether they are provided by an NHS or non-NHS organisation, including whether they are provided in a hospital setting or elsewhere. This is because they are not primary care and cannot be said to be equivalent to those services.

Relevant services: Case Study 2 (Section 117 of the Mental Health Act 1983)

Section 117 aftercare services aim to reduce the risk of deterioration to a person's mental health after detention under the Mental Health Act 1983 (MHA). Section 117 aftercare services are not relevant services as they are provided under the MHA and not the NHS Act 2006. In cases where a patient may have needs under the MHA, the local integrated care board (ICB) and local authority should carry out an assessment to determine whether this is the case. They should also consider whether any additional services should be provided, either to meet their legal obligations under the Care Act 2014 (in which case their own levy system applies), or as services provided under the NHS Act 2006 (in which case they are a relevant service and overseas visitors can be charged for them).

83. Overseas visitors will generally be able to access services that are out of scope of the Charging Regulations without charge (unless they are covered by their own, separate charging regime for example: prescriptions or social care).

    Services that are out of scope include:

    - general practice and other primary care services, even if they are provided in a hospital setting
    - NHS funded nursing care (FNC), meaning the NHS-funded nursing care component of nursing home fees
    - continuing healthcare services (CHC), which refers to NHS-funded social care for some people with long-term complex health needs
    - some community services, such as those provided by school nurses and health visitors, provided that they do not fall under the definition of a relevant service
    - health services provided under section 117 of the Mental Health Act 1983

Services that are within scope but exempt from charge

84. Under Regulation 9 of the Charging Regulations, the following relevant services are 'exempt', which means that an overseas visitor must not be charged for using them (except where the overseas visitor travelled for the purpose of treatment):

    - accident and emergency services, providing the purpose of the visit was not for seeking treatment. This includes emergency ambulance services and all accident and emergency services provided at an NHS hospital. For example, those provided at an accident and emergency department, walk-in centre, minor injuries unit or urgent care centre. It does not include those emergency services provided after the overseas visitor has been accepted as an inpatient

(for example once a patient has been formally transferred from the care of accident and emergency and admitted to a hospital), or at a follow-up outpatient appointment, for which charges must be levied unless an exemption applies. Charges cannot be levied for any primary care services provided by walk-in centres, including minor injury units or urgent care centres as they are not within the scope of the Charging Regulations

- services that are provided as part of the NHS 111 or telephone advice line commissioned by an integrated care board or NHS England, providing the purpose of the visit was not for seeking these services.
- palliative care services provided by a registered palliative care charity or a community interest company, providing the purpose of the visit was not for seeking treatment.
- treatment required as a result of specified types of violence, provided the patient has not travelled to the UK for the purposes of seeking such treatment (see Chapter 8). The exemption covers care for any physical or mental condition (whether acute or chronic) that a clinician determines has been caused by torture, female genital mutilation (FGM), domestic abuse or sexual violence
- family planning services, which means services that supply contraceptive products and devices to prevent pregnancy, provided that the patient has not travelled to the UK for the purpose of seeking such treatment. This does not include termination of an established pregnancy
- diagnosis and treatment of sexually transmitted infections, including routine screening and vaccinations, provided that the patient has not travelled to the UK for the purpose of seeking such treatment
- the diagnosis and treatment of specified diseases set out in Schedule 1 of the Charging Regulations, providing the purpose of the visit was not for seeking treatment. This includes: routine screening and vaccinations and any services required in the opinion of a clinician for the diagnosis and treatment of a suspected specified condition, up until the point that it is negatively diagnosed. The exemption does not extend to any secondary illness that may be present even if treatment is necessary to successfully treat the condition. The list of exempt diseases can be found in Schedule 1 of the Charging Regulations

Cost recovery and exempt services

85. Even though the services listed in 'services that are within scope but exempt from charge' are without charge to overseas visitors at the point of use, relevant bodies will

still need to apply the Charging Regulations and allow OVMs access to their departments to do their jobs. This is because:

- the UK may be able to seek reimbursement for healthcare costs from the country responsible for the patient, if they are in scope of a healthcare arrangement for example someone who holds a EHIC, PRC, S1 or S2
- overseas visitors will still be liable for charges for other types of treatment that they might need (unless another exemption applies). It can still be helpful therefore to make them aware of charging issues, even in settings where charges do not apply

86. All relevant bodies, including sexual health clinics should therefore seek to record and report EHICs or PRCs, S2s and S1s whenever possible for patients accessing ‘exempt’ services, but are reminded that overseas visitors themselves must never be charged for these services, regardless of whether they can present one of those documents.

Chapter 4: Different charging arrangements for urgent and immediately necessary care than for non-urgent care

Urgent or immediately necessary care must never be withheld or delayed because of charging issues. Failure to provide urgent or immediately necessary treatment may be unlawful under the Human Rights Act 1998. This means that treatment must go ahead even if the patient has not yet been informed of possible charges, or there are ongoing investigations into a patient's charging status or the patient has indicated that they are unable or unwilling to pay.

This does not mean that the Charging Regulations cease to apply in cases where urgent or immediately necessary care is required. Relevant bodies must still charge overseas visitors (unless exempt) and obtain upfront payment if it is possible and appropriate to do so without causing a delay and should continue to inform patients of potential charges at the earliest possible opportunity. Debt collection should not begin until after a final invoice has been issued. They should invoice for any treatment provided and take steps to recover charges afterwards if it has not been possible to obtain payment beforehand. Charges cannot be waived or cancelled by relevant bodies. Relevant bodies should refer to Chapter 6 if the patient is destitute or at risk of destitution.

Immediately necessary treatment

87. Immediately necessary treatment (which must include all maternity services) is any treatment which, in the opinion of a clinician, is needed to:

    - save a patient's life
    - prevent a condition from becoming immediately life-threatening
    - prevent permanent serious damage from occurring

88. While urgency of treatment is a matter of clinical judgement, this does not mean that treatment should be unlimited; there may be some room for discretion about the extent of treatment and the time at which it is given. In many cases, a patient undergoing immediately necessary treatment may be able to be stabilised, allowing them to be safely discharged and giving them time to return home for further treatment rather than incurring further avoidable charges. This should be done wherever possible, unless ceasing or limiting treatment would precipitate deterioration in the patient's condition.

Urgent treatment

89. Urgent treatment is any treatment which, in the opinion of a clinician, cannot wait until the person can be reasonably expected to leave the UK. If a patient requires urgent treatment, relevant bodies are strongly advised to make every effort, taking account of the individual's circumstances, to secure payment in the time before treatment is scheduled. However, if that proves impossible, treatment must not be delayed or withheld.

90. Clinicians should consider the following 2 aspects when determining whether treatment is urgent:

    - clinical considerations: for example, the pain or disability a particular condition is causing; the risk that delay might mean a more involved or expensive medical intervention being required; or the likelihood of a substantial and potentially life-threatening deterioration occurring in the patient's condition if treatment is delayed until they leave the UK

    - non-clinical considerations: namely, whether they should reasonably be expected to leave the UK to receive those relevant services. The longer they are expected to stay, the greater the range of their treatment needs (including for example certain types of elective care) that are likely to be regarded as urgent.

Identifying a departure date

Standard visitors

91. As a condition of their entry to the UK, standard visitors (those visiting the UK for tourism, business or study for up to 6 months) are required to show that they can support themselves and any dependants during their trip (or have funding from someone else to support them) and that they can pay for the return or onward journey (or have funding from someone else to do so).

92. Many standard visitors have return journeys booked when they enter the UK. If standard visitors need treatment before their return but state that they cannot pay for it in advance, they should arrange an earlier return journey before the treatment would be necessary in the opinion of a clinician. If an earlier return journey would not be reasonable, and treatment is urgent, care must be provided when it is clinically appropriate to do so, and any debts recovered, where they're not exempt.

93. Standard visitors without a return journey should also arrange to leave the UK for treatment unless it would not be reasonable to do so. As a final resort, the date at

which their visa requires them to leave the UK should be used as the date of return. For those who have overstayed their visa, or do not have a visa and have been here more than 6 months, please see next section on illegal migrants.

Illegal migrants

94. For illegal migrants (including failed asylum seekers), the likely date by which a person can reasonably be expected to leave the UK may be unclear. If there is no viable place of return, for example because there are travel or entry clearance restrictions in their country of origin, or there are other conditions beyond their control preventing their departure, the patient should not reasonably be expected to leave the UK until such issues are resolved.

95. Where it is proving particularly difficult to identify a departure date, relevant bodies may wish to estimate that such patients will remain in the UK initially for 6 months, and the clinician can then consider if treatment can or cannot wait for 6 months, bearing in mind the definitions of urgent and non-urgent treatment given above. There may be circumstances when the patient is likely to remain in the UK longer than 6 months, in which case a longer estimate can be used.

Non-urgent treatment

96. Non-urgent treatment is treatment that can wait until the date a patient can reasonably be expected to leave the UK. Relevant bodies must not provide non-urgent treatment until the estimated full cost of treatment has been paid in advance of receiving treatment.

97. Where a clinician has decided that the need for treatment is non-urgent, this should be reassessed if the patient informs the relevant body that their return date has been postponed for valid reasons. It should also be reassessed if the patient's medical condition unexpectedly changes. On being told that their need for treatment has been found to be non-urgent, and will therefore not proceed without advance payment, patients should be informed that they should present again for a reassessment of the urgency of their treatment if their condition changes. Alternatively, patients' circumstances may require regular follow-up by clinicians.

Clinician and OVM collaboration

98. Only clinicians can decide whether a patient's need for treatment is immediately necessary, urgent or non-urgent, but they will rely on the OVM to gather certain information for them in order to make that assessment. The following steps are designed to help guide you through this process:

- when the patient presents, a clinician will need to make initial assessments based on the patient's symptoms and other factors and conduct further investigations to make a diagnosis. These assessments and investigations will be included in any charges (unless an exemption applies)

- in parallel, the OVM should begin the process of enquiring into a patient's chargeable status and, if they are an overseas visitor, the date on which they might reasonably be expected to leave the UK. These enquiries must never prevent or delay a patient being assessed by a clinician to establish the urgency of treatment, or the provision of urgent or immediately necessary care itself

- the OVM should provide the clinician with relevant information, including the date on which the patient might reasonably be expected to leave the UK, to help them make an assessment about whether treatment can safely wait until they return to their home country. OVMs should also ask clinicians to complete a Clinical Decision Form (also known as Clinical patient assessment form) available on the OVM toolbox on DH eXchange. A copy of which should be held in the patient's notes and sent to the relevant service or delivery manager

Maternity services

99. Maternity services include all antenatal, intrapartum, and postnatal services provided to a pregnant women or person, a woman or person who has recently given birth, or a baby. Whilst overseas visitors who require maternity services should be informed of possible charges and interim payments accepted if offered, no charges should be made and no debt collection should take place until after delivery or, if they leave the UK prior to delivery.

100. Maternity services are chargeable but must be treated as being immediately necessary, with no patient having them denied or delayed based on their status as an overseas visitor or due to charging-related issues (regulation 3(7) of the Charging Regulations). It is crucial that you take all reasonable steps to encourage the patient to continue with their maternity care. If a maternity patient needs other treatment in addition to their maternity care, a separate assessment will need to be made as to whether it is immediately necessary, urgent or non-urgent.

101. These patients should also be made aware that accident and emergency services and primary medical services remain free to all.

Maternity services and safeguarding

102. If at any point a maternity patient ceases to attend planned appointments, safeguarding procedures should apply, with immediate action taken to locate and speak to the individual to discuss any concerns they may have and their options for provision of care. It is important that providers work with other stakeholders in their local communities to embed and enforce effective safeguarding procedures and communicate with potentially vulnerable patients.

103. If a patient indicates that they are unable to pay, providers should reassure the patient that maternity services will never be withheld, regardless of their ability to pay. For further information on managing debt and destitution, please see Chapter 6.

Termination of pregnancy services

104. The termination of a pregnancy is not considered to be a maternity service. If a person seeks to terminate a pregnancy, satisfies the grounds for termination under the Abortion Act 1967 and cannot reasonably be expected to leave the UK before the date at which an abortion may no longer be a viable option for them, then the treating clinician should determine whether the treatment should be regarded as urgent or immediately necessary. Where it is determined as urgent or immediately necessary then that service must not be delayed or withheld, due to establishment of chargeable status or seeking payment. It is important to note that charges may still apply and need to be sought after treatment - unless an exemption applies.

Chapter 5: Identifying overseas visitors

At all times relevant bodies should have due regard and compliance with relevant data protection legislation.

105. Relevant bodies can identify overseas visitors by:

- using digital systems
- establishing basic information about a patient's residency at the first point of contact (if there is no referral)
- interviewing and collecting supporting documentation to prove residency or an exemption if required
- establishing whether they are ordinarily resident
- checking, recording and updating chargeable status on the patient's records

106. All reasonable efforts must be made to establish the patient's status to fulfil the legal obligation to charge upfront, unless the patient is otherwise exempt. Where treatment is urgent or immediately necessary this should be done as soon as reasonably possible after treatment. In some circumstances, you may still be able to investigate whether a patient is an overseas visitor while in receipt of urgent or immediately necessary treatment.

107. Establishing a patient's status may include: needing to seek and collect evidence from the patient; hold in-person interviews, and check digital checking systems. It may not be necessary to carry out all those actions to establish a patient's status. Once you are satisfied you have determined whether a person is an overseas visitor, you do not need to carry out further checks. You should reassess their status in the future to check whether their circumstances have changed, and whether they remain an overseas visitor.

108. Relevant bodies should ensure patients are informed how their data will be used and have appropriate privacy notices in place.

The difference between overseas visitors and private patients

109. Overseas visitors who are liable for charges are NHS chargeable patients. They should not be confused with private patients, as cost of any services they are provided with will be different from the rates charged to private patients. They must receive the same priority (but no additional services) as Standard NHS patients.

Overseas visitors may not always have a UK postcode. Relevant bodies should use other hospital systems which are not listed below, such as the Patient Administration System (PAS), to identify those without an NHS number, UK postcode and so on.

Confirming lawful residence

110. The decision of whether a person is ordinarily resident for the purpose of the Charging Regulations is a decision for the relevant NHS body (see ordinary residence and being ordinarily resident section below). When determining ordinary residence in the UK using the ordinary residence test, a relevant NHS body will have had regard to overseas visitor's lawful residence in the UK.

111. When making this decision relevant NHS bodies must confirm the identity of the individual, their nationality, and review any immigration status documentation that may confirm their immigration status.

112. If someone is identified as a potential overseas visitor, then relevant NHS bodies should carry out further checks as part of the ordinary residence test for lawful residence, which might include where an overseas visitor:

- has evidence of indefinite leave to enter or remain (or equivalent) - no further checks required on lawful residence
- has evidence of limited leave to enter or remain (or equivalent) - further consideration will need to the leave that was granted:
    - has been granted settled or pre-settled status under the EUSS - no further checks required on lawful residence
    - has been granted another form of leave to enter or remain in the UK as part of the Immigration Rules or outside the Immigration Rules - further checks should be carried out to assess whether an exemption within the Charging Regulations apply, in most cases it is unlikely they'll be capable of being considered ordinarily resident (see ordinarily resident section)
- If an overseas visitor has not applied, or been granted status under EUSS before the end of the grace period (30 June 2021), you will need to consider whether a person has a right to reside under the EEA Regulations, you can refer to a number of Home Office caseworker guidance on the following pages:
    - EEA and Swiss nationals – free movement rights: caseworker guidance available on GOV.UK

- EEA nationals qualified persons: caseworker guidance available on GOV.UK
- Direct free movement of EEA nationals: caseworker guidance available on GOV.UK
- Extended family members of EEA nationals: caseworker guidance available on GOV.UK
- Retained rights of residence: caseworker guidance available on GOV.UK
- Free movement of British citizens' family: caseworker guidance available on GOV.UK
- EU Settlement Scheme: caseworker guidance available on GOV.UK (which includes derivative rights of residence guidance)

113. If, following this action, the relevant body believes the individual is subject to immigration control but is unable to confirm their lawful residence or immigration status, it is recommended to request a status check from the Home Office (see Digital Checking Systems section below).

114. Where checks are submitted concerning individuals who hold valid documentation or a digital status to evidence their status, that is available to the relevant body to check or NHS systems indicate a positive status, the Home Office will reject such a request as not appropriate for processing in line with the Data Protection Act 2018. Relevant bodies must articulate a valid justification for checking the status of an individual who holds a valid token to evidence their status.

Digital checking systems

115. In circumstances where a patient is referred to a relevant body for treatment, information about the patient’s chargeable status may in some cases be given by the referring organisation.

116. In addition to this, relevant bodies have access to digital checking systems that will help them to determine whether a patient is chargeable. These systems should be used where possible before a patient attends an inpatient or outpatient appointment to fulfil the legal obligation to charge for non-urgent treatment upfront.

The Message Exchange for Social Care and Health (MESH)

Note: MESH will not identify British citizens, or those who do not require a visa. Relevant bodies should use other hospital systems, such as baseline questioning and PAS, to help identify those overseas visitors. See establishing basic information section of this chapter.

117. MESH is a tool that allows an OVM to bulk check patients status, to aide in identifying those most likely to be chargeable, by submitting a list of NHS numbers and dates of birth to the NHS SPINE. This should be used on a daily basis for all new referrals and all new inpatient episodes of care. OVM MESH must only be used for the purposes of overseas visitor cost recovery.

Further information on using and accessing MESH and other digital systems can be found on the OVM toolbox on the DH eXchange page on kahootz. Access is restricted to authorised users.

Digital Status Checker (DSC)

118. The DSC allows staff who have completed the relevant e-learning to access immigration status information from the Home Office on a patient’s Summary Care Record (SCRa), going back up to 6 years. If a patient has a DSC ‘banner’, this can be used to make informed decisions about a patient’s chargeable status.

Note: the Summary Care Record application (SCRa) is being replaced by the National Care Records Service (NCRS).

Status Verification and Enquiries Checking (SVEC)

119. When other avenues of establishing a patient's immigration status have been exhausted, then it may be necessary to seek to obtain that status via the Home Office, using SVEC.

Please note that the Home Office cannot advise on how this information affects the patient’s liability for charges, this decision is a matter for relevant bodies.

120. SVEC can provide information about a patient’s immigration status when:

- there is contradictory evidence regarding the patient’s status. For example, between the end date listed on a Biometric Residency Permit (BRP) and the leave to remain expiry date listed on the SCRa/NCRS, that cannot be explained through guidance such as the 28-day grace period

- the patient has been unable or is unwilling to provide evidence to enable a relevant body to establish their status, for example a view and prove sharecode or other evidence of their status
- the patient is on a new immigration route (such as Homes for Ukraine)
- the relevant body suspects fraud. Any response from SVEC will provide biographic data, and will not determine whether fraud has occurred, which is a matter for the relevant body and any other relevant authorities
- to check whether they have paid the IHS (or are exempt from paying the IHS) where they are seeking assisted conception services

OVMs must not disclose any clinical data when seeking immigration status information from the Home Office.

Information received from SVEC relate to biographic data held by the Home Office to help relevant bodies establish a patient's immigration status.

121. Relevant bodies should not use the SVEC service if:

- a patient has already been identified as chargeable or the relevant body has determined they are chargeable
- a patient has a green banner and there is no contradictory evidence
- a patient has pre-settled or settled status under the EU Settlement Scheme
- a patient has been identified as a British citizen. Note that this should not be confused with British nationality as British nationals may still be subject to immigration control. More information can be found at types of British nationality page on GOV.UK
- a view and prove sharecode can be obtained from the patient or their representative on the view and prove your immigration status: get a share code page on GOV.UK
- treatment was given more than 6 years previously

122. If you need to use the SVEC system, please complete the proforma available on the DHExchange.

123. Staff using this service must ensure that the data they send outside of the NHS to government departments and agencies is via a secure route. For email, this means

being sent from an email account which ends nhs.net as these have inbuilt encryption technology. It is therefore important that you inform the DHSC Cost Recovery team (nhscostrecovery@dhsc.gov.uk) of any changes to personnel, so that the Home Office can be kept updated of their nhs.net email accounts. Further details are available on the OVM Forum for those who do not have nhs.net email addresses.

