



Department  
of Health &  
Social Care

*From the Baroness Blackwood  
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Councillor Ben Hayhurst  
Chair of Health in Hackney Scrutiny Commission  
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**02 MAY 2019**

*Dear Cllr Hayhurst*

Thank you for your correspondence of 28 February to Matt Hancock about NHS services for overseas visitors. Please accept my apologies for the delay in replying.

I appreciate your concerns about the impact of overseas visitor charging regulations on vulnerable migrants and I am grateful to you for taking the time to raise this matter.

The NHS has operated as a residency-based healthcare system since its inception. Entitlement to NHS-funded hospital treatment is principally based on being 'ordinarily resident' in the UK at the time of treatment. It is not dependent on the payment of UK taxes or National Insurance contributions, or on nationality.

Providers of NHS secondary care are legally obliged to establish whether an overseas visitor must pay charges for treatment and, if so, to recover the charge from them. The Government remains committed to ensuring that overseas visitors and migrants are charged for using NHS services during their stay in the UK where appropriate. However, it also recognises that it is important to ensure that patients receive free NHS care if entitled to it, and that treatment that clinicians consider urgent or immediately necessary is never withheld due to lack of payment.

The Department does not audit how much trusts are paying to administer overseas visitor charging or how much income is received. NHS Improvement supports trusts in operating their charging regimes effectively and efficiently.

There is no direct requirement for trusts to monitor or report the effectiveness of charges as a deterrent, nor are they required to report on the number of 'no shows' for

follow-up appointments. Patients may decide not to proceed with treatment for a number of reasons, such as deciding to wait until they return home to have it. However, the Government fully recognises the importance of ensuring that anyone in need of NHS services is not deterred from seeking them. The Home Office also takes individual circumstances into account when making a decision on any future immigration applications.

Patients who have reasonable repayment plans with NHS providers, and who are adhering to that agreement, do not have details of their debt shared with the Home Office. Guidance for trusts sets out that a reasonable repayment plan is one that allows for the debt to be repaid within a realistic timeframe. The financial circumstances of the patient must also be taken into account, and agreement on the terms of the repayment plan reached between them and the organisation. NHS staff are also advised to bear in mind that some patients will be unable to pay; for example, destitute undocumented migrants for whom a repayment plan may not be appropriate or cost-effective. Trusts will have their own policy on debts that are written off.

As you will be aware, writing off a debt does not waive or extinguish the debt, but instead means that it is not being actively pursued and the