Sharing patient information through SVEC: Relevant bodies do not need to obtain consent from the patient before submitting an SVEC pro-forma, but they should notify the patient that their data is being shared, and how this data may or will be used. You may wish to use the guidance available on the what happens to your data: guidance for overseas patients page on GOV.UK. Relevant bodies should also record that this has been done. Under no circumstances should any clinical data be divulged when seeking immigration status information from the Home Office.

124. Relevant bodies should be aware that in some cases the data it shares could be used to update Home Office records.

Establishing basic information

125. In some cases, it may not be possible to use digital systems to check a patient's immigration status or residency before their first contact with a relevant body. In such circumstances (which may include accident and emergency and diagnostic departments), relevant bodies should ask the same baseline questions of all patients to determine:

- where the patient lives and if they have lived anywhere else in the last 12 months: An overseas visitor is defined in the Charging Regulations as anyone who is not ordinarily resident in the UK. If a patient is 'ordinarily resident' in the UK, they cannot be charged for relevant services, regardless of their nationality
- whether the patient has an EHIC, PRC, S2 or S1. If the patient holds a valid form, they will be eligible to receive some services without charge and the relevant body may be able to claim back the cost of their treatment from the country responsible for the patient's healthcare (see Chapter 9)

126. Most people will not be liable for charges; but asking all patients whose charging status is unknown, the same questions will help ensure a fair and objective visitor identification process and identify those most likely to be an overseas visitor. These questions can be asked by any member of staff, including administrative and patient facing employees, provided they have received appropriate training. This information can also be collected through, for example, digital patient access or sign in screens.

127. Where a patient is identified through baseline questioning as potentially being an overseas visitor, relevant bodies should use a standardised pre-assessment form (accessed via the OVM toolbox) to collect further relevant information. This should be given to the patient (or someone who can provide information on their behalf) at the earliest possible opportunity in their care journey. We recommend that any supporting documentation the patient holds (including for example evidence of residency or an EHIC) is also recorded for audit purposes at this point and retained in accordance with document retention policies. If a patient is unable to provide evidence at this stage, it does not necessarily mean that they are chargeable, only that they should be referred to the OVM for further investigation.

Throughout the process of identifying overseas visitors, it is important that patients are made aware as soon as possible that there may be a charge for treatment. Failure to inform patients as soon as possible about charges, may result in an invoice being presented to a person who was not aware that they were liable and could result in accusations of maladministration. However, under the Charging Regulations, even when a relevant body has failed to inform a patient of charges, and subsequently a patient is found to be chargeable, the patient is still liable for that charge.

128. Patients should be informed at the earliest possible opportunity that they may be charged for some services – including treatment needed if they are admitted from accident and emergency. They should also be reassured that immediately necessary or urgent care – including all maternity services – will never be delayed or withheld.

Interviews and further evidence collection (if required)

129. If it has not been possible to determine a patient’s chargeable status through the steps above 'and or 'or' chargeable status is disputed, the relevant body should carry out as many of the below steps as necessary to help determine that status:

- inform the patient as soon as possible that they will need to be interviewed to establish whether they are eligible to receive relevant services without charge
- arrange an interview (through the OVM) before treatment begins unless, in the opinion of a clinician, doing so would delay the provision of immediately necessary or urgent care.
- record potential chargeable status in the patient’s medical records if it has not been possible to refer the patient for immediate interview. A suggested form of words has been provided below for the referral

This patient may not be ordinarily resident in the United Kingdom and has been referred for further interview by the Overseas Visitors Team. The patient may be liable to pay for any treatment received. The patient has been informed.

130. Once scheduled, the interview should aim to confirm:

- firstly, whether the patient is ordinarily resident here (see Ordinary residence or being ordinarily resident section below)
- secondly, if it becomes clear that the patient is an overseas visitor, whether they are exempt from charge by virtue of any of the exemptions listed in the Charging Regulations

131. When conducting interviews or establishing basic information, relevant bodies may ask for documented evidence in support of a patient's claim that they are ordinarily resident or covered by an exemption as part of the relevant body's 'reasonable enquiries'.

132. DHSC has listed examples of acceptable evidence throughout this document and the ordinary residence tool (which is available on the managing overseas visitors and migrant health charging: NHS trusts page on GOV.UK), which are intended only as a guide and not a comprehensive list. Patients may provide other evidence that is equally valid, and interviewers should be prepared to be flexible.

Ordinary residence or being ordinarily resident

There is no legal definition for 'ordinary residence' under the Charging Regulations. Each case will turn on its own individual facts. The concept of ordinary residence was considered in the case of Shah v Barnet London Borough Council. Although the case was concerned with ordinary residence in the context of the Education Acts, the decision is recognised as applying more widely, including to the National Health Service Act 2006 and the Charging Regulations.

133. A person is considered ordinarily resident if they are living in the UK lawfully, voluntarily and for settled purposes. In addition:

- EEA and Swiss nationals must be able to demonstrate that they have settled or pre-settled status under the EUSS

- nationals who are subject to immigration control must be able to demonstrate that they have indefinite leave to remain (ILR) or equivalent (for example, indefinite leave to enter (ILE)) in the UK

134. Being ordinarily resident is not dependent upon nationality, payment of UK taxes, national insurance contributions, being registered with a GP, having an NHS number, having a fixed abode, length of time spent living in the UK, or owning property in the UK. While these factors can be helpful indicators of ordinary residence, they do not guarantee that a person is ordinarily resident, and nor are they a requirement of ordinary residence. An assessment will need to be undertaken on the facts of the individual case to determine whether a person is or is not ordinarily resident in the UK.

Identifying ordinary residents

135. Relevant bodies should use the ordinary residence tool (available on managing overseas visitors and migrant health charging: NHS trusts page on GOV.UK) as a point of reference to help determine whether someone is ordinarily resident in the UK. Relevant bodies may also wish to consider other guidance issued by the DHSC to assess cases. A relevant body will need to consider whether the patient is:

- in the UK lawfully**,** voluntarily and not for a limited period. British citizens have automatic right of abode in the UK, so are always here lawfully. Section 39 of the Immigration Act 2014 states that for the purpose of the charging provisions those who require permission to enter or remain but do not have it, and those who have limited permission to enter or remain are not to be treated as ordinarily resident. In those cases, they may be charged for relevant services in England, unless an exemption applies

- Irish citizens have the right to enter and live in the UK under the Common Travel Area arrangements. EU and EFTA (Switzerland, Norway, Iceland and Liechtenstein) nationals who were living in the UK by 31 December 2020 will almost always be here lawfully, but must have applied for status under the EUSS to retain their lawfully resident status

- since 1 January 2021, nationals subject to immigration control usually need permission to be in the UK, except in some circumstances (for example due to their relationship to an EU or EFTA national who is resident here, or if they are a diplomat). A more detailed explanation is set out on the ways in which people can be lawfully resident in the UK page on GOV.UK. It is worth noting that it will be rare for a person not to be in the UK voluntarily, but this may be a consideration, for example, if modern slavery is suspected. In some cases the courts have discounted enforced presence by reason of compulsion, kidnapping or imprisonment and such cases will need to be carefully assessed

- settled here for the time being, whether for a short or long period of time. Broadly speaking, this means that they have an identifiable purpose(s) for their residence such as education or employment, with a sufficient degree of past and intended continuity to be described as 'settled' (travelling to England for the purpose of receiving healthcare is not a settled and identifiable purpose)
- a person can have more than one place of ordinary residence, including places in different countries at the same time. For example, an individual living and working in 2 places
- subject to immigration control (which includes EU and EFTA nationals) – for the purpose of the Charging Regulations they must have ILR, pre-settled or settled status in order to be able to be considered 'ordinarily resident' here, however having ILR, pre-settled status or settled status on its own, is not sufficient to prove ordinary residence since that person may no longer be residing in the UK on a properly settled basis and may only be visiting
- not subject to immigration control – it will not be sufficient for them just to meet the 'right to reside' test to prove they are ordinarily resident in the UK because like those who have ILR, pre-settled or settled status they may no longer be residing in the UK on a properly settled basis
- when considering whether they are 'ordinarily resident' here, regardless of whether they are subject to immigration control or not, the courts have stated that there ought to be residence in a place with some degree of continuity and apart from accidental or temporary absences
- covered by the Withdrawal Agreements, which generally applies to any EEA or Swiss nationals and their family members living in the UK by 31 December 2020 (or an eligible family member joining them in the UK after this date). These individuals will need to have applied to EUSS (as evidenced by a certificate of application) or have been granted pre-settled or settled status under the EUSS in order to be considered ordinarily resident in the UK (in addition to satisfying the lawful, voluntary and settled purpose criteria)
- determining whether someone is ordinarily resident does not rest only on assessing someone's "real home", or long-term future intentions or expectations but where they live at the time of assessment in a reasonably settled manner

Family members

136. A person who is ordinarily resident will be so in their own right. Being ordinarily resident is not transferable to other family members except in certain circumstances

regarding children (see below). Therefore, if a spouse or civil partner of someone who is ordinarily resident here normally lives overseas and requires treatment during a visit to the UK, they will not be ordinarily resident or automatically entitled to relevant services without charge. The relevant body must establish whether a family member meets one of the categories of exemption or is liable to be charged.

137. Generally, children under 16 share the same place of ordinary residence as their parents (P(GE) (an infant) [1964] 3 All ER 977). Children who are not British citizens, whose parents require permission to enter or remain, or do not have permission to enter or remain, cannot be considered ordinarily resident as they are liable to be removed with their parents. This includes children born in the UK. Those with parental responsibility may be liable for charges if another exemption does not apply. Ordinary residence is a question of fact and turns on the individual circumstances of each case, so the answer could differ depending on the circumstances of the individual child.

138. Children born in the UK to parents who have paid the IHS have a 3-month exemption from charge from the date of birth, enabling their parents to regularise their child's status in the UK before becoming liable for charges. They may become liable for charges for relevant services received by their child after the 3-month exemption, where they have not regularised their child's status.

139. Children born in the UK to a parent who has pre-settled status, where the child is not a British citizen, have a 3-month exemption from charge from the date of birth, enabling those with parental responsibility to regularise their child's status in the UK under EUSS. Those with parental responsibility are liable for charges for their child, if their child is 3-months old or older, if no other exemption applies, they do not have a valid certificate of application, pre-settled status or settled status.

140. Children born in the UK to a parent who has pre-settled status and where the child is eligible to be a British citizen, may be exempt from charge where they are considered ordinarily resident in the UK. Those with parental responsibility are liable for charges for their child, if their child is not considered ordinarily resident in the UK, or no other exemption applies to them.

141. There is further guidance on the check if you're a British citizen page on .GOV.UK to help assist in determining whether a child born in the UK is eligible to be a British citizen.

Dual residence

142. A person can be ordinarily resident in more than one country at once, such as children whose parents live in different countries. If a person is lawfully and properly settled in the UK, they will meet the ordinary residence test (subject to Section 39 of

the Immigration Act 2014), even if they spend more of their time in another country of 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 stays in the UK over the years that demonstrates a sufficient degree of continuity to establish a settled purpose in the UK.

Former UK residents

143. Chapter 9 has more details on former UK ordinary residents who have emigrated and no longer reside in the UK.

144. British citizens and non-UK nationals with ILR (or equivalent) who are returning to resume properly settled residence in the UK will most likely meet the ordinary residence test from the date of their arrival.

Students

145. Overseas students who are subject to immigration control are generally regarded as being ordinarily resident in their home country, rather than the country they are studying in and will be expected to pay the Immigration Health Surcharge (IHS) if they are here for more than 6 months. Some students will be eligible for a reimbursement of their IHS, which will affect their entitlement to healthcare (see Chapter 7).

Recording chargeable status

146. Once it has been established that a patient is an overseas visitor, relevant bodies must record this on a patient’s NHS record, including whether an exemption from charges applies and the date on which the latest assessment of their chargeable status took place (regulation 3A of the Charging Regulations). Annex C provides a detailed list of the charging categories.

147. If a patient already has a chargeable status recorded on their notes, relevant bodies should nevertheless take steps to satisfy themselves that the status remains correct and up to date with the patient’s current circumstances.

Sufficiency of resource and comprehensive sickness insurance

148. The Court of Justice of the European Union (CJEU) decided in the case of VI v HM Revenue and Customs C-247/20 (10 March 2022) that once an individual was “affiliated” to the NHS, they would be considered as having Comprehensive Sickness Insurance (CSI) under the Free Movement Directive (or the equivalent under earlier Regulations). The CJEU did not define what they meant by "affiliated” to the NHS but

is understood to mean entitled to comprehensive and relevant NHS services without charge.

149. For the Charging Regulations, this means an overseas visitor must be ordinarily resident in the UK to be entitled to relevant services without charge or another exemption must apply. This means that if an overseas visitor was ordinarily resident in the UK, they will be considered to have had CSI.

150. Overseas visitors can now meet the ordinary residence requirement by showing that they have been granted settled or pre-settled status under EUSS. They are no longer required to provide reasons for omitting to hold comprehensive sickness insurance.

151. Students or self-sufficient overseas visitors are covered by the CSI if they can prove that they had exercised their Treaty rights (and would therefore have been considered ordinarily resident in the UK).

152. The Home Office have produced EEA nationals qualified persons: caseworker guidance which is available on GOV.UK which may provide further clarification. This includes a section on comprehensive sickness insurance.

Derivative rights of residence

Chen or Ibrahim/Teixeria

153. An overseas visitor residing in the UK on the basis of "Chen" or "Ibrahim and Teixeira" by 31 December 2020 is protected by the Withdrawal Agreements and must apply to the EUSS to secure their status. Where they have not done so, they may be chargeable for relevant services unless an exemption applies, or unless they can be considered ordinarily resident.

154. Further information is available in the guidance on EU Settlement Scheme: derivative right to reside (Chen and Ibrahim/Teixeira cases) available on GOV.UK.

Zambrano

155. An overseas visitor residing in the UK on the basis of "Zambrano" by 31 December 2020 could also apply to the EUSS, however they are not protected by the withdrawal agreement. The deadline for application was 30 June 2021, those who have not applied may be chargeable unless another exemption applies, or unless they can be considered ordinarily resident.

156. Further information is available in the guidance on EU Settlement Scheme: person with a Zambrano right to reside available on GOV.UK.

Surinder Singh

157. Family members of British Citizen's who lived with in the EU, Switzerland, Norway, Iceland or Liechtenstein ('Surinder Singh') could apply for an EUSS Family Permit up until the 9 August 2023. They may now be able to apply for a family visa subject to meeting the relevant criteria.

158. Further information about entitlements for those with a EUSS Family Permit, including the expectation that an EUSS application is made within three-months of arrival is available on the apply for an EU Settlement Scheme family permit to join family in the UK page of GOV.UK.

159. Further information for overseas visitors who can apply for a family visa is available on the family visas: apply, extend or switch page of GOV.UK.

Chapter 6: Debt and destitution

161. Some chargeable overseas visitors may be unable or unwilling to pay debts incurred by receiving relevant services. In this chapter we look at managing patient debt including how and when to report a debt to DHSC, who will inform the Home Office, and advice on supporting patients who are destitute, or at risk of destitution.

162. Relevant bodies are reminded that:

- they may wish to engage the services of professional support teams, either within their own organisation or externally to support anyone in a position of vulnerability
- if any member of staff is concerned about the welfare of any patient, they should speak to their safeguarding team
- they must not delay or withhold immediately necessary or urgent treatment because an overseas visitor is unable or unwilling to pay for the treatment in advance

Reporting debt to the Home Office

163. To support better recovery of NHS debts, a public consultation was conducted in 2010 by the Home Office (which is available on the refusing entry or stay to NHS debtors: consultation page on GOV.UK). Following the consultation response (which is available on the refusing entry or stay to NHS debtors: consultation results page on GOV.UK), it amended the Immigration Rules to allow discretion to refuse immigration applications from people with outstanding NHS debts above a certain level. ‘Qualifying debts’ are debts relating to single or multiple invoices of:

- £500 or more that have been outstanding for 2 months or more (from date of invoice), if invoiced on or after 6 April 2016.
- £1,000 or more (if invoiced between 1 November 2011 and 5 April 2016).

164. As the immigration rules apply on a UK-wide basis, NHS debts can be taken into account regardless of where the debt was incurred within the UK (England, Scotland, Wales or Northern Ireland).

165. While the Home Office can choose to take a qualifying debt into account, they are not compelled to refuse an immigration application based on an outstanding debt. In some cases, the Home Office may decide, for example, that there are compelling or

compassionate circumstances or human rights considerations that would make a refusal disproportionate.

The process of reporting debt

166. To support the administration of the immigration rules, certain NHS bodies (those covered by section 48 of the NHS Act 2006) must provide relevant debt and patient information to DHSC, which is then provided to the Home Office (sections 2 and 48 of the National Health Service Act 2006). All relevant bodies should keep local accurate records of debt related information. Certain NHS bodies will never be asked to provide and must not include clinical information in these returns, however, may provide dates treatment took place in order to aid the Home Office in its decision making.

167. Debts must only be reported for persons subject to immigration control. To fulfil this obligation, certain NHS bodies with outstanding debts owed for relevant services in line with the referral criteria noted above should use the DHSC database to collate relevant information and pass it securely (in accordance with information security duties) to the DHSC Cost Recovery team (nhscostrecovery@dhsc.gov.uk).

168. Guidance on completing the NHS Debtors Scheme return is available via a dedicated folder on the NHS Debtors Scheme database pages on kahootz. Access to the NHS Debtors Scheme Database is granted on request to the DHSC Cost Recovery team at (nhscostrecovery@dhsc.gov.uk). Certain NHS bodies should ensure they maintain their own local records in accordance with the relevant retention and data protection policies.

169. Certain NHS bodies are reminded that:

- All qualifying debts must be reported. Staff should not exercise judgement or discretion regarding the patient’s individual circumstances (for example domestic or compassionate circumstances, age, connections with the UK) in deciding whether to report debt information. For these and other circumstances the immigration rules provide for discretion in applying the sanctions in exceptional circumstances, but this is a matter solely for Home Office officials at the time and point of their engagement. Relevant NHS bodies should therefore continue to refer debtor information relating to such cases to DHSC

- The provision and holding of information must take full regard of GDPR and the Data Protection Act 2018, information security and patient confidentiality duties. It is important that this guidance is followed closely to ensure that these duties are met and that the immigration rules are applied fairly and lawfully

- Where a certain NHS body has contracted a commercial debt recovery company or agency to recover applicable outstanding debts on its behalf, please note that the debt recovery company or agency can only be responsible for pursuing the debt and should not provide any information directly to DHSC or the Home Office. It is important to note that debt belongs to the relevant NHS body, which is responsible for ensuring that any debt collection services provided by a third party is to a standard that the NHS expects

- Certain NHS bodies are also reminded that debt collection agencies should not be employed in relation to persons who are either destitute or at risk of imminent destitution

- Updates on any change in debt status for already reported debt should be sent immediately to the DHSC Cost Recovery team (nhscostrecovery@dhsc.gov.uk) including cancellation or when a debtor and certain NHS trust agree a repayment plan, and should not be held back for the following month's return. This is so information can be shared with the Home Office and appropriate immigration decisions can be made. The relevant NHS body may be liable for the consequences of any failure to inform such changes

- Once a debt has been outstanding for 2 months from date of invoice, relevant bodies may wish to submit the information to the DHSC secure database rather than waiting until the end of the month. New debts must be reported at least monthly, and a 'nil' return should be provided where there are no new qualify debts each month

- DHSC will pass qualifying debt information securely to the Home Office, who will validate it and return any errors to relevant bodies as a rejection report – including the reason for rejection against each entry,this will be done monthly.

How the Home Office uses debt information

170. Home Office staff use the debtor information to identify individuals as they interact with immigration and border controls (which could be through online applications, at offices abroad or in the UK or at border points).

171. The Home Office is responsible for making an immigration decision. However, they may advise the individual of the outstanding debt and where requested provide contact details of the relevant NHS Trust to the individual to enable payment. In these situations, the relevant body or nominated debt agency may receive a direct approach from a debtor wishing to pay for previous treatment where this has contributed to the refusal of leave to enter or remain.

172. In some cases, these actions by the Home Office may require contact with the NHS body who provided information, either to check the accuracy of disputed information or to facilitate a payment. The Home Office will not take direct payment themselves. This will therefore need appropriate organisational contact details to be available within reasonable office hours.

173. Where the status of a reported debt held by individuals who do not hold entry clearance 'and or 'or' permission to enter 'and or 'or' remain is disputed at ports outside of reasonable office hours, port officials have discretion to grant immigration bail and require the person to report for further interview later. The port official will make further enquiries that may involve contacting the relevant body to ensure the debt is recorded. To avoid considerable inconvenience and potential complaint it is therefore extremely important that debt information is held and reported accurately by the provider and that debt repayment (including agreed repayment plans) is reported promptly so that up to date information on debtor status is held on Home Office databases.

Informing the patient about debt reporting

174. Patients do not have to provide their consent to their data being shared with the Home Office, but the relevant body providing the information to the Home Office should be made aware that failure to pay a charge to the NHS is a discretionary ground for refusal of an application under the Immigration Rules. This may encourage the overseas visitor to pay the debt or enter into an agreed repayment plan.

175. Chargeable patients should be reminded of this at each key stage of interaction, including:

- during any initial enquiries and provision of information about eligibility for relevant services without charge
- at the point of invoicing
- as part of follow-up requests pursuing outstanding payment by the hospital or any agency it may have contracted

176. Certain NHS bodies are advised to use the privacy notice (which can be found on the what happens to your data: guidance for overseas patients pages on GOV.UK) about how their data is used and template letters which are available for download from the Overseas Visitor Manager toolbox pages on GOV.UK. Some examples from the toolbox are copied below.

For: pre-attendance forms and invoices

If you fail to pay for NHS treatment for which charges have been applied, it may result in a future immigration application to enter or stay in the UK being denied. Necessary non-clinical personal information may be passed via the Department of Health and Social Care (DHSC) to the Home Office for this purpose.

For: following up on unpaid debts

You should be aware that under Part 9 of the Immigration Rules (see the debt to the NHS: caseworker guidance pages on GOV.UK for more information) a person with outstanding debts of over £500 for NHS treatment that is not paid within two months of invoicing, or who does not adhere to an agreed repayment schedule, may be denied a further immigration application to enter or stay in the UK.

Non-clinical information relating to this debt is provided routinely to the Home Office and may be used by the Home Office to apply the above Immigration Rules.

If you seek to re-enter, seek entry or make an immigration application to return to the UK within two months of settling an NHS debt, you are advised to retain and carry evidence of payment for potential examination by Home Office officials.

Financial vulnerability

177. If an overseas visitor indicates that they are unable to pay for services they have received, relevant bodies should:

- ask them to complete an income and expenditure form or affordability assessment within 30 days (which is available on the introducing the Standard Financial Statement pages on the Money Advice Service website)
- signpost them to a debt advisor or debt advice organisation

178. The information gathered in the income and expenditure form can be used by a relevant body's senior finance individuals to establish:

- whether to discuss and agree a debt repayment plan. In some cases, the patient may have sufficient disposable income to enable repayment of the debt in instalments
- whether the patient is destitute, or likely to be destitute imminently, in which case a relevant body can choose not to pursue the debt for the time being, see destitution below

Repayment plans

179. Repayment plans allow a patient to pay off a debt in specified instalments, preferably by direct debit or standing order.
Repayment plans should:

- based on the patient's ability to meet repayments once accommodation and essential living costs (including those for any dependants) have been met

- be approved by a senior finance individual (director of finance, head of financial accounts)

- appropriate and have due regard to safeguarding financially vulnerable patients

- evidenced with supporting documentation

180. Agreed repayment plans may need to be reviewed periodically (for example every 6 months) to ensure that the patient's financial circumstances have not changed significantly.

181. The individual should be made fully aware if the plan is not adhered to, for example they cancel the plan or fail to make payments, that the relevant body will notify the Home Office via DHSC of outstanding debt if the plan is not adhered to (for example the patient cancels the plan or fails to make repayments), who will inform the Home Office.

Destitution

182. In some cases, the patient may be able to demonstrate that they are either destitute or likely to be destitute imminently.

183. In defining destitution in this context, you may wish to consider the meaning set out in section 95(3) of the Immigration and Asylum Act 1999, which broadly means that:

- a person does not have or is unable to secure adequate accommodation

- a person does have adequate accommodation but are unable to meet their essential living needs (which includes that of their dependants)

The Joseph Roundtree Foundation's definition of destitution means going without the essentials we all need to eat, stay warm and dry, and keep clean. You may want to take this into consideration when defining essential living needs.

184. Imminent destitution refers to circumstances in which a person currently has adequate accommodation and can meet their other essential living needs, but there is at least one of the following pieces of evidence that:

- they will be destitute within approximately the next 3 months
- their living conditions, while not amounting to destitution, are not sustainable
- repayments would leave the applicant with insufficient funds to pay for accommodation and essential living needs

185. We have set out a non-exhaustive list of the types of considerations and evidence that may be needed to determine destitution or imminent destitution below

Issue	Evidence
Overseas visitor does not have or is unable to secure adequate accommodation or Overseas visitor has accommodation but is at risk of homelessness	Tenancy agreement nearing end date Notice of eviction or recent rent arrears notices Recent letter from other accommodation setting out reason for changes to provision of accommodation Evidence that continued occupation of their accommodation puts them or their dependants at risk of harm (for example domestic abuse) Evidence (which may simply include confirmation from the patient in question) that they are in temporary accommodation for example staying with a friend, and cannot remain there
Overseas visitor has adequate accommodation but is unable to meet their and their dependants' essential living needs or will, in the near future, be unable to meet essential living needs	Recent income and expenditure form, supported where possible by bank statements, recent pay slips, recent utility and other relevant bills, recent P45 or P60, letter confirming duration of employment, the hours worked and salary, recent letters from others providing support (Local Authority, charity, family, friends) setting out extent of support and any changes to support), recent letter from the HO confirming that a fee waiver application has been successful

Deciding not to pursue debt for the time being

186. Neither the Secretary of State for Health and Social Care, nor relevant bodies have the power to cancel or waive debts, unless the charges are found to have been

incorrectly applied. However, if a person is destitute or is at risk of imminent destitution (as set out above) and that debt collection is therefore unlikely to be cost effective, relevant bodies can choose not to pursue the debt for the time being. This is sometimes referred to as 'writing off' the debt in accounts. As set out below, 'written off' is an accounting term and although a trust may decide not to pursue a debt at that time, it does not mean it has chosen to cancel the debt and does not preclude pursuing that debt in the future if that individual's circumstances change.

187. A debt that has been 'written off' is not cancelled and should not be treated as permanently irrecoverable. Debt can be 'written off' if the individual has passed away and the money cannot be recovered from the individual's estate.

188. The patient should be informed that:

- the relevant body will not take steps to pursue the debt for the time being
- the debt is not cancelled
- efforts may still be made in future to recover the charges if the patient’s financial circumstances improve
- the debt, if it fulfils relevant criteria, will still be reported to the Home Office and could affect future immigration decisions. The Home Office has set out a list of applications to which this would not apply on the debt to the NHS: caseworker guidance pages on GOV.UK

189. Certain NHS bodies should revisit the debt every 6 months, or sooner if the patient seeks further treatment, and request an updated income and expenditure form to determine whether previous debts can be recovered in addition to any new debts incurred.

190. Other circumstances in which a relevant body can 'write off' a debt in its accounts are:

- the patient has subsequently died and recovery from their estate is impossible
- all reasonable steps have failed to recover the debt (for example the NHS chargeable patient is untraceable or there are no further practical means of pursuing debt recovery)

Use of debt recovery agencies

191. Certain NHS bodies should only consider the use of debt recovery agencies when both of the below conditions are met:

- the patient has not indicated that they are unable to pay their debt
- the relevant body has exhausted its own debt recovery processes

Debt Relief Orders

192. OVMs should signpost, where necessary, patients to relevant debt advisory services, they must not provide advice on Debt Relief Orders (DROs) or Debt Respite Schemes (DRSs).

193. Some individuals may be eligible to apply for a Debt Relief Order (DROs) if they cannot pay their debts. If a patient obtains a DRO, the relevant body to whom the patient owes money:

    - Will receive a copy of the DRO from the Insolvency Service. If a relevant body is notified by the debtor of the existence of a DRO but the relevant body does not have a copy of it, then it can be requested from the DRO team (DRO.Objection@insolvency.gov.uk).
    - Must not chase their debt for 12 months (known as the moratorium period). If a relevant body has started proceedings against the debtor before the DRO was made, you must stop these proceedings. If they have instructed a debt recovery agency to pursue the debtor, you must stop any recovery action. Further information is available in the Debt Relief Orders: Guidance for creditors pages on GOV.UK.

Debt Respite Scheme

194. Please note, this scheme does not place any requirement on relevant bodies to act as debt advisors.

195. The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020, ('The Debt Respite Scheme') came into force on 4 May 2021. The Debt Respite Scheme (Breathing Space) gives someone in problem debt the right to legal protection from their creditors. As creditors, relevant bodies must stop all action related to that debt until the breathing space period ends. A breathing space referral can be made by a nurse, social worker, care co-ordinator, the patient's informal carer or the person in crisis themselves, but they must be certified by an Approved Mental Health Professional (AMHP).

196. However, the DRS only applies to people who live or usually reside in England or Wales (a debt adviser must not start a breathing space for a client who lives or usually

resides anywhere else) in the UK. Therefore, it will only be applicable to an overseas visitor debt where this applies.

197. If you do you receive a breathing space notification in respect of an overseas visitor debt, it will set out what you need to do and will include a link to the guidance for creditors. Once you receive a notification you must stop all action and apply the protection**.** More information is available in the Debt Respite Scheme (Breathing Space) guidance pages on GOV.UK.

The Insolvency Service

198. To register with the Insolvency Service, relevant bodies should contact the Breathing Space project (breathingspaceproject@insolvency.gov.uk) which will enable them to be added to the creditor list and receive electronic notifications.

199. The Insolvency Service cannot provide legal advice or answer specific queries on how organisations fulfil their obligations. Relevant bodies should direct such queries to their own legal teams.

Chapter 7: The Immigration Health Surcharge (IHS)

200. Since introduction in 2015, the IHS has provided those who come to live, study and work in the UK on a temporary basis (for periods of more than 6 months) with comprehensive access to NHS services (except assisted conception services). This is regardless of the amount of care needed during a person's time in the UK and including treatment for pre-existing conditions.

201. Overseas visitors who are subject to immigration control and intending to stay in the UK for more than 6 months will usually need to pay the IHS as part of their visa application process, the only exceptions being fee waivers and exemptions. This is also the case for overseas visitors applying from within the UK to extend their stay, even if they are extending it by less than 6 months. The current rate is set out on the pay for UK healthcare as part of your immigration application pages on GOV.UK.

202. The IHS must be paid in full for each year, or part of a year, that the applicant (and their dependants) is applying to stay for. Failure to pay the IHS (except when an exemption from paying it applies, or when the Home Secretary waives, refunds or reduces it) will result in an immigration application being refused or considered invalid, or, if leave has been granted, that leave will be cancelled.

IHS and the Charging Regulations

203. The interaction between the IHS and the Charging Regulations can be complex, and we therefore encourage relevant bodies to consider both this chapter and regulations 10 and 11 of the Charging Regulations carefully. We have summarised the key principles below.

Applying for permission to enter or remain and paying the IHS

204. Since 6 April 2015**,** anyone who requires permission to enter or remain for 6 months or more will usually be subject to the IHS and its current rules. Anyone who applied for permission to enter or remain in the UK prior to the implementation of the IHS (6 April 2015) is not retrospectively required to pay it. Regulation 11 operates as a transitional arrangement and exempts them from paying for relevant services until their existing permission to enter or remain (visa) expires.

205. An IHS payer is only entitled to free at the point of use treatment (except for assisted conception services) once their application for a visa has been granted and they have entered or are present in the UK, not from the date when the health surcharge is paid.

206. Once the visitors' permission to enter or remain expires (or is curtailed or rescinded by the Home Office for any reason), they become liable for charges from then on, including where they are part-way through a course of treatment unless another exemption applies.

In-time applications to extend permission to be in the UK

207. Where a person who is exempt from charges under regulation 10 or 11 makes an in-time application (before expiry of their existing permission to enter or remain) for further permission to remain in the UK, then their existing permission is extended pending the outcome of that application (for immigration purposes this is referred to as 3c leave). They will only continue to be exempt from charges for relevant services if their visa extension is granted and they're still considered to have paid the IHS.

208. If they are granted another form of leave and no longer meet the IHS requirements (for example they're granted indefinite leave to remain), then they may be chargeable for relevant services unless they are considered ordinarily resident in the UK, or another exemption applies.

Children born in the UK to someone who has paid the IHS

209. A child born in the UK to a person who is exempt from charges under regulation 10 or 11 will also be exempt from charge until they are 3 months old, provided that the child has not left the UK since birth, or unless the child can be considered ordinarily resident in the UK. Those with parental responsibility should ensure that they regularise their child's immigration status at the earliest possible opportunity, this may include the parent needing to pay the IHS on their child's behalf as part of their visa application.

210. If a parent does not regularise their child's status in the UK, they will be liable for charges for their child, and must pay for any relevant services their child requires in advance of treatment after their child is 3-months old or older, unless another exemption applies.

Waivers, exemptions reductions and refunds

211. The Home Secretary has the power to waive or reduce the IHS in certain circumstances and for certain individuals. These individuals are also exempt under the Charging Regulations – meaning that they can receive relevant services without charge, except for assisted conception services.

212. Some people do not have to pay the IHS (a list of these groups is published on the pay for UK healthcare as part of your immigration application pages on GOV.UK). These individuals are also exempt under the Charging Regulations, unless the reason

for which they did not have to pay the IHS was because they applied for a visitor visa (in which case they are chargeable unless another exemption applies) or an S2 healthcare visa (in which case they are only eligible to receive the treatment specified by the S2 form without charge). They may also be eligible for needs arising treatment if they hold an EHIC, see chapter 9 for more information.

213. Since 1 January 2022, EEA or Swiss national higher education students who do not intend to work while in the UK are eligible for a refund of their IHS under the UK-EU SSC Protocol, UK-EFTA SSC Convention, or UK-Switzerland SSC Convention if they hold a valid EHIC. Those who obtain a reimbursement are only entitled to medically necessary treatment free of charge, which they can access with a valid EHIC or PRC during the period covered by that refund. Reimbursed students will need to present an S2 for any planned treatment that they wish to access for free. Students from the EU or Switzerland on courses which last less than 6 months will not pay the IHS and may use their EHIC or PRC to access needs-arising healthcare.

214. Individuals from EEA nations and Switzerland who have a registered S1 form in the UK are also eligible for a refund of their IHS under the UK-EU SSC Protocol, UK-EFTA SSC Convention, or UK-Switzerland SSC Convention (see the Healthcare for EU citizens living in or moving to the UK pages on GOV.UK).

215. Relevant workers on a Health and Care Worker Visa are exempt from paying the IHS. Any health and care workers who do not have this visa but have worked for an eligible company or organisation (like the NHS or CQC) for at least 6 months for an average of at least 16 hours a week are eligible for a refund of their IHS in 6-monthly blocks (see the get an immigration health surcharge refund if you work in health and care pages on GOV.UK for more information). Both groups are exempt under the Charging Regulations, except for assisted conception services.

How to identify someone who has paid the IHS

216. Individuals living in England who have been granted a visa which attracts payment of the IHS (including: where they have paid any amount of IHS, received a full or partial refund, or had their IHS waived), will be pre-registered on the NHS Spine (provided they live in England) using information provided by the Home Office. This means that they should have a green banner on their SCRa (being replaced by the National Care Records Service (NCRS) from Autumn 2023), demonstrating that they are eligible to receive relevant services free of charge (except for assisted conception services).

217. Upon seeing a record marked as ‘green’ staff of relevant bodies should still refer the individual to the OVM. The PAS will need to be updated to reflect the individual as having charging category B. There may also be other reason an OVM needs to

engage with these patients, for example when they are seeking assisted conception services, or are a student from an EU member state who may have received a reimbursement, which would limit their eligibility for free NHS care (see Chapter 9).

Assisted conception services

218. Assisted conception services are defined in the Charging Regulations as:

- any medical, surgical or obstetric services provided for the purpose of assisting a person to carry a child

219. Broadly speaking, this means any medicines, surgery or procedures that are required to diagnose and treat infertility so a person can have a child. It includes procedures such as intrauterine insemination (IUI), in vitro fertilisation (IVF) and egg and sperm donation.

220. Overseas visitors who have been granted a visa which attracts payment of the IHS (including: where they have paid any amount of IHS, received a full or partial refund, or had their IHS waived) must pay for assisted conception services in England, even if their partner is ordinarily resident. The only exceptions to this are if:

- the services are provided by NHS England to armed forces members, veterans and their families, in accordance with the terms of the armed forces covenant
- the services form part of a course of treatment that began before 21 August 2017
- the IHS payer makes an application for leave to remain under the Home Office destitution domestic violence concession, which means they might be entitled to receive assisted conception services for free, if the need for those services was a result of prior abuse and the person had not travelled to the UK to receive treatment
- the IHS payer is exempt from charge for other reasons (for example, they are an asylum seeker or victim of modern slavery)

221. Further information on assisted conception services can be found on the in vitro fertilisation and infertility pages on NHS.UK. FAQs can also be found on the OVM toolbox.

Chapter 8: Exemptions for specified groups

222. The Charging Regulations include legal exemptions for specified groups including:

- some ‘vulnerable’ groups
- some specified personnel, including members of the UK armed forces

223. Throughout this chapter we use the terms ‘vulnerable’ and ‘victim’ to align with terminology used in relevant policy and statute, including the Domestic Abuse Act 2021. We recognise however that not everyone who has experienced, or is experiencing, abuse or trauma chooses to describe themselves in this way and staff should be aware when discussing with patients that they may prefer other terms such as ‘survivor’.

Vulnerable groups

224. When operating the charging rules, it is essential to consider the position of vulnerable overseas visitors and sensitively navigate the system with them, whether or not they are exempt from charge.

225. Not all people who are in vulnerable positions are exempt from charge, but they will all require support in navigating the charging system. Working together with clinicians and third parties helps to ensure that vulnerable patients are fully informed about how to access support services, including any entitlement to relevant services without charge. It can also improve a person’s understanding of the charges they face, the choices available to them (particularly if they might have difficulty paying for treatment) and the consequences of incurring debts for treatment received. Further information about managing debt and destitution can be found in Chapter 6.

226. Confirming that an exemption applies to a vulnerable individual can be difficult, particularly in cases involving violence or abuse. OVMs should involve their safeguarding lead as soon as possible and work together to determine the most appropriate course of action and collect relevant evidence. This is important, for example, to ensure that all risks are considered and managed, including the risk of sending letters which reference a violence and abuse-related exemption to a home address where it might be seen by an abuser.

227. DHSC also recommends that OVMs build constructive relationships with local agencies which support people in various types of need and to seek advice and information from relevant national agencies and organisations. We have signposted OVMs to some of these organisations in this chapter.

228. In the following paragraphs, we look at exemptions for specified overseas visitors, some of whom can receive all relevant services for free, and some of whom are only eligible to receive specific courses of treatments.

Exemptions which cover all relevant services

229. The following groups are exempt from charge for all relevant services.

Asylum seekers and their dependents (regulation 15 of Charging Regulations)

230. Includes: anyone who has made a formal application to the Home Office (HO) (for themselves and any dependants) to be granted asylum, temporary protection or humanitarian protection, the outcome of which has not yet been determined. Formal applications are those made under the 1951 UN Convention and its 1967 Protocol and any other request for humanitarian protection for example protection from serious harm under Article 3 of the European Convention on Human Rights. Relevant bodies should seek their own legal advice if it is unclear under what circumstances a person is making a claim.

231. Identified by: a green banner on their patient record when viewed through the SCRa (being replaced by the National Care Records Service (NCRS) from Autumn 2023), or confirmation from the HO through SVEC that the person has made an application that is still under consideration. Asylum seekers may hold an Application Registration Card (ARC) issued by the HO that is valid for 2 years. Return of ARCs post decision often does not happen. Therefore, it is possible for a failed asylum seeker who should be charged for relevant services to hold an 'in date' ARC. As such it is still important to check a patient's record to determine their status, even if they hold an ARC.

Failed asylum seekers (regulation 15 of the Charging Regulations)

232. Includes: only those who fulfil the criteria below. Anyone who has had their asylum, temporary or humanitarian protection application and all appeals rejected becomes a failed asylum seeker. Failed asylum seekers and their dependants must be charged for relevant services unless:

- they have submitted a further application which has been rejected (decided and refused) as a 'fresh claim' with a right of appeal. But note that a failed asylum seeker who has submitted a further application which was rejected with no right of appeal will become chargeable unless another exemption applies (regulation 15b). they are supported by the Home Office under section 4 of the Immigration and Asylum Act 1999, because while making reasonable efforts to leave the UK, there are genuine recognised barriers to doing so

- failed asylum seekers who have dependants under 18, may remain supported under section 95 of the Immigration and Asylum Act 1999. Any failed asylum seeker or asylum seeker with an inadmissible claim who is receiving support from the HO in this way, is exempt from charge

- they are supported by a local authority under Part 1 (care and support) of the Care Act 2014 through the provision of accommodation (previously this was given under section 21 of the National Assistance Act). Eligible failed asylum seekers receive this support because they require care and attention (usually because of a disability) and are in an analogous situation to those receiving section 4(2) support under the Immigration and Asylum Act

- they are undergoing an existing course of treatment, which started before their application became appeals rights exhausted. This course of treatment continues to be free of charge until it is complete, or the person leaves the country. This is also the case for anyone who ceases to be supported by the HO or a local authority as described above

233. Identified by: evidence provided by either the HO or relevant local authority, demonstrating that a patient falls into one of these categories and is therefore exempt from charge.

Refugees and their dependents (regulation 15 of the Charging Regulations)

234. Includes: anyone who has refugee status (including those whose leave to enter or remain has expired) or anyone who has been granted asylum, temporary protection or humanitarian protection under the immigration rules and anyone who has leave to enter or remain in the UK as their dependant. Charges incurred prior to a person being recognised as a refugee must be refunded or, if not yet paid, cancelled if they can demonstrate that they were in the UK for the purpose of making an application for asylum or protection under the immigration rules at the time of being provided the services.

235. Identified by: a green banner on their patient record when viewed through the SCRa (being replaced by the National Care Records Service (NCRS) from Autumn 2023), or confirmation of status by the HO (via the Status Verification and Enquiries Checking team)

Victims and suspected victims of modern slavery and family members (regulations 16 and 25 of the Charging Regulations)

236. Includes: anyone who has been identified by the Single Competent Authority (SCA) through the National Referral Mechanism (NRM), as being either a suspected victim or confirmed victim of human trafficking, slavery, servitude or forced or compulsory labour. The exemption also covers their spouse or civil partner and any

children under 18, regardless of whether they have resided with the victim of modern slavery during the entire period of their stay.

237. Suspected victims are also exempt from charge until a final determination is made (unless a final determination is not required, which is highly unusual). If the SCA confirms that the patient is a victim of modern slavery, they will continue to be exempt from charge. If the SCA determines that they are not a victim of modern slavery, the patient (and dependants) becomes chargeable from that point onwards, other than for courses of treatment already under way, which remain free of charge until complete, or the person leaves the country.

238. Identified by: a 'reasonable grounds' decision issued by the SCA in the case of suspected victims (this should be issued within 5 days of referral to the NRM), or a 'conclusive grounds' decision issued by the SCA in the case of confirmed victims. If the patient in question has made an application for leave to remain as a victim of modern slavery, they will also have a green banner on their patient record when viewed through the SCRa (being replaced by the National Care Records Service (NCRS) from Autumn 2023). Note that not all victims will make such an application to the Home Office, so they will not all have a green banner indicating their status.

239. Further information is available on modern slavery and modern slavery: identifying and supporting victims pages on GOV.UK. Further resources, about the modern slavery programme are also available on e-learning for health website.

240. We encourage OVMs to engage with charitable First Responder organisations (see section 4 of the national referral mechanism guidance: adult (England and Wales) pages on .GOV.UK) to ensure that all victims, or potential victims of modern slavery receive the support they need, including those who are chargeable because they are unwilling to be referred to the NRM.

Recovery of charges from refugees and victims of modern slavery (regulation 6)

241. Includes: Overseas visitors and their dependents, including refugees and victims of trafficking who were initially found to be chargeable for relevant services but who, after those services were provided, are recognised as refugees or victims of human trafficking meaning that charges must not be made, pursued; or where payment has been made, must be refunded. These individuals are covered by the following exemptions:

- regulation 15(a) (refugees)
- regulation 15(aa) (dependents of refugees)
- regulation 16 (victim of modern slavery)

- regulation 25(1A) (family members of victims of modern slavery including children)

242. At the time they received relevant services they must also have either:

- been in the UK for the purpose of making an application to be granted temporary protection, asylum or humanitarian protection or the dependant of someone who was making an application
- had not yet been identified as a person to whom regulation 16 or 25(1A) applied or was a family member of someone who had not yet been identified as a person to whom regulations 16 or 25(1A) applied

243. The exemption under regulation 6 is intended to capture refugees and victims of trafficking who after services are received are recognised as being such. It reflects the fact that despite not having been properly identified as a refugee or victim of human trafficking at the time the charges were imposed (because the person had yet to go through the relevant official processes) they were nevertheless at that time a refugee or victim of human trafficking and should not be expected to pay for any services they received.

244. Under regulation 6 (3) (c) asylum-seekers and victims or suspected victims of modern slavery who access relevant healthcare services before applying for asylum or for formal identification as a victim of modern slavery and are charged may have their invoice cancelled and be refunded any payments following an application to the home office.

245. Individuals are identified by: corroborative evidence of the person's circumstances taken from the time that the relevant services were provided and/or from evidence gathered when the person had to go through the relevant official processes with the home office, including confirmation/evidence of their immigration status from the Home Office, or a green banner on their records (relevant bodies should be aware that the relevant status under this exemption is granted after the services, and therefore will not be reflected on their records at the time of receiving the relevant services). Evidence of seeking protection or taking steps to do so before making a formal application are also relevant for these purposes.

246. Entitled to: Overseas visitors captured under this regulation must be treated as if at the time they received the relevant services they were an overseas visitor where no charge must be made or recovered for those relevant services.

247. Relevant bodies must take the following actions where one of the following applies:

- they are yet to make charges, must not make those charges
- made charges but has yet to recover the charges, must not recover those charges
- made charges and received payment of the charges, must repay the sum in respect of the charges in accordance with regulation 5

Relevant bodies are reminded that where a person is treated as if no charge must be made or recovered, they must cancel those charges, as if they had never been made. This is to reflect that at the time the charges were imposed they were a refugee or victim of human trafficking and should not have been expected to pay for any services, but this was not known until they had been assessed by the home office.

248. When considering these cases, relevant bodies should be aware that it is for the Home Office to determine the outcome of applications, including considering if there are reasonable grounds for any delay between entering the UK and making such an application.

249. Where a person has sought to engage with the relevant authorities before receiving relevant services, and subsequently is granted status by the Home Office (including where they may have been a delay between entering the UK and making such a claim), they will become exempt under this regulation. There are also other ways that an intention to seek protection in the UK can be evidenced, including contacting a lawyer to assist in preparing an application. Each case must be determined on its individual merits.

250. Where they are not granted status or are determined not to have been in the country for the purpose of seeking protection at the time the relevant services were received, they may still be chargeable for those services previously received (even if they may now be exempt), unless another exemption applies.

Children who are looked after by the local authority (regulation 15(e) of Charging Regulations)

251. Includes: children who are looked after by a local authority within the meaning of Section 22(1) of the Children Act 1989. This includes children who are voluntarily accommodated by a local authority, as well as those accommodated by virtue of a (court) care order, children who are unaccompanied or abandoned by a parent or guardian in the UK and children for whom there is no one with parental responsibility. Charges for treatment received prior to a child becoming looked after by an local authority must be cancelled, provided that the relevant body believed the child should be in the care of a local authority at the time of providing those services. Once a child

ceases to be looked after by a local authority, they can continue to receive an existing course of treatment without charge until complete.

252. Identified by: a green banner on their record when viewed through the SCRa (being replaced by the National Care Records Service (NCRS) from Autumn 2023), or confirmation by the relevant local authority.

Prisoners and detainees (regulations 18 and 19 of the Charging Regulations)

253. Includes: anyone who is currently: in prison or in a young offender institution; detained under immigration legislation; detained in hospital under the Mental Health Act 1983 (MHA) or any other legislation authorising their detention; received into guardianship under the MHA; or deprived of their liberty under section 4A, 4B, 16 or Schedule A1 of the Mental Capacity Act 2005. Their exemption from charge applies for services needed during their detention and to a course of treatment that was started during their detention and continues after their release, until complete.

254. Identified by: confirmation from the appropriate detaining authority that they have been referred for treatment.

Exemptions which cover some relevant services

255. The groups listed below are exempt from charge for specified courses of treatment.

Anyone designated as exempt for exceptional humanitarian reasons (regulation 17 of the Charging Regulations)

256. Includes: someone that the Secretary of State for Health and Social Care has determined is exempt from charge on exceptional humanitarian grounds, for example because the UK was responsible for causing injury or there is a clear humanitarian imperative for treating them in the UK.

257. Entitled to: a specified course of treatment free of charge (as determined by the Secretary of State for Health and Social Care). The designated individual may be accompanied by an authorised companion (who need not be a spouse or civil partner) and authorised children, who are exempt from charges for needs-arising treatment.

258. Identified by: DHSC will advise the relevant body treating the person in question if this regulation is engaged.

Residents of Ukraine (regulation 22A of the Charging Regulations)

259. Includes: anyone who is ordinarily resident in Ukraine and currently lawfully present in the UK.

260. Entitled to: all relevant services without charge, except assisted conception services, where it is received on or after 24 February 2022.

261. Identified by: evidence of residency in Ukraine and relevant immigration permission, or a visa issued under the Immigration Rules Appendix Ukraine Scheme. Further details available on the Immigration Rules Appendix Ukraine Scheme pages of GOV.UK.

Anyone receiving compulsory treatment (regulation 18 of the Charging Regulations)

262. Includes: anyone who is subject to a community treatment order under the Mental Health Act; or required to submit to treatment imposed by a court order.

263. Entitled to: treatment specified by the order, free of charge.

264. Identified by: relevant court documentation and referrals.

Treatment for victims of torture (regulation 9(f)(i) of the Charging Regulations)

265. Includes: anyone who has suffered an act of torture (or other cruel, inhuman or degrading treatment or punishment), as defined in Article 1(1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, provided that the overseas visitor has not travelled to the United Kingdom for the purpose of seeking that treatment. Coming to the UK to escape torture does not mean coming here for the specific purpose of seeking treatment. Further information on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment pages on the website for Office of the High Commissioner of human rights for the United Nations.

266. Entitled to: services required to treat a condition directly attributable to torture, free of charge. Provision of treatment should be holistic, include medical and psychological care, and may include measures such as medical, physical and psychological rehabilitative services. Many survivors of torture suffer mental health difficulties and mental health services play a key role in their treatment.

267. Identified by: information from a medical professional (including GP referral) indicating that the patient’s care needs can be attributed to torture, or confirmation from a relevant non-governmental organisation or charity that the patient is a client of theirs and is accessing their services.

268. Further information is available from the Helen Bamber Foundation, which can be found on the Helen Bamber Foundation website. Further information on the Freedom from Torture foundation can be found on the Freedom from Torture Foundation website. Both foundations provide resources, training, capacity-building and

supervision to clinicians on the identification of victims of torture, and the assessment of their health needs.

Treatment for Victims of female genital mutilation (FGM) (regulation 9(f)(ii) of the Charging Regulations)

269. Includes: anyone who has experienced the excision, infibulation or other mutilation (collectively referred to as mutilation) of the whole or any part of a female's labia majora, labia minora or clitoris, where that mutilation constituted an offence under the Female Genital Mutilation Act 2003 (or would have done so if performed before the Act came into force), provided that the overseas visitor has not travelled to the United Kingdom for the purpose of seeking that treatment.

270. Entitled to: services provided to a girl, woman or transgender man for the treatment of any condition, including a chronic condition or a mental health condition, that is caused by FGM, free of charge. This includes any maternity services (antenatal, perinatal and postpartum treatment) the need for which is caused by the mutilation. The exemption applies wherever and whenever the FGM was performed, provided that the overseas visitor has not travelled to the UK for the specific purpose of seeking that treatment.

271. Identified by: referral from an FGM clinic, or information from a clinician (who might be a referring GP) that FGM is, or will be, recorded on a patient's record, and that the treatment being accessed is directly attributable to FGM.

Essential additional actions to take in the case of FGM

272. Where FGM is identified in patients, it is now mandatory to record this in the patient's health record. If a relevant body refers a patient to social services or the police, then this should also be recorded in the patient's health record. Since September 2014, all acute trusts are required to provide a monthly report to DHSC on the number of patients who have had FGM or who have a family history of FGM.

273. If the patient has undergone FGM, referral to a specialist FGM clinic should always be considered. If a patient is identified as being at risk of FGM, then this information must be shared with the GP and health visitor, as part of safeguarding actions.

274. You can access resources and training on the female genital mutilation (FGM): resources for healthcare staff pages on GOV.UK.

Treatment for victims of domestic abuse (regulation 9(f)(iii) of the Charging Regulations)

275. Includes: anyone who has experienced domestic abuse and requires treatment as a result, provided that the overseas visitor has not travelled to the United Kingdom for the purpose of seeking that treatment.

276. Entitled to: any relevant services without charge – including mental health services - provided for the treatment of a condition that is directly attributable to domestic abuse are free to overseas visitors.

277. Identified by: confirmation from a clinician, safeguarding lead or non-governmental organisation that the patient is a victim of domestic abuse (including any evidence they may have relating to a claim for legal aid) and confirmation from a clinician that their treatment needs are attributable to abuse. In some cases, the patient may have applied to the Home Office for leave to remain under the Destitution Domestic Violence Concession policy following the breakdown of their relationship due to domestic abuse. These individuals are exempt from paying the IHS and are entitled to healthcare on the same basis as an ordinary resident. They will have a ‘Green: Paid or exempt from the health surcharge’ banner on their record when viewed through the SCRa (being replaced by the National Care Records Service (NCRS) from Autumn 2023).

Treatment for victims of sexual violence (regulation 9(f)(iv) of the Charging Regulations)

278. Includes: anyone who has been raped or sexually assaulted and requires treatment as a result, provided that the overseas visitor has not travelled to the United Kingdom for the purpose of seeking that treatment.

279. Entitled to: services provided for the treatment of a condition that is directly attributable to sexual violence, free of charge. Treatment will include mental health services and maternity services needed because of sexual violence.

280. Identified by: a referral from a Sexual Assault Referral Centre (SARC), which provides specialist crisis care, medical and forensic examinations, emergency contraception and testing for STIs 'and or 'or' information from a medical professional (who might be a referring GP) that the patient is a victim of sexual violence, and that the treatment being accessed is directly attributable to that violence.

281. Officials working in relevant bodies are reminded that it is their legal duty to report crime which is disclosed, they discover or have witnessed.

Palliative care services

282. Palliative care is not in and of itself an exempt service, therefore where it is provided by relevant bodies that are neither a registered palliative care charity nor a community interest company, it is subject to charge.

283. Palliative care services, even if part-funded by the NHS, provided by an organisation that is a registered palliative care charity or a community interest company are free to overseas visitors who would otherwise be chargeable.

Armed forces and qualifying employees

284. Under the Charging Regulations, some specified people in the employ of the Crown, the UK government or NATO are exempt from charge for relevant NHS services. The criteria which apply to these groups and evidence that may be used to demonstrate eligibility are summarised below.

Person	Scope and conditions	Evidence
UK armed forces member (regulation 20)	Covers all actively serving members, regardless of whether they have been a UK resident, or where they are currently serving.	Valid UK forces ID card or confirmation from the Ministry of Defence or Commanding Officer or Senior Admin Officer
Spouse or civil partner or child (U18) of armed forces member (regulation 25(2)(b))	Must be lawfully in the UK but do not have to be accompanied by the armed forces member to receive relevant services for free.	As above and evidence of marriage or civil partnership or birth certificate
Qualifying employee (UK Crown Servants, employees of the British Council or Commonwealth War Graves Commission and anyone working or volunteering in a role that is financed in part by the UK government (see regulation 20(2) for full wording of exemption)	Can only receive free treatment while in the UK if they are there in the course of their employment. If visiting the UK for other reasons, they only qualify for free treatment if they were ordinarily resident in the UK immediately prior to being posted overseas (including in cases where this is a second consecutive posting or another exemption applies).	Proof of employment and evidence of ordinary residence in the UK prior to taking up such a post (previous bank statements, mortgage or rental agreements and so on)
Spouse/civil partner or child (U18) of a qualifying	If the qualifying employee was ordinarily resident	As above, and evidence of marriage or civil partnership

Person	Scope and conditions	Evidence
employee (Regulation 25(2)(b))	immediately prior to their posting(s), their spouse or civil partner does not have to be accompanied by them to receive relevant services for free, but they must be lawfully in the UK. If the qualifying employee was not ordinarily resident prior to their posting, their spouse or civil partner or child will only be exempt when visiting the UK with that qualifying employee in the course of their employment, or another exemption applies.	or birth certificate
War pension or war widow(er) pension recipients (regulation 22)	Anyone in receipt of a war pension under the War Pension Scheme or the War Widow(er) Pension scheme, or the Armed Forces Compensation Scheme.	Proof of appropriate pension or compensation scheme payment – pension book or slip, letter from the Ministry of Defence or the Department for Work and Pensions.
Spouse/civil partner or child (U18) of war pension/war widow pension recipient (regulation 25(4)(iii))	Must be lawfully present and visiting the UK with the exempt overseas visitor to receive free care.	As above, and evidence of marriage or civil partnership or birth certificate
NATO personnel (Regulation 21)	NATO personnel must be stationed in the UK and their exempt family members are expected to use their own or UK armed forces hospitals, but if the services they require cannot readily be provided at these facilities, they may be given free of charge elsewhere.	Proof of employment
Spouse/civil partner or child (U18) of NATO personnel (Regulation 25(2)(c))		Evidence of marriage or civil partnership or birth certificate

285. Relevant bodies are advised to always check the latest NATO member countries on the NATO member countries page of NATO.INT, which will have the most up to date list of member countries.

286. In addition to those groups, some participants in specified events hosted by the UK will also be exempt from charge for a relevant period (usually under regulation 24 of the Charging Regulations). Where this applies, guidance will be issued in advance to OVMs via the online forum.

Chapter 9: International healthcare arrangements

287. The UK is party to several international agreements and arrangements which have a bearing on NHS cost recovery. Broadly speaking, patients who are covered by an international agreement are likely to be entitled to some services without charge.

288. The UK may also be entitled to reclaim the costs of their care from another country, provided that relevant bodies capture the right information. To help with implementing these arrangements (sometimes known as reciprocal healthcare agreements, or healthcare agreements), we have summarised different entitlements below in annexes E to H.

289. Overseas visitors will need to provide valid documentation to demonstrate that they are covered by a healthcare arrangement. For the arrangements with the EU and EFTA (Switzerland, Norway, Iceland and Liechtenstein) countries, this will be an EHIC or PRC, S1, or S2. For countries outside of the EU and EFTA countries, the usual documentation is a passport issued by the relevant country and, often, other documents which prove residence in that territory.

290. If the patient cannot provide valid documentation and is not covered under another exemption category under the Charging Regulations, they must be charged for relevant services at 150% of the NHS Payment Scheme in the same way that other non-exempt overseas visitors are.

Necessary healthcare

291. Overseas visitors covered by a healthcare arrangement will generally only be entitled to necessary healthcare, unless otherwise specified.

292. Necessary healthcare, also referred to as 'needs arising', '[medically] necessary healthcare' or 'necessary treatment', includes any service that a clinician considers to be medically necessary before an overseas visitor can reasonably be expected to return home.

293. An overseas visitor's duration of stay and date of expected departure will need to be considered when making a judgement on whether or not treatment is necessary, as the same consideration applies to ‘urgent’ treatment under regulation 3 of the Charging Regulations. Individuals who are entitled to necessary healthcare and expected to remain in the UK for longer (including, for example, full time students on a multi-year course), will typically be covered on a more comprehensive basis than a tourist.

294. Necessary healthcare includes any treatment which, in the opinion of a registered medical or dental practitioner, is required promptly for a condition which:

- arose after the visitor's arrival
- became acutely exacerbated after their arrival
- would be likely to become acutely exacerbated without treatment
- the diagnosis of symptoms or signs which occurred for the first time after the visitor's arrival in the UK, or during the voyage or flight to the UK
- all maternity services provided the reason for the woman's visit was not specifically to give birth or receive maternity treatment
- treatment of chronic or pre-existing conditions, including dialysis, chemotherapy or home oxygen services needed during their visit, provided that the patient makes arrangements in advance and there is sufficient capacity

295. Necessary healthcare does not cover any services which the overseas visitor travelled to the UK for the purpose of seeking (except for UK or Norwegian nationals whose treatment became necessary on the Norwegian continental shelf, see below) and does not cover assisted conception services. Individuals who fall ill while travelling are not considered to have travelled for the purposes of receiving treatment.

296. UK or Norwegian nationals who live in Norway and whose treatment became necessary on the UK or Norwegian continental shelf, are covered for treatment that they travelled to the UK for the purposes of seeking, except for assisted conception services. These individuals will generally arrive in Scotland.

EU and EFTA countries

297. Since the UK's withdrawal from the EU, the rules governing access to healthcare for EU and EFTA citizens visiting the UK and UK nationals visiting or living in EU and EFTA states have changed. We have summarised the current position below and in Annex D.

> Relevant bodies are advised to check the country profiles pages of the EUROPEAN-UNION.EUROPA.EU website for an up-to-date list of member states.
>
> Relevant bodies are advised to check the EFTA States pages of the EFTA.INT website for an up-to-date list of members of the European Free Trade Association (EFTA).

EU and EFTA citizens settled in the UK

298. EU and EFTA citizens and their family members who were resident in the UK on or before 31 December 2020 can access all relevant services for free, providing they remain ordinarily resident here.

299. Generally, this means they will need to have applied to the EU Settlement Scheme (EUSS) and have been granted settled or pre-settled status and meet the ordinary residence test.

300. Applicants to the EUSS are exempt from charge from the date of a valid application (as evidenced by a Certificate of Application (CoA)) until the date of their final determination. EUSS applicants who are refused status become chargeable for new courses of treatment which begin on or after the date of final determination, unless another exemption applies. However, any course of treatment already being provided on an exempt from charge basis while a person's EUSS application is under consideration will remain free of charge even after the date of their final determination, unless they leave the UK.

Students and workers from the EU and EFTA

301. EU and EFTA students who are legally present in the UK and started a course in the UK on or before 31 December 2020 can access necessary healthcare for free until the end of their course. Some may also have chosen to exercise their Withdrawal Agreement rights by applying to the EU Settlement Scheme.

302. EU and EFTA students who started a course in the UK on or after 1 January 2021 will generally be expected to pay the Immigration Health Surcharge (IHS) if they are here for more than 6 months.

303. Some will be eligible for a reimbursement of their IHS if they fulfil certain criteria (in full time higher education, not working while in the UK and in possession of a valid EHIC). Those that receive a reimbursement of their IHS are no longer able to access all relevant services for free and will only be eligible to receive free necessary healthcare with their EHIC. These individuals will not have their reimbursement recorded on DSC and may have a green banner. It is therefore important that OVMs ask students whether they have received a reimbursement of their IHS and ask for their EHIC details if so. Further information is available on the Immigration health surcharge for EU and Swiss students in the UK pages of GOV.UK

Pensioners, frontier, detached or posted workers

304. Frontier workers (people who are resident in the EU or EFTA countries but work in the UK and return to their country of residence at least once a week) can access all

relevant services in the UK free of charge if they hold a registered S1 form issued by the country that insures them. Some frontier workers with an S1 form will have a permit certifying their rights to continue to enter and work in UK due to their rights under the Withdrawal Agreements, however, they can also choose to prove their status by other means. Other frontier workers with an S1 form issued under the reciprocal arrangements with the EU and EFTA countries should have a work visa under whichever is the relevant route for the activity they are undertaking in the UK.

305. ‘Detached’ or ‘posted’ workers (people from the EU or EFTA countries sent to work in the UK on a time-limited posting by their employer) can access all relevant services free of charge in the UK if they hold a registered S1 form issued by the country that insures them. Some detached workers on short postings will hold an A1, in which case they are only eligible to receive necessary healthcare with a valid EHIC.

306. Pensioners from the EU or EFTA countries can access all relevant services free of charge in the UK if they hold a registered S1 form issued by the country that insures them.

307. The family members of frontier workers, detached workers and pensioners are also eligible for the same healthcare.

308. Those EU or EFTA nationals holding a registered S1 form are entitled to a reimbursement of the IHS.

Other temporary visitors from the EU or EFTA states (here for 6 months or less)

309. Visitors to the UK from the EU or EFTA countries – including UK nationals who live there – can access:

- necessary healthcare without charge during their stay if they hold a valid European Health Insurance Card (EHIC) or Provisional Replacement Certificate (PRC) issued by an EU or EFTA member state
- a specific course of pre-planned treatment free of charge if they hold an S2 and have made advance arrangements with the provider

Returning UK insured persons

310. UK pensioners and their family members living in an EU or EFTA member state may hold a UK issued S1. These people may access relevant services without charge when they visit England. OVMs can check that a returning UK-issued S1 holder is eligible for treatment without charge by asking the NHS Business Services Authority (NHSBSA) whether they have a registered S1.

311. Other individuals who have a UK-issued S1 registered abroad, such as those exporting benefits, posted and detached workers, or frontier workers may also access relevant services without charge when in the UK.

Visitors from the Republic of Ireland

312. Irish citizens have the right to enter and live in the UK, by virtue of the Common Travel Area arrangements. Visitors to the UK from the Republic of Ireland may present an EHIC or PRC to obtain necessary healthcare in line with the UK-Ireland Memorandum of Understanding on Common Travel Area Healthcare Arrangements . They may also provide one or more of the documents evidencing that they are resident in Ireland listed in in Annex E.

313. A child can use their parent's evidence of residence in Ireland to satisfy eligibility for treatment without charge. Visitors from the Republic of Ireland do however still need to be referred with an S2 for pre-planned treatment.

Collecting and verifying documentation

314. If a visitor shows a valid EHIC or PRC, S2 or registered S1, the UK can claim back the cost of their treatment from that country (at 100% of the NHS Payment Scheme), even if the service (for example accident and emergency treatment) or the person in question (for example an armed forces member in a NATO country) is covered by an exemption. To enable this to happen, it is imperative that the data from the EHIC or PRC, S1 or S2 is recorded and reported to the Overseas Healthcare Services (OHS) Team at NHS Business Services Authority via the OHS web portal. Without this data, the UK cannot make a claim for reimbursement and is in effect subsidising the healthcare costs of other countries.

315. For advice on how to operate the OHS web portal or submit data contact the NHSBSA Overseas Healthcare Services Team (nhsbsa.ovmqueries@nhsbsa.nhs.uk).

316. OVMs should note that:

- EHIC: If a visitor cannot show their EHIC but they are eligible for one, they may instead produce a Provisional Replacement Certificate (PRC) to prove they can access necessary healthcare. It is for the patient or their representative to arrange the issue of the PRC, but the OVM may assist with this if needed. Each family member, including children, will have their own EHIC or PRC. A person who has been charged because they did not provide an EHIC or PRC may be entitled to a reimbursement from their home country's social security institution on their return

- S2 forms (for planned healthcare): S2 holders must make advance arrangements with the provider for their treatment and are subject to the same waiting list criteria as ordinary residents

- failure to provide the right documentation: If the patient is unable to produce an EHIC or PRC, S1 or S2 form on arrival but subsequently produces one prior to discharge, the patient must be refunded any charges made. If the form has not arrived by the time they are discharged, the patient should be told to take the matter up with their social security institution (who may be able to reimburse them)

EU Settlement Scheme

317. Rights under the Withdrawal Agreement are generally given effect through the EUSS, which enables EU and EFTA citizens resident in the UK by 31 December 2020 (and their family members), to continue to live, work, study and access benefits and services in the UK.

318. The deadline for EU and EFTA citizens and their family members resident in the UK by 31 December 2020 to the EUSS was generally 30 June 2021, unless they can provide information and evidence of reasonable grounds for their delay in applying. The deadline for joining family members to apply to the EUSS is generally three months after their arrival in the UK. OVMs should signpost anyone eligible for EUSS status (or those who represent them, such as a legal or court-appointed representative, guardian or social worker) to information on the EU Settlement Scheme: information for late applicants pages on GOV.UK. The Home Office provide a range of support for applicants which are available on the EU Settlement Scheme: communications information for applicants pages on GOV.UK, including those who are vulnerable or who need support applying on-line.

319. Anyone who has received EUSS 'pre-settled' or 'settled' status can receive relevant services without charge, provided they are ordinarily resident in the UK (regulation 12 of the Charging Regulations). These individuals will have a green banner on the Digital Status Checker and a share code which can be used with the view and prove your immigration status: get a share code pages on GOV.UK.

320. The Home Office will extend EUSS pre-settled status holders' immigration status by two years before the current grant of pre-settled status expires to ensure individuals do not lose any rights and entitlements where a further application to the EUSS has not been made. The extension will be applied to a person's digital status by the Home Office one to two months before the expiry date of their pre-settled status. Anyone who has pre-settled status should not be refused relevant services free of charge should

the service be scheduled beyond the expiry date of their status, provided they are ordinarily resident in the UK (regulation 12 of the Charging Regulations).

321. Anyone who is awaiting the final determination of an EUSS application (including while the Home Office is considering an application, a late application, outcome of an administrative review or appeal), as evidenced by a valid Certificate of Application (CoA) and can receive relevant services without charge until the date of final determination (regulation 13A of the Charging Regulations). These individuals will have an amber banner on the Digital Status Checker. If a patient claims to have a CoA but is unable to provide it at the time of treatment, they should be asked to provide a view and prove sharecode, where that isn't available OVMs should contact the Home Office SVEC service (icessvecworkflow@homeoffice.gov.uk) for confirmation.

322. EUSS applicants who are refused status, will be chargeable for new relevant services provided which arise on or after the date of final determination, unless another exemption applies. Relevant services provided which began while the overseas visitor was exempt will remain free of charge, unless the overseas visitor was exempt under regulation 10, 11, 25(3) or 14.

323. EUSS Applications which have been considered and finally determined will have an end date on the NHS Spine. This will indicate that the patient has had their EUSS application refused, with the date quoted being 40 days from the refusal date to allow the EUSS applicant to submit a request for an administrative review or appeal.

324. Anyone who has not submitted a valid EUSS application is chargeable for relevant services, unless otherwise exempt. If they receive and pay for relevant services and then go on to make a late application to the EUSS, they should not be refunded for any treatment given to them between 1 July 2021 and the date on which they submit a valid application (as evidenced by the date on the CoA).

325. Relevant bodies must refund charges that are found to have been incorrectly applied. This may include (but are not limited to):

- charges incurred between an individual submitting a valid EUSS application, as evidenced by the issue date of a CoA and receiving final determination, where the final determination is a refusal
- charges incurred between receiving a refusal and an administrative review or appeal being granted (they will remain exempt up until the outcome of those processes, including where a court accepts there are valid grounds to grant an out of time appeal)

EUSS applications and charging

326. OVMs are advised to undertake the below steps to ascertain whether a person has a valid EUSS application, or EUSS status and whether they're chargeable.

Step 1: has a valid EUSS application has been made?

327. If yes, then they are exempt from charge until their application is finally determined (they should also have an amber banner), see step 2.

328. If no, they are chargeable for treatment (unless otherwise exempt), until such point as they make a valid application.

329. A valid application is determined by the Home Office, and a person should receive a CoA as evidence of a valid application.

Step 2: has the application has been determined?

330. If yes, and they have been granted pre-settled or settled status, they are not chargeable providing they remain ordinarily resident in the UK (they should also have green banner).

331. If yes, and they have been refused status, they are chargeable for new treatment which arises after the date of final determination (they should also have a red banner).

332. If no, they remain exempt until the final determination of their application.

333. Final determination means the final decision on a person’s application, which covers the following:

- any period up to the outcome of administrative review
- any period up to the outcome of appeal (where the person's appeal rights are exhausted, this includes periods where a court accepts there are reasonable grounds to grant an out-of-time appeal)

334. Where no administrative review or appeal is made it is the period up to the date of refusal by the Home Office.

Joining family members and the EUSS

335. EU and EFTA citizens with settled or pre-settled status can be joined in the UK by close family members (spouses, civil and unmarried partners, dependent children and grandchildren, and dependent parents and grandparents) where the relationship existed on 31 December 2020 and still exists when they wish to come to the UK.

336. Children born or adopted after 31 December 2020 are also able to join eligible family members in the UK. Joining family members can receive relevant services free of charge for the first 3 months following their arrival in the UK, even if they have not yet applied to the EUSS (regulation 12 of the Charging Regulations). They will need to make an EUSS application within 3 months of arrival to continue receiving free care after that point (regulation 12 of the Charging Regulations). Joining family members who choose not to make an EUSS application, will need to ensure they have a valid EHIC or travel insurance for the duration of their stay, to avoid being charged for relevant NHS services.

337. If a joining family member has not yet applied to the EUSS and therefore does not have a CoA or EUSS status, OVMs should continue to use good judgement and consider other available documentation to ascertain the patient's eligibility for free treatment. A non-exhaustive list of alternative evidence that could be provided by a joining family member can be found in Annex D.

Chapter 10: Healthcare arrangements with Crown Dependencies, British Overseas Territories and Malta

338. The UK has healthcare arrangements with various British overseas territories, with the crown dependencies and with Malta, as listed in Schedule 2 of the Charging Regulations.

339. Certain arrangements offer access to necessary healthcare 'and or 'or' referrals for elective healthcare.

Necessary healthcare

340. Visitors from some overseas territories and all crown dependencies are only eligible to receive necessary healthcare on the same basis as an ordinary resident during their temporary stay in the UK.

341. This means that necessary healthcare received during this stay will only be free of charge, except where charges also apply to UK residents, such as for prescriptions or dental fees.

342. Further information about a person's entitlement under each healthcare arrangement and how it can be demonstrated (which will usually be with a passport 'and or 'or' proof of residence in some cases) can be found in Annex F and Annex G.

Term	Definition
Necessary healthcare, also referred to as needs arising, [medically] necessary healthcare or necessary treatment	Any service considered medically necessary in the opinion of the clinician, having taken into account the nature of the service and the expected length of the stay. Includes any service that a clinician considers to be medically necessary before an overseas visitor can reasonably be expected to return home.
Temporary stay	Is defined in the arrangements as a period not exceeding and not expected to exceed 6 months.
Not expected to exceed	Is provided to account for situations where an overseas visitor is in the middle of treatment at the end of their 6-month stay, to enable them to finish that treatment before becoming chargeable.

Referrals for elective healthcare under the arrangements

343. Referrals for elective healthcare are normally only made when the countries or jurisdictions with which the UK has such arrangements cannot provide the treatment or do not have adequate facilities to provide the treatment needed.

344. Note that arrangements for patients from Guernsey, Isle of Man, Jersey, Malta, the Falkland Islands and Gibraltar are usually made directly with the Trusts where there are existing relationships.

345. DHSC acts as central coordinator and facilitates referrals for the remaining overseas territories, and you should contact the central coordinator (ukots-contactpoint@dhsc.gov.uk).

Crown dependencies

346. The new healthcare arrangement with the Bailiwick of Guernsey came into effect on 1 January 2023. The arrangement with Jersey came into effect on 25 May 2023 and Isle of Man healthcare arrangement came into effect on 19 July 2023.

347. Guernsey, Jersey and the Isle of Man are able to refer patients for a pre-authorised course of NHS treatment charged at 100% of NHS Payment Scheme under the new healthcare arrangements. Equal treatment rules must apply.

348. Referrals should come from the relevant crown dependency health authority – in Guernsey this is the Committee for Health and Social Care in Guernsey, in Jersey this is Health and Community Services in Jersey (or any other authorised referral body (as applicable) and in the Isle of Man this is Manx Care. Referrals that do not come from the relevant Health Authority should not be accepted.

349. Referrals can be made to NHS trusts, although the trusts are under no obligation to accept these referrals. There is no limit to the number of referrals that can be made or accepted.

350. Referrals can only be made when the crown dependencies cannot provide the required treatment within their own healthcare systems, or if it is not appropriate to provide the treatment when considering the needs of the patient. In practice, the crown dependencies all attempt to treat as many patients as possible within their own on-island healthcare systems and scrutinise all referrals made to the UK, so it is unlikely that there will be cases where this standard is not met.

351. Referrals for assisted conception services are excluded from this provision and should be charged at 150% of the NHS Payment Scheme.

352. Further information regarding the arrangements are available at Annex F.

British overseas territories

353. Healthcare arrangements with Gibraltar and the Falkland Islands offer their residents access to necessary healthcare in the UK while on visits of less than 30 days

for Gibraltar and up to 6 months for the Falkland Islands. The arrangements with these territories also allow for an unlimited number of patient referrals from those territories for free of charge, pre-authorised NHS treatment in the UK. Trusts should not bill back Gibraltar or the Falkland Islands for services provided under the terms of the healthcare arrangements.

354. As of May 2023, the UK has implemented newly agreed healthcare arrangements with the remaining inhabited British overseas territories. As both Annex G and the table below indicate, authorised referring officers of all overseas territories that are part of the quota referral system are able to refer up to 5 patients per fiscal year (6 April to 5 April) for a pre-authorised course of NHS treatment that is free of charge.

355. Overseas territories which receive aid from the Overseas Development Assistance Fund may refer an additional 5 patients per year.

356. Referrals can only be made where the course of treatment cannot be provided or is not appropriate to be provided within the overseas territory.

357. Trusts should not bill back an overseas territory where treatment has been provided under the quota referral system.

358. The table below summarises the number of patients each overseas territory is allocated under the quota referral system per fiscal year:

Overseas territory	**Number of patient referrals per fiscal year**
Anguilla	5
Ascension	5
Bermuda	5
British Virgin Islands	5
Cayman Islands	5
Montserrat	10
Pitcairn Islands (includes Henderson, Ducie and Oeno Islands)	10
St Helena	10
Tristan da Cunha	10
Turks and Caicos Islands	5
Total	70

359. The number of quota places available for overseas territories can be accessed within 3-year blocks. Within a set block of 3 years, established by the DHSC, each territory has the flexibility to allocate quota places at any time within the established 3-year block to help manage demand.

360. An overseas territory may also choose to donate one of its own quota places to another overseas territory which has allocated all of its places. DHSC is responsible for determining the dates of each 3-year block and of tracking when and how many quota places are used by each territory.

361. Persons hoping to be referred should contact the relevant British overseas territory representative in the first instance for referral. Referrals can only be made by the authorised referring offices in each overseas territory.

362. Referral arrangements are managed by DHSC. Referral numbers are limited to the above.

363. In addition to their allocations under the quota referral system, the overseas territories listed in the table above are able to refer patients for a pre-authorised course of NHS treatment that is charged at 100% of the NHS Payment Scheme. There is no limit on the number of referrals which can be made. Referrals can be made by the authorised referring offices direct to NHS trusts.

364. For all people who are referred for NHS treatment, advance arrangements for their acceptance should be made and the patients must be given the same priority as patients ordinarily resident in the UK.

365. Once treatment is completed, the NHS trust should transfer the patient's medical records to the overseas territory representative.

Reimbursement principles for pre-authorised treatment

366. The crown dependencies and British overseas territories which have arrangements for pre-authorised treatment with the UK will be expected to follow these 2 principles to reimburse the UK-based healthcare provider:

- reimbursement will be on the basis of the actual cost of the treatment given
- the crown dependency or overseas territory will reimburse the healthcare provider within 30 days (or such other period as is specifically agreed with a particular healthcare provider) of receiving their correct and valid invoice together with any necessary supporting information

367. For the overseas territories, these will be referrals made by the authorised referring offices in the overseas territory that fall outside of the quota referral system.

Malta

368. The arrangement with Malta, an EU member state, includes a route for referring patients specifically for the purpose of receiving planned NHS care where Malta does not have adequate facilities to provide the treatment needed. As a result, up to 180 Maltese nationals can be referred to the UK for planned care.

Rest of the world

369. The UK has healthcare arrangements with the rest of world countries listed in schedule 2 of the Charging Regulations. If a country is not listed in schedule 2, no arrangement is in place and any overseas visitors from there must be charged (unless another exemption applies).

370. Generally, visitors who are covered by these arrangements are only eligible to receive necessary healthcare free of charge.

371. Further information about a person’s entitlements under each healthcare arrangement and how it can be demonstrated (which will usually be with a passport, 'and or 'or' proof of residence in some cases) can be found in Annex H.

Glossary

Term	Meaning
A1	The form issued to a posted worker confirming cover by the issuing state. The A1 accompanies a valid European Health Insurance Card for qualifying posted workers.
Assisted conception services (ACS)	Defined in the Charging Regulations as any medical, surgical or obstetric services provided for the purpose of assisting a person to carry a child. Broadly speaking, this means any medicines, surgery or procedures that are required to diagnose and treat infertility so a person can have a child. It includes clinical consultations, diagnostic tests and also procedures such as intrauterine insemination (IUI), in vitro fertilisation (IVF) and egg and sperm donation.
Charging Regulations	Refers to the National Health Service (Charges to Overseas Visitors) Regulations 2015, as amended (see Annex A).
Certain NHS body (or certain NHS bodies)	Refers to NHS bodies who are subject to Section 48 of NHS Act 2006
Certificate of Application (CoA)	A digital, or ’non-digital’, document which individuals can use to demonstrate their eligibility to relevant services without charge. Note: This is issued by the Home Office when a valid application is made to the EU Settlement Scheme.
Child	Defined in the Charging Regulations as someone under the age of 18
Dependant (noun); dependent (adjective)	Dependants generally include children under the age of 18 and a spouse or civil partner unless legally specified otherwise.
Destitution	A person who does not have or is unable to secure adequate accommodation or has adequate accommodation but is unable to meet their essential living needs (which includes that of their dependants).
DHSC	Department of Health and Social Care
EEA	The European Economic Area (EEA), which is comprised of the Member States of the EU, Norway, Iceland and Liechtenstein.
EFTA	The European Free Trade Association (EFTA), which comprises Norway, Iceland, Liechtenstein and Switzerland.
EHIC	A European Health Insurance Card (EHIC), previously referred to as an E111. Anyone who holds an existing UK-issued EHIC will continue to be able to use their EHIC in the EU and Switzerland until its stated expiry date. Once it expires, it will need to be replaced with a Global Health Insurance Card (GHIC), or a new UK EHIC if they are covered by the Withdrawal Agreement. UK EHICs and GHICs can only be

Term	Meaning
	used abroad and cannot be used in the UK to access relevant NHS services without charge. Except for some expats.
Equivalent service	A service equivalent to a primary medical, primary dental or primary ophthalmic service, regardless of the setting in which it is provided or whether provided by an NHS or non-NHS organisation. Such services are outside the scope of the Charging Regulations (they are not 'relevant services') so they are free of charge to all, see chapter 3.
EU	The European Union. See a list of countries in the EU member states pages on EUROPA.EU.
EUSS	European Union Settlement Scheme
Family Member	Unless otherwise specified, for the purposes of the Charging Regulations family members only include the spouse or civil partner of an overseas visitor or a child in respect of whom an overseas visitor has parental responsibility (see regulation 25)
Healthcare agreement or Healthcare arrangement	An agreement between the UK and a country, territory or international organisation specified in Schedule 2 of the NHS Charging Regulations. No charge may be made or recovered in respect of any relevant services provided to an overseas visitor under a healthcare agreement specified in Schedule 2. Note: sometimes also referred to as reciprocal healthcare agreements or arrangements.
GHIC	The UK Global Health Insurance Card lets the holder access state healthcare abroad at a reduced cost or sometimes for free. This only applies in specified countries, including the EU. The GHIC cannot be used to access relevant NHS services for free in the UK.
ILR	Indefinite Leave to Remain
Immediately necessary treatment	Any treatment which a patient needs i) to save their life; or ii) to prevent a condition from becoming immediately life-threatening; or iii) to prevent permanent serious damage from occurring. This includes all maternity services.
Imminent destitution	Refers to circumstances in which a person currently has adequate accommodation and can meet their other essential living needs, but there is evidence that they will be destitute within approximately the next 3 months, or their living conditions, while not amounting to destitution, are not sustainable or repayments would leave the applicant with

Term	Meaning
	insufficient funds to pay for accommodation and essential living needs.
ICB	Integrated care board
Joining Family Member	A term used specifically in the context of the EUSS to refer to close family members (spouses, civil and unmarried partners, dependent children and grandchildren, and dependent parents and grandparents) who are joining someone with settled or pre-settled status in the UK.
Maternity services	Defined in the Charging Regulations as all antenatal, intrapartum and postnatal services provided to a pregnant person, a person who has recently given birth or a baby.
Necessary healthcare (sometimes referred to as needs-arising treatment)	This includes treatment that in the opinion of a clinician is needed before the overseas visitor returns home to prevent a pre-existing condition from increasing in severity, for example dialysis. This can include time-sensitive treatment that is required during a person's stay in the UK, if it has been pre-arranged under a relevant healthcare arrangement and the relevant body has capacity or treatment for new conditions, the first symptoms of which arose during a visit to the UK It does not include routine monitoring of a pre-existing condition, treatment that an overseas visitor travelled to the UK for the purposes of seeking or treatment that can safely wait until the overseas visitor can reasonably be expected to leave the UK.
NHS Act 2006	The National Health Service Act 2006
NHSBSA	NHS Business Services Authority
Non-EEA National	Refers to nationals of countries which are outside the EEA.
Ordinary residence, or ordinarily resident	Refers to someone living lawfully in the United Kingdom voluntarily and for settled purposes as part of the regular order of their life for the time being, whether of short or long duration.
Overseas visitor	Any person who is not ordinarily resident in the United Kingdom, including temporary migrants.
OVMs	Overseas Visitor Managers (or Overseas Visitor Teams (OVTs)) refer to designated person in relevant bodies who oversee the implementation of the Charging Regulations.
PRC	A Provisional Replacement Certificate (PRC) is issued to qualifying EU or Swiss visitors in cases where an EHIC cannot be produced.
Parental responsibility	Has the meaning given in section 3 of the Children Act 1989,

Term	Meaning
	for example a person with parental responsibility has all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and their property. This does not include a person who is responsible for the child on a temporary basis, such as a teacher. This will be a matter of fact in each case.
Persons subject to immigration control	Any person who requires permission to enter or remain in the UK.
Qualifying debt	In the context of the NHS debtors scheme, and applicable to those subject to that scheme, means: debts relating to single or multiple invoices of £500 or more that have been outstanding for 2 months or more (from date of invoice), if invoiced on or after 6 April 2016 or £1,000 or more (if invoiced between 1 November 2011 and 5 April 2016).
Qualifying EU visitor	A visitor insured for healthcare by an EU member state and eligible to access healthcare in the UK at the expense of that member state under the terms of a healthcare arrangement that has been reached to this effect between that country and the UK.
Qualifying EFTA visitor	A visitor insured for healthcare by an EFTA country and eligible to access healthcare in the UK at the expense of that country under the terms of the Withdrawal Agreement.
Relevant body (or relevant bodies, sometimes also known as relevant NHS bodies)	Any provider of relevant services including non-NHS organisations such as private and voluntary providers supplying relevant services.
Relevant services	Accommodation, services or facilities which are provided, or whose provision is arranged, under the NHS Act 2006, other than primary medical, dental, or ophthalmic services, or equivalent services provided under the same Act.
S1	S1s are issued to pensioners, posted or frontier workers, and their family members, (previously E121, E109, E106). The term ‘pensioner’ includes those in receipt of a qualifying long-term benefit. (See Chapter 9)
S2	Allows the UK to claim the some or all of the cost of the treatment back from the patient’s country of residence, where this is authorised by the patient's country of residence. Further information about is available on the S2 funding route pages on NHS.UK.
SCRa or NCRS	Summary Care Record application, being replaced by the National Care Records Service (NCRS) from Autumn 2023

Term	Meaning
Transition period	The period from 1 February 2020 to 31 December 2020, when the UK was no longer a member of the EU but remained aligned to EU rules. Also known as the implementation period.
UK-EU SSC Protocol	The Protocol on Social Security Co-ordination contained in the UK-EU Trade and Co-operation Agreement (TCA), as listed under the Healthcare (EEA and Switzerland) Arrangements Regulations 2019 (SI 2019/1293)
UK-Switzerland SSC Convention	The UK-Switzerland Convention on Social Security Coordination as listed under the Healthcare (EEA and Switzerland) Arrangements Regulations 2019 (SI 2019/1293)
Urgent treatment	Treatment which clinicians do not consider to be immediately necessary, but which nevertheless cannot wait until the person can be reasonably expected to leave the UK
Withdrawal Agreement	Refers to citizens’ rights provisions, in respect of social security coordination, of Part 2 of the Agreement on the Withdrawal of the United Kingdom from the European Union and the European Atomic Energy Community as implemented in the UK by the European Union (Withdrawal Agreement) Act 2020. References to the Withdrawal Agreement in this guidance should be read as also referencing the EEA EFTA Separation Agreement and the Swiss Citizens’ Rights Agreement.
'Write off' debt or 'written off' debt	Debts cannot be cancelled unless it is proved that they were incorrectly applied to a patient. Relevant bodies can never waive a debt. They can however be suspended by being “written off” in a relevant body’s accounts, where the person liable is destitute or is at risk of imminent destitution. In such cases, the relevant body can choose not to pursue the debt for the time being. This does not mean that the debt is permanently irrecoverable; recovery can recommence if the patient’s financial circumstances change. Debt can also be written off if the individual has passed away and the money can’t be recovered from that individuals’ estate or if all reasonable steps have failed to recover the debt.

Annex A: Amendments to the charging regulations

372. The most up to date provisions of the Charging Regulations always take precedence and relevant bodies should ensure they seek their own advice where required.

Date of coming into force	Summary of change	Reference
1 June 2023	Adds Ascension and Tristan da Cunha, Bermuda, Cayman Islands, and Pitcairn, Henderson, Ducie and Oeno Islands into the list of countries and territories in Schedule 2.	The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) Regulations 2023 (2023 No. 515)
18 February 2023	Made clear EUSS applicants who are not granted status should not be charged for their application period and be refunded if already charged.	The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2023 (2023 No. 81)
28 December 2022	Replaces domestic violence with domestic abuse definition. Makes clear that exemptions extend to family members of victims of modern slavery and dependents of refugees. Ensures consistency with other legislation regarding healthcare arrangements. Adds Bailiwick of Guernsey, Iceland, Liechtenstein and Malta to the list of healthcare arrangements in Schedule 2.	The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 4) Regulations 2022 (2022 No. 1253)
8 June 2022	Include “Monkeypox” (MPox) into Schedule 1 (diseases for which no charge is to be made for treatment).	The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 3) Regulations 2022 (2022 No. 644)
17 March 2022 (5PM)	Provide exemptions from charging in relation to overseas visitors who are lawfully present in the United Kingdom but are ordinarily resident in Ukraine, as well as exemptions for their family members, and authorised companions	The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) Regulations 2022 (2022 No. 318)
14 February 2022	Provide for an exemption from charging overseas visitors for use of certain NHS services, for those individuals who are	The National Health Service (Charges to Overseas Visitors)

Date of coming into force	Summary of change	Reference
	participating in the Commonwealth Games in Birmingham in 2022	(Amendment) Regulations 2022 (2022 No. 19)
7 October 2021	Include Switzerland into the list of countries in Schedule 2.	The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2021 (2021 No. 1123)
31 December 2020 (2.45PM)	Ensures persons who are in scope of the Social Security Coordination Protocol provisions of the Trade and Cooperation Agreement can receive relevant services without charge where there is a right arising from the agreement.	The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) (No. 2) Regulations 2020 (2020 No. 1659)
7 December 2020	Ensures persons who are in scope of the Withdrawal Agreement are covered by the Regulations, including where they are exempt or chargeable for relevant services.	The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (2020 No. 1423)
27 October 2020	Ensures persons who are working in the Health and Care sector are exempt from charges (except assisted conception) where they are considered to have paid the IHS and have permission to be in the UK.	The National Health Service (Charges to Overseas Visitors) (Amendment) (No.3) Regulations 2020 (2020 No. 1152)
24 August 2020	Ensures exemption from charges in respect of relevant services for family members of persons of Northern Ireland granted leave to enter or remain in the United Kingdom in accordance with Appendix EU of the Immigration Rules	The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) Regulations 2020 (2020 No. 654)
29 January 2020	Including coronavirus (2019-nCoV) into Schedule 1	The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2020 (2020 No. 59)
Revoked	Replaced by The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020	The National Health Service (Charges to Overseas Visitors) (Amendment etc.) (EU Exit) Regulations 2019 (revoked) (2019 No. 516)

Date of coming into force	Summary of change	Reference
Regulations 2 to 4, 7 to 9 and 10(c) on 23 October 2017 And all other elements on 21 August 2017	Create the legal requirement on relevant bodies, to secure advance payment of the estimated amount of the charge for the service to be provided.	The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (2017 No. 756)
1 February 2016	Amends regulations to ensure mechanisms for refunding incorrectly charged patients exist. Amends regulations in relation to a number of vulnerable groups (including victims of modern slavery, female genital mutilation and refugees).	The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2015 (2015 No. 2025)

Annex B: Exemptions in the charging regulations

Regulation	Summary
Relevant services exempt from charges (Regulation 9)	Exemptions for overseas visitors included in this regulation only apply if the person has not travelled for the purpose of receiving this treatment. Exemptions include accident and emergency services (before admittance to hospital as an in-patient or outpatient appointments), or services provided by telephone advice lines (commissioned by integrated care boards), or family planning services, or treatment and diagnosis of conditions listed in Schedule 1, or treatment and diagnosis of sexually transmitted infections or treatment for conditions caused by torture, female genital mutilation, domestic abuse or sexual violence and palliative care services provided by specific companies or charities (details in regulations).
Immigration Health Charge (Regulation 10)	Exemptions for overseas visitors included in this regulation include all relevant services (except for assisted conception services) where a person is considered to have paid the Immigration Health Surcharge (IHS) including those who have had the requirement to pay waived or are exempt from paying the IHS Also creates provisions to exempt those extending their visa or leave to remain in the UK where the above applies.
Overseas visitors who have made applications for entry clearance or leave to remain prior to the commencement of the immigration health charge (Regulation 11)	Exemptions for overseas visitors included in this regulation include persons who had made an application for permission enter or remain in the UK or persons who had permission to enter or remain in the UK and would have been liable to have paid the surcharge after the date of its introduction or would be exempt from paying the surcharge.
Overseas visitors with citizens' rights (Regulation 12)	Exemptions for overseas visitors included in this regulation include those in scope of Title III of Part 2 of the Withdrawal Agreement, or in scope of Title III of Part 2 of the EEA EFTA Separation Agreement or in scope of social security co-ordination provisions of Swiss Citizens' rights agreement
Overseas visitors with Trade and	Exemptions for overseas visitors included in this regulation include those with a right

Regulation	Summary
Cooperation Agreement rights (Regulation 12A)	arising from the social security co-ordination Protocol provisions of the Trade and Cooperation Agreement
Overseas visitor with a United Kingdom issued S1 healthcare certificate or equivalent document (Regulation 13)	Exemptions for overseas visitors included in this regulation include those were ordinarily resident in an EEA state or Switzerland before implementation period (IP) completion day and continues to be ordinarily resident in an EEA state or Switzerland on or after the IP completion day and receives a state pension paid by the UK government and holds an S1 healthcare certificate, or an equivalent document, issued to or in respect of that person by a competent institution of the United Kingdom
Persons who make late applications under Appendix EU to the immigration rules (Regulation 13A)	Exemptions for overseas visitors included in this regulation include those eligible to apply for leave to enter or remain in the United Kingdom under Appendix EU to the immigration rules and makes a valid application for leave to enter or remain in the United Kingdom under that Appendix to those rules after the application deadline or granted limited leave to enter or remain in the United Kingdom under Appendix EU to the immigration rules and after the expiry of that limited leave to enter or remain, makes a valid application for indefinite leave to enter or remain in the United Kingdom under Appendix EU to the immigration rules.
Healthcare agreements (Regulation 14)	Exemptions for overseas visitors included in this regulation include any relevant services provided to an overseas visitor under a healthcare agreement with a country, territory or international organisation specified in Schedule 2
Family members of British citizens in Northern Ireland (Regulation 14C)	Exemptions for overseas visitors included in this regulation include those ordinarily resident in the United Kingdom or has leave to enter or remain under Appendix EU to the immigration rules granted on the basis of a relationship with a relevant person of Northern Ireland and at the date of assessment of whether a charge under these Regulations fails to be made, have a right to reside in accordance with the Immigration (European Economic Area) Regulations 2016, disregarding that the relevant person of Northern Ireland is not included in the definition of “EEA national” in regulation 2 (general interpretation).
Refugees, asylum seekers, supported individuals and looked after children	Exemptions for overseas visitors included in this regulation include those granted temporary protection, asylum or humanitarian protection under the immigration rules (or is

Regulation	Summary
(Regulation 15)	a dependent who was either born in the UK, or has permission to enter or remain in the UK) or made an application, which has not yet been determined, to be granted temporary protection, asylum or humanitarian protection under the immigration rules (or is treated as a dependent of that person) or is currently supported under Section 95 (persons for whom support may be provided) of the Immigration Act 1999. Exemptions also include those who have had an application rejected for temporary protection, asylum or humanitarian protection under the immigration rules but is receiving (or is treated as a dependent of that person) section 4(2) (facilities for the accommodation of a person) of the Immigration Act 1999 or part 1 (care and support) of the Care Act 2014 or section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 by the provision of accommodation Exemptions also include those who are looked after by a local authority within the meaning of section 22(1) (general duty of local authority in relation to children looked after by them) of the Children Act 1989 or, as the case may be, section 74(1) of the Social Services and Well-being (Wales) Act 2014 (child or young person looked after by a local authority)
Victims of modern slavery (Regulation 16)	Exemptions for overseas visitors included in this regulation include those where the competent authority have identified the overseas visitor as a victim of modern slavery or considers that there are reasonable grounds to believe that the overseas visitor is a victim of modern slavery and a competent authority is required to make a conclusive determination and there has not been a conclusive determination by a competent authority that the overseas visitor is not a victim of modern slavery.
Exceptional humanitarian reasons (Regulation 17)	This exemption is for a course of treatment and requires the Secretary of State to make a determination that exceptional humanitarian reasons justify it. The Secretary of State can only do so, where an overseas visitor meets the following requirements granted leave to enter the United Kingdom outside the immigration rules, the treatment specified is not available in that person's home country, the necessary arrangements have been made for temporary accommodation for that person, any authorised companion and authorised child for the duration of the course of treatment and the necessary arrangements have been made for the return of that person, any authorised companion and any authorised child to

Regulation	Summary
	their home country when the course of treatment is completed.
Overseas visitors detained in hospital or subject to court ordered treatment (Regulation 18)	Exemptions for overseas visitors included in this regulation include those liable to be detained in a hospital, received into guardianship or subject to a community treatment order under the Mental Health Act 1983, or who is detained in a hospital in circumstances which amount to deprivation of the overseas visitor's liberty and that deprivation of liberty is authorised under any of the following provisions of the Mental Capacity Act 2005 including: section 4A (restriction on deprivation of liberty), section 4B (deprivation of liberty necessary for life-sustaining treatment etc), section 16 (powers to make decisions and appoint deputies: general) or Schedule A1 (hospital and care home residents: deprivation of liberty), or whose detention in hospital is authorised by any other enactment authorising detention in a hospital. It also exempts those who are required to submit to a specified form of treatment that is imposed by, or included in, an order of a court and none of the above paragraph applies.
Prisoners or detainees (Regulation 19)	Exemptions for overseas visitors included in this regulation include those detained in prison or in a place in which a person may be detained that is provided by the Secretary of State under section 43(1) (remand centres and young offender institutions) of the Prison Act 1952 or who is detained under any of the following provisions: Schedule 2 (administrative provisions as to control on entry etc) to the Immigration Act 1971, or section 62 (detention by Secretary of State) of the Nationality, Immigration and Asylum Act 2002, or section 40(7)(c) (searches: contracting out) of the Immigration, Asylum and Nationality Act 2006 or section 2 (detention) or 36 (detention) of the UK Borders Act 2007
Members of the regular and reserve forces, Crown servants and others (Regulation 20)	Exemptions for overseas visitors included in this regulation include those who are a member of the regular or reserve forces within the meaning of the Armed Forces Act 2006, or a qualifying employee who is visiting the United Kingdom in the course of the qualifying employment. If the above does not apply, then exemptions for a qualifying employee who was ordinarily resident in the United Kingdom immediately prior to becoming a qualifying employee or where the qualifying employee has been employed in more than one position of qualifying

Regulation	Summary
	employment, the qualifying employee was ordinarily resident in the United Kingdom immediately prior to taking up one of the positions of qualifying employment. A "qualifying employee" if the overseas visitor was recruited in the United Kingdom and is a Crown servant (other than a person falling within paragraph (1)(a)) employed by, or in the service of, the Government of the United Kingdom, or an employee of the British Council or the Commonwealth War Graves Commission or working in employment, whether or not the overseas visitor derives a salary or wage from that employment, that is financed in part by the Government of the United Kingdom in accordance with arrangements with the Government of some other country or territory or a public body in such other country or territory.
NATO forces (Regulation 21)	Exemptions for overseas visitors included in this regulation include those are persons to whom Article IX(5) of the Agreement regarding the Status of Forces of Parties to the North Atlantic Treaty (agreed in London on 19 June 1951) applies and where the services in question cannot readily be provided by the medical services of the armed forces of the overseas visitor's own country or the United Kingdom. This does not apply to any country who is in the process of joining or is seeking to join NATO.
War pensioners and armed forces compensation scheme (Regulation 22)	Exemptions for overseas visitors included in this regulation include those with any pension or other benefit under a Personal Injuries Scheme or Service Pensions Instrument, where those schemes or instruments are defined in regulation 2(1) (interpretation) of the Social Security (Overlapping Benefits) Regulations 1979 or a payment made under article 15(1)(c) (description of benefits – injury) or article 29(1) (description of benefits – death) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011
Overseas visitors from Ukraine (Regulation 22A)	Exemptions for overseas visitors in this regulation include those lawfully present in the United Kingdom and ordinarily resident in Ukraine or who received relevant services from a relevant body and who is exempt from charges for those services by virtue of another regulation, or received relevant services consisting of treatment the need for which arose during the visit from a relevant body and who is exempt from charges for those services by

Regulation	Summary
	virtue of being an authorised companion or an authorised child who has been granted leave to enter the United Kingdom to accompany a person who is exempt from charges.
Treatment the need for which arose during the visit (Regulation 24)	Exemptions for overseas visitors includes in this regulation include a national of a state which is a contracting party to the European Convention on Social and Medical Assistance (agreed in Paris on 11 December 1953) or the European Social Charter (agreed in Turin on 18 October 1961) and is lawfully present in the United Kingdom and without sufficient resources to pay the charge, or an authorised child or an authorised companion of a qualifying games workforce for the qualifying period (14 July - 17 August 2022) of the Birmingham Commonwealth Games.
Family members of overseas visitors (Regulation 25)	This exemption defines 'member of family' to mean a spouse or civil partner of an overseas visitor or a child in respect of whom an overseas visitor has parental responsibility Exemptions for family members of overseas visitors in this regulation include family members of overseas visitors in scope of Regulation 13, or family members of overseas visitors in scope of regulation 20, regulation 21, or regulation 22A (except for assisted conceptions services) • Exemptions for children born in the UK, who have not left the UK and are aged 3 months of less, to overseas visitors where regulation 10 applies, or regulation 11 applies or regulation 22A(1) applies • Exemptions for members of family for principal overseas visitors where they are lawfully present in the UK, visiting the principal overseas visitor and the principal overseas visitor must be exempt from charge under regulation 12 or regulation 22. • Where the principal overseas visitor is exempt under regulation 12, then they are only exempt if both of the following conditions are met. • The first condition is that the overseas visitor does not have a right arising from a provision mentioned in regulation 12(1)(a) to (c) (overseas visitors with citizens’

Regulation	Summary
	rights) and the reason that the overseas visitor does not have such a right is because the overseas visitor is not recognised as a member of the family (within the meaning of Article 1(i) of Regulation (EC) No 883/2004) The second condition is that the relevant services provided to the overseas visitor are services that the overseas visitor would be entitled to receive without charge by virtue of a right arising from a provision mentioned in regulation 12(1)(a) to (c) if the overseas visitor had such a right. • Where a member of family has their own rights under regulation 12, this regulation does not affect their entitlement under regulation 12.

Annex C: List of charging categories and pathway payment services

1. Relevant bodies should refer to other sections of this guidance when determining a patient’s ordinary residency. The 6 overseas visitor charging categories for the following types of patients:

Category	Types of patients
Category A: Standard NHS Patient	Patients in this category are deemed to be ordinarily resident in the UK (according to the Charging Regulations), asylum seeker or a failed asylum seeker who is in receipt of support under section 95 (persons for whom support may be provided) of the Immigration Act 1999 or section 4(2) (facilities for the accommodation of a person) of the Immigration Act 1999.
Category B: Immigration Health Surcharge payee	Patients in this category are those deemed to be resident in the UK but subject to Immigration Rules (they need a visa to live, work or study in the UK and are not considered to be ordinarily resident) and in possession of a valid visa issued on or after 6 April 2015 permitting medium to long-term residence in the UK (typically from 6 months to 5 years duration although not always). They will be one of the following: an Immigration Health Surcharge (IHS) payee or exempt or waived from paying the IHS or have been refunded the IHS because they work or are the dependent of someone who works in health and social care. Note: Non-UK S1 holders who have transferable benefits, such as pensioners, and have had the IHS reimbursed are category C. Students who have had the IHS reimbursed are required to present their EHIC and are category C.
Category C: Charge-exempt overseas visitor or EEA (CEOV)	Patients in this category are those deemed to be not ordinarily resident in the UK, but who are ordinarily resident in an EEA country or Switzerland and are either a qualifying EEA or Swiss visitor and in possession of a European Health Insurance Card or Provisional Replacement Certificate (EHIC or PRC) or an S2 form or not a qualifying EEA or Swiss visitor but are exempt from charge under the Charging Regulations (for example a UK state pensioner with a UK S1).
Category D: Chargeable EEA patient	Patients in this category are deemed to be not ordinarily resident in the UK, and are ordinarily resident in but not insured by an EEA country (including Northern Cyprus) or Switzerland and so not a qualifying EEA or Swiss visitor and not covered by any

Category	Types of patients
	other exemption in the Charging Regulations.
Category E: Charge-exempt overseas visitor or non-EEA	Patients in this category are deemed to be not ordinarily resident in the UK and are ordinarily resident in non-EEA countries or living in the UK without immigration permission and have not paid the IHS (or been exempt, or had the requirement to pay waived), and as a result, they're subject to the Charging Regulations, and are exempt from charge either because of their personal status or because the treatment they are seeking is exempt from charge
Category F: Chargeable non-EEA patient	Patients in this category are deemed to be not ordinarily resident in the UK and are ordinarily resident in a non-EEA country or living in the UK without immigration permission and have not paid the IHS (or been exempt, or had the requirement to pay waived) and not otherwise exempt from charge under the Charging Regulations

2. Regulation 7 sets out how charges are to be calculated for chargeable patients (those who fall into charging category D and F).

Charging category A: Standard NHS patient

3. This charging category follows the “baseline” rules as set out in NHS England’s guidance on responsible commissioner, which can be found on the Who Pays? Determining responsibility for payments to providers pages on NHS.UK.

4. Any patient falling into this will be known in this chapter as a 'standard NHS patient', and standard NHS England commissioner charging rules apply.

5. No additional reporting or recording is required.

Charging category B: Surcharge payee

6. The payment arrangements for patients who are subject to immigration control and have paid the Immigration Health Surcharge, or who are exempt or waived from paying it, should be managed as per a Standard NHS Patient. Patients in this category should be classified as Category B patients. Apart from assisted conception services, in general, relevant bodies should follow the same rules for determining the responsible commissioner as outlined in Who Pays? Determining responsibility for payments to providers pages on NHS.UK.

7. Patient in this category in general can access relevant NHS services free at the point of use, except where normal charges such as prescription, optical or dental charges apply. Since 21 August 2017, NHS-funded assisted conception services are not exempt from charge (this also applies to those who have been exempt, waived or are reimbursed the Immigration Health Surcharge).

Where a patient in this category is reimbursed their Immigration Health Surcharge in full or in part under the SSC Protocol, they should be reclassified as Category C patients, for the duration of the reimbursement period.

Charging category C: Charge-exempt overseas visitor ordinarily resident in an EU or EFTA country

8. Patients in this category are known as charge-exempt overseas visitors (CEOV). This category distinguishes the costs related to patients insured by EU or EFTA country from those related to third-country patients who are exempt or waived from charges (see charging category E)

9. Typically, this category of patient will use NHS services in the UK either on a ‘needs arising’ basis if on a short-term visit or when studying here (through the EHIC or PRC mechanism) or on an elective basis (through the S2 or planned treatment routes).

10. However, as students are eligible to hold an EHIC or PRC if they remain insured by their home state, they could seek access to more specialist, elective or long-term healthcare while in the UK. As such, there is no clear rule of thumb as to when specialist or elective treatment should be provided to EU or EFTA country visitors and when this is no longer appropriate.

If a student has paid the IHS and had a reimbursement, then they'll be able to use their EHIC, otherwise they'll be covered by IHS arrangements.

11. Patients who are either in receipt of a state pension from an EU or EFTA country or who are classed as ‘detached workers’ and who have been provided with an S1 form to cover the costs of their healthcare when living in the UK, should also be classed as category C.

While providers should invoice their commissioner(s) for the costs of healthcare provided to category C patients must also report this activity (EHIC or PRC or S2) and its value via the OHS web portal.

12. These reports are essential for the Overseas Healthcare Team to be able to reclaim the costs of relevant NHS services provided to such visitors from the relevant country. The income from these claims is a key income stream into the NHS and the relevant bodies are expected to do all they can to properly identify and record the details of patients in possession of a non-UK EHIC or PRC or an S2 form.

13. The EHIC incentive scheme was launched on 1 October 2014 to encourage relevant bodies to report their EHIC activity. The scheme allows NHS providers to claim an incentive from the Department of Health and Social Care worth 25% of the NHS Payment Scheme for all valid EHIC and PRC activity reports they make on the portal in addition to the cost of healthcare that is charged to their commissioner. For more details, see the EHIC incentive guide in the toolbox or contact the Overseas Healthcare Services Team (nhsbsa.ovmqueries@nhsbsa.nhs.uk).

14. While it is good practice to assist patients to obtain a PRC (if, for example, they have forgotten to bring their EHIC), it is the patient's responsibility to ensure that the correct paperwork is provided if they wish to benefit from healthcare free at the point of delivery. If the provider is unable to obtain an EHIC or PRC or an S2 form and the patient is not exempt from charges, then the relevant body should apply charges (as per charging category D). The patient should then be provided with invoices and receipts to facilitate reimbursement from their home country on return.

Charging category D: Chargeable EFTA patient

15. Patients in this category are chargeable for relevant services at the point of delivery.

16. If patients fall into this category, they should be asked if they have private health or travel insurance. If they do not possess this, or if the relevant body deems the insurance to be insufficient to cover the costs of healthcare, the relevant body should charge the patient directly at 150% of the NHS Payment Scheme, unless covered by the Withdrawal Agreement and provide the necessary paperwork for the patient to then manage any future reimbursement from their insurer.

Relevant bodies are reminded that healthcare that is immediately necessary or urgent must never be refused, regardless of the patient's ability to pay, although charges should still be recovered in parallel or immediately after treatment is provided.

17. Chargeable patients legally resident in an EU or EFTA country must be charged on the same basis as those legally resident in third countries. Charges for patients in charging category D should therefore be calculated on the same basis as Category F patients.

Charging category E: Charge-exempt overseas visitor ordinarily resident in a country outside the UK, EU or EFTA

18. The relevant body should refer to the guidance outlined in Who Pays? Determining responsibility for payments to providers pages on NHS.UK to determine who the responsible commissioner is and invoice them the standard NHS Payment Scheme or costs for the treatment (as per the charging rules applied to a Standard NHS Patient under Charging category A).

19. This charging category would be applied to individuals such as a qualifying UK crown servant visiting the UK or a non-EU or non-EFTA visitor who attends accident and emergency (but is not admitted to hospital) or needs treatment for an infectious disease while on holiday in the UK. For some exemption categories, for example under international healthcare arrangements, entitlement may be limited to exclude some services.

Charging category F: Chargeable ordinarily resident in a country outside the UK, EU or EFTA

20. This charging category therefore includes patients who are ordinarily resident in a country outside the UK, EU or EFTA (which could include UK or EU or EFTA passport holders as well as non-EEA citizens) or patients who are in the UK on an irregular basis (which could include illegal migrants, visa over stayers and failed asylum seekers not otherwise exempt from charges).

21. If patients fall into this category, they should be asked if they have private health or travel insurance. If they do not possess this, or if the provider deems the insurance to be insufficient to cover the costs of healthcare, the provider should charge the patient directly and provide the necessary paperwork for the patient to then manage any future reimbursement from their insurer. There is no requirement on the relevant body to accept insurance details if they are not assured that they will receive payment from the insurer.

22. This is the second charging category whereby a relevant body must be charged at 150% of the NHS Payment Scheme plus Market Forces Factor.

Pathway payment services

23. Currently, two pathway payment mechanisms exist – the maternity pathway payment and the cystic fibrosis pathway payment. Where the relevant body cannot identify the component price for a relevant service that is provided as part of a bundle of services,

the relevant body may set the overseas tariff on a reasonable basis having regard to all the matters set out below:

- the price of the full pathway payment
- the proportion of the bundle of services that the overseas visitor receives
- the complexity of the service provided to the overseas visitor

24. For example, where a patient with cystic fibrosis receives one week of NHS hospital treatment while in England, the relevant body will need to take all the following into account when determining the price that should be charged for the services provided:

    - the price of the cystic fibrosis pathway for the relevant band of patient complexity
    - the services provided during the one-week NHS hospital stay as a proportion of the yearly pathway payment
    - the complexity of the services provided to the patient during their stay

25. Calculation of charges must be reasonable and will vary on a case-by-case basis taking into account all of the relevant factors. However, the principle remains that chargeable patients should be charged using the same methodology whichever relevant body is providing the treatment.

26. If it is possible to identify the component prices for a service (e.g. for maternity services it may be possible to identify the price for providing the antenatal component of the pathway), then the relevant body should calculate the price using the relevant price under the NHS Payment Scheme.

Annex D: Persons covered by the Withdrawal Agreement, EEA EFTA Separation Agreement and Swiss Citizens' Rights Agreement

1. These people are most likely to be covered by Regulation 12 of the Charging Regulations. More information on citizens' rights provisions can be in the Withdrawal Agreement explainer for part 2: citizens' rights page on GOV.UK.

2. Please note that for the purposes of this document and cost recovery:

   - France includes the departments of Guadeloupe, Martinique, Guyane (French Guiana) and Réunion
   - Spain includes the Balearic Islands, the Canary Islands, Ceuta and Melilla
   - Portugal includes the Azores and Madeira
   - The territory of Denmark excludes the Faroe Islands and Greenland, although Faroese residents are covered by a separate healthcare arrangement.
   - Andorra, Monaco, San Marino and Vatican City are not part of the EU or EEA
   - EU law is suspended in the north of Cyprus. It applies in the rest of Cyprus. Therefore, visitors from the north of Cyprus are not covered by the SSC Protocol or the Withdrawal Agreement. Visitors who are ordinarily resident in the north of Cyprus should be charged on the same basis as any other chargeable visitor (unless otherwise exempt). The UK sovereign bases in Cyprus do not count as part of the UK in this context, nor as part of the EU
   - For the purposes of healthcare, relations between the UK and Gibraltar are governed by a separate bilateral healthcarearrangement
   - Parallel arrangements also exist between the UK and Denmark in relation to the Faroe Islands and between the UK and Malta

Person	Entitlement	Evidence required	Do entitlements extend to family members?
UK nationals (including UK pensioners) who were lawfully living in an EU or EFTA country on or before 31 December 2020 (and remain resident there).	Entitled to all relevant services without charge when visiting the UK.	S1	Yes, if they hold a dependant S1
EU or EFTA citizens lawfully living in the UK on or before 31 December 2020 (including any of their children born in the UK who are not considered ordinarily resident in the UK and where no other exemption applies)	Entitled to all relevant services without charge, provided they have been granted either settled or pre-settled status under the EUSS (or have a pending application) and continue to be ordinarily resident in the UK.	EUSS status or Certificate of Application**.** Where they have EUSS status, they'll require evidence of being ordinarily resident	Joining family members have temporary protection for 3 months (see row below)
Close family members coming to join a person with settled or pre-settled EUSS status in the UK.	Entitled to all relevant services without charge for the first 3 months following their arrival. To retain their entitlement beyond that point, they will need to apply to the EUSS, and have a valid CoA to maintain access to relevant services without charge until the final determination of their application.	EUSS status or certificate of Application or if within 3 months of arrival: proof that their family member has EUSS status, and proof of family relationship (marriage or civil partnership certificate or birth or adoption certificate, or EUSS family permit, or expired EEA family permit; power of attorney or joint names on council tax bills, bank statements, tenancy agreements or mortgage statements or local authority rent book, utility bills, finance agreements, tax	Not applicable

Person	Entitlement	Evidence required	Do entitlements extend to family members?
		returns and proof of date of arrival (travel document; passport stamp; EUSS family permit; expired EEA family permit).	
Posted workers (those sent to work in the UK from an EU or EFTA country) whose posting began on or before 31 December 2020.	Entitled to all relevant services without charge for the duration of their posting.	S1	Yes, if they hold a dependant S1
Persons insured by an EU or EFTA State with Withdrawal Agreement rights (as evidenced by an S1).	Entitled to all relevant services without charge.	S1	Yes, if they hold a dependant S1
Frontier workers (those who reside in the EU or EFTA country, but regularly commute to the UK for work (and began working in the UK on or before 31 December 2020).	Entitled to receive relevant services without charge for the length of their work in the UK.	S1 S2 for pre-planned treatment	Yes, if they hold a dependant S1

Annex E: Persons covered by the UK-EU SSC Protocol, UK-Switzerland Convention, UK-EEA EFTA arrangement

1. These people are most likely to be covered by Regulations 12A, 13, 13A and 14 of the Charging Regulations.

2. Please note that for the purposes of this document and cost recovery:

   - France includes the departments of Guadeloupe, Martinique, Guyane (French Guiana) and Réunion
   - Spain includes the Balearic Islands, the Canary Islands, Ceuta and Melilla
   - Portugal includes the Azores and Madeira
   - The territory of Denmark excludes the Faroe Islands and Greenland, although Faroese residents are covered by a separate healthcare arrangement
   - Andorra, Monaco, San Marino and Vatican City are not part of the EU or EEA
   - EU law is suspended in the north of Cyprus. It applies in the rest of Cyprus. Therefore, visitors from the north of Cyprus are not covered by the SSC Protocol or the Withdrawal Agreement. Visitors who are ordinarily resident in the north of Cyprus should be charged on the same basis as any other chargeable visitor (unless otherwise exempt). The UK sovereign bases in Cyprus do not count as part of the UK in this context, nor as part of the EU
   - For the purposes of healthcare, relations between the UK and Gibraltar are governed by a separate bilateral healthcare agreement
   - Parallel arrangements also exist between the UK and Denmark in relation to the Faroe Islands and between the UK and Malta

- Our relationship with the EU is governed by the UK-EU Trade and Cooperation Agreement (TCA) which includes social security provisions referred to as the UK-EU SSC Protocol. Similar arrangements are also in place with Switzerland under the UK-Switzerland Social Security Coordination Convention and the EEA EFTA states (Norway, Iceland and Liechtenstein) with the UK- EEA EFTA Social Security Coordination Convention which came into force on 1st January 2024.

Person	**Entitlement**	**Evidence required**	**Do entitlements extend to family members?**
UK nationals who moved to live in an EU or EFTA country on or after 1 January 2021	Will generally be chargeable for relevant services unless they are a UK pensioner, frontier worker, detached worker, dependent family member of a UK resident or maternity benefit exporter and hold a UK S1, in which case they will be entitled to receive all relevant services in the UK without charge from 1 January 2024, except for assisted conception services, they hold a valid EHIC issued in an EU or EFTA country, in which case they are entitled to receive necessary healthcare without charge when visiting the UK.	Where relevant a valid EHIC or PRC issued by an EU or EFTA country, or a valid S2 issued by an EU or EFTA country, or a UK-issued S1 or verification they were issued with an S1 from NHSBSA.	Yes, if they hold a UK pensioner or dependant S1 or their own entitlement (for example their own EHIC)
Temporary migrants from an EU or EFTA country who moved here on or after 1 January 2021 and are living in the UK for more than 6 months – including students	Generally required to pay the IHS, at which point they can receive relevant services without charge (except for assisted conception). Some students and S1 holders may be subsequently reimbursed their IHS. After receiving a reimbursement, they will need an	IHS: Status on SCRa or NCRS Reimbursed individuals will need an EHIC, S1 or S2	Yes, either through their IHS payment as a dependant or where another family member has had a reimbursement, then entitlement may come from the family member's EHIC, S1 or

Person	Entitlement	Evidence required	Do entitlements extend to family members?
	EHIC (which covers necessary healthcare), S1 (which covers all relevant services) or S2 (which covers planned treatment) to receive care for free.		S2 (where applicable).
Temporary visitors (those here for 6 months or less) from an EU or EFTA country	Entitled to necessary healthcare (including for those whose healthcare requirements arose on a voyage or flight and including pre-arranged necessary treatment) without charge with a valid EHIC or PRC). Entitled to planned treatment with S2.	• EU or EFTA issued EHIC or PRC • • • S2	Each family member must hold an EHIC or PRC
EU or EFTA-insured detached and frontier workers who started work in the UK on or after 1 January 2021, and other EU or EFTA-insured S1 holders such as state pensioners and benefit exporters	EU or EFTA-insured persons are entitled to healthcare services on the same basis as an ordinary resident for the duration of their posting with the exception of assisted conception services. If they are a British or Irish citizen the exception does not apply and they are entitled to assisted conception services. *Please note that the same entitlements also apply to EU and EFTA-insured benefit exporters, state pensioners and dependants of individuals insured in other contracting states, regardless of*	S1	Yes, if they hold a dependant S1 or their own entitlement

Person	Entitlement	Evidence required	Do entitlements extend to family members?
	whether they have paid or been reimbursed their IHS.		
Irish citizens living in the UK (including frontier workers who reside in the UK and work in Ireland)	Entitled to relevant services on the same basis as an ordinary resident.	Evidence of ordinary residence in the UK	Not relevant because based on ordinary residence. If a family member is not ordinarily resident, they may be covered by one of the other categories (for example an Irish-insured visitor resident in Ireland)
Frontier workers residing in Ireland and working in the UK	Entitled to relevant services on the same basis as an ordinary resident. Non-Irish and non-British national frontier workers in Ireland and working in the UK cannot access assisted conception services free of charge.	Proof of residence in Ireland. For example: Irish EHIC, Ireland Temporary Residence Certificate (TRC), Irish PRC, Irish photocard driving licence, Irish Residence Permit (IRP), Irish medical card, Irish GP visit card or any 2 documents showing a person's Irish address (for example bank statement or utility bill) issued within the previous 6 months and alongside photo ID. In addition to the above evidence of employment or self-employment such as a letter from employer or pay slips for a given period (employee) or most	Family members of Irish resident frontier workers may access necessary healthcare in the UK through proof of Irish residence (see previous column)

Person	Entitlement	Evidence required	Do entitlements extend to family members?
		recent copy of Income Tax.	
Visitors from Ireland, including students	Entitled to necessary healthcare without charge.	Proof of residence in Ireland. For example: Irish EHIC, Ireland Temporary Residence Certificate (TRC), Irish PRC, Irish photocard driving licence, Irish Residence Permit (IRP), Irish medical card, Irish GP visit card or any 2 documents showing a person's Irish address (for example bank statement or utility bill) issued within the previous 6 months and alongside photo ID. In addition to the above evidence of employment or self-employment such as a letter from employer or pay slips for a given period (employee) or most recent copy of Income Tax.	Yes. Dependent children may use the eligibility documentation of the Irish-insured person over 18 years' of age on whom they are dependant if they are unable to provide their own eligibility documentation.

Annex F: Visitors and referrals from the Crown Dependencies

Person	Entitlement to necessary healthcare	Referral arrangement	Evidence required	Referrals for elective treatment
Bailiwick of Guernsey residents visiting the UK for up to 6 months	Entitled to necessary healthcare, for temporary stays of up to 6 months in the UK. This includes treatment for specified chronic or pre-existing conditions (for example kidney dialysis or oxygen therapy), subject to pre-arrangement.	Guernsey can also refer patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.	Proof of residency (for example utility bills, driving licence)	The Committee for Health and Social Care in Guernsey (the Guernsey Health Authority) commission referrals
Bailiwick of Guernsey students studying in the UK	Students studying in the UK for more than 6 months who are not considered to be ordinarily resident in the UK are entitled to necessary healthcare for the duration of their course.	As above	Proof of student status and course duration	As above
Isle of Man residents visiting the UK for up to 6 months	Entitled to necessary healthcare for temporary stays of up to 6 months in the UK. This includes treatment for specified chronic or pre-existing conditions (for example	The Isle of Man can also refer patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.	Proof of residency (for example utility bills, driving licence)	Manx Care in the Isle of Man (the Isle of Man Health Authority) commission referrals

Person	Entitlement to necessary healthcare	Referral arrangement	Evidence required	Referrals for elective treatment
	kidney dialysis or oxygen therapy), subject to pre-arrangement.			
Isle of Man students studying in the UK	Students studying in the UK for more than 6 months who are not considered to be ordinarily resident in the UK are entitled to necessary healthcare for the duration of their course.	As above	Proof of student status and course duration	As above
Bailiwick of Jersey residents staying in the UK for up to 6 months	Entitled to necessary healthcare for temporary stays of up to 6 months in the UK. This includes treatment for specified chronic or pre-existing conditions (for example kidney dialysis or oxygen therapy), subject to pre-arrangement.	Jersey can also refer patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.	Proof of residency (for example utility bills, driving licence)	Referrals are commissioned by Health and Community Services in Jersey (the Jersey Health Authority) or any other authorised referral body.
Bailiwick of Jersey students studying in the UK	Students studying in the UK for more than 6 months who are not considered to be ordinarily resident in the UK are entitled to necessary healthcare for	As above	Proof of student status and course duration	As above

Person	Entitlement to necessary healthcare	Referral arrangement	Evidence required	Referrals for elective treatment
	the duration of their course.			

Repayment of a sum recovered or secured from an eligible person for necessary healthcare

1. An eligible person (or their insurer) should not be charged for any treatment which is free to UK residents under the definition of necessary healthcare, save for any co-payments for which the person is liable.

2. In the event that such a person (or their insurer) is incorrectly billed by an NHS Trust, the individual will have 1 year following the treatment to produce a claim for repayment to the latter Trust. Once a claim is received, the NHS Trust will have 30 days to reimburse the individual (or their insurer).

Annex G: Visitors and referrals from the overseas territories with healthcare arrangements

Note: It is the responsibility of the person referred to ensure that they respect the UK immigration requirements. Those citizens and residents from the overseas territories who are not British nationals and whose medical treatment lasts longer than 6 months will require a Standard Visitor visa to be arranged before coming to the UK. Such a visa may last for up to 11 months and may be extended for a further 6 months for a fee.

Person	Entitlement to necessary healthcare	Referral arrangement	Evidence required	Referrals for pre-authorised elective treatment
Anguilla	Entitled to necessary healthcare for temporary stays of up to 6 months in the UK.	Anguilla can also refer 5 patients for pre-authorised treatment free of charge every year. Thereafter, Anguilla can refer further patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.	Passport and proof of residency (for example utility bills, driving licence)	Referrals are commissioned by the UK Overseas Treatment Committee
Ascension	Holders of a British overseas territories or of a British Passport employed in Ascension; or their dependent spouse or partner or child, up to the age of 18	Ascension can also refer 5 patients for pre-authorised treatment every year free of charge. Thereafter, Ascension	Passport and a letter from the Senior Medical Officer, or their Deputy, confirming a person's eligibility under the Arrangement	Referrals are commissioned by the Senior Medical Officer or the Deputy Senior Medical Officer

Person	Entitlement to necessary healthcare	Referral arrangement	Evidence required	Referrals for pre-authorised elective treatment
	(or 19 if in education) are entitled to necessary healthcare for temporary stays of up to 6 months in the UK.	can refer further patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.		
Bermuda	No entitlement	Bermuda can also refer 5 patients for pre-authorised treatment every year free of charge. Thereafter, Bermuda can refer further patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.	Passport and proof of residency (Permanent Resident Certificate; or work permit)	Referrals are commissioned by the Office of the Chief Medical Officer
British Virgin Islands	Entitled to necessary healthcare for temporary stays of up to 6 months in the UK.	The British Virgin Islands can also refer 5 patients for pre-authorised treatment every year free of charge. Thereafter, British Virgin Islands can refer further patients for pre-authorised treatment and be charged at 100% of NHS Payment	Passport and Belonger card, Certificate of Residence, or National Health Insurance Card.	Referrals are commissioned by the Chief Medical Officer of the British Virgin Islands

Person	Entitlement to necessary healthcare	Referral arrangement	Evidence required	Referrals for pre-authorised elective treatment
		Scheme.		
Cayman Islands	No entitlement.	The Cayman Islands can refer 5 patients for pre-authorised treatment every year free of charge. Thereafter, the Cayman authorities can refer further patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.	British overseas territories citizen or Cayman Islands passports or documents proving residence in the Cayman	Referrals are commissioned by the Cayman Islands' Chief Medical Officer or designated Deputy
Falkland Islands	Residents are entitled to necessary healthcare for temporary stays of up to 6 months in the UK.	Falkland Islands can refer an unlimited number of patients to the UK for free elective treatment.	Passport and proof of residency (for example utility bills, driving licence)	Referrals are commissioned by the Medical Treatment Overseas Committee
Gibraltar	Citizens residing in Gibraltar are entitled to necessary healthcare for temporary stays of up to 30 days in the UK.	Gibraltar can refer an unlimited number of patients to the UK for free elective treatment. This excludes planned maternity treatment.	Passport and proof of residency (for example utility bills, driving licence)	Referrals are commissioned by the Gibraltar Health Authority
Montserrat	Residents are entitled to necessary healthcare for temporary stays of up to	Montserrat can also refer 10 patients for pre-authorised treatment	Passport and proof of residency (for example utility bills, driving licence)	Referrals are commissioned by the Office of the Chief

Person	Entitlement to necessary healthcare	Referral arrangement	Evidence required	Referrals for pre-authorised elective treatment
	6 months in the UK.	every year free of charge. Thereafter, Montserrat can refer further patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.		Medical Officer
Pitcairn Islands, including Henderson, Ducie and Oeno Islands	No entitlement.	The Pitcairn Islands can refer 10 patients for pre-authorised treatment every year free of charge. Thereafter, the Pitcairn authorities can refer further patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.	Passport and proof of residency (for example utility bills, driving licence)	Referrals are commissioned by the Office of the Chief Medical Officer and the Office of the Governor of Pitcairn
St Helena	Those who are residents of St Helena with St Helena Status as well as those entitled to free elective healthcare on St Helena and are British Passport holders are	St. Helena can also refer 10 patients for pre-authorised treatment every year free of charge. Thereafter, St. Helena	Passport and a letter from the Chief Medical Officer or Director of Health confirming Saint Helena Status	Referrals are commissioned by the Director of Health of St Helena or the Chief Medical Officer

Person	Entitlement to necessary healthcare	Referral arrangement	Evidence required	Referrals for pre-authorised elective treatment
	entitled to necessary healthcare for temporary stays of up to 6 months in the UK.	can refer further patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.		
Tristan da Cunha	Those who meet the following criteria are entitled to necessary healthcare for temporary stays of up to 6 months in the UK: nationals of Tristan da Cunha, who have been resident since birth or nationals of Tristan da Cunha, who have returned to Tristan da Cunha and have been permanently resident for a minimum period of 2 years or spouses of a Tristan da Cunha national who has been resident since birth or who has been permanently resident in Tristan da Cunha for a minimum period of 2 years.	Tristan da Cunha can also refer 10 patients for pre-authorised treatment every year free of charge. Thereafter, Tristan da Cunha can refer further patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.	Passport and a letter from the Chief Medical Officer confirming a person's eligibility under the Arrangement	Referrals are commissioned by the Chief Medical Officer
Turks and Caicos	Those who are resident	Turks and Caicos can	Passport issued by the	Referrals are

Person	Entitlement to necessary healthcare	Referral arrangement	Evidence required	Referrals for pre-authorised elective treatment
Islands	in the Turks and Caicos Islands, holding a passport issued by the Turks and Caicos Islands Immigration Department or their spouse or dependant child under 18 years of age as well as those holding a British overseas territories Citizen passport are entitled to necessary healthcare for temporary stays of up to 6 months in the UK.	also refer 5 patients for pre-authorised treatment every year free of charge. Thereafter, Turks and Caicos can refer further patients for further patients for pre-authorised treatment and be charged at 100% of NHS Payment Scheme.	Turks and Caicos Islands Immigration Department or a British overseas territories Citizen passport and proof of residency (for example utility bills, driving licence)	commissioned by the Chief Medical Officer

Repayment of a sum recovered or secured from an eligible person for necessary healthcare

1. An eligible person (or their insurer) should not be charged for any treatment which is free to UK residents under the definition of necessary healthcare, save for any co-payments for which the person is liable.

2. In the event that such a person (or their insurer) is incorrectly billed by an NHS Trust, the individual will have 1 year following the treatment to produce a claim for repayment to the latter Trust. Once a claim is received, the NHS Trust will have 30 days to reimburse the individual (or their insurer).

Annex H: Healthcare arrangements with rest of world countries

Note: Necessary healthcare, also referred to as 'needs arising', '[medically] necessary healthcare' or 'necessary treatment', includes any service that a clinician considers to be medically necessary before an overseas visitor can reasonably be expected to return home.

Country	Person	Entitlement	Evidence required
Australia	Residents of Australia of any nationality	Necessary healthcare	Passport and proof of residence
Bosnia and Herzegovina	Residents of Bosnia and Herzegovina of any nationality	As above	As above
Kosovo	Residents of Kosovo of any nationality	As above	As above
Montenegro	Residents of Montenegro of any nationality	As above	As above
North Macedonia	Residents of North Macedonia of any nationality	As above	As above
Serbia	Residents of Serbia of any nationality	As above	As above
Faroe Islands	Residents of the Faroe Islands who are Danish Nationals	As above	As above
Israel	Applies only to UK and Israeli nationals who are	Applies only in relation to treating the industrial injury in respect of which the individual receives	Passport or alternative proof of nationality, and

Country	Person	Entitlement	Evidence required
	entitled to benefits in respect of an industrial injury under either country's legislation.	benefit	confirmation from the employer of an industrial injury (possibly with more formal paperwork or UK industrial injury benefit proof to follow when appropriate).
New Zealand	Residents of New Zealand who are New Zealand nationals	Necessary healthcare	Proof of nationality (Passport) and residence

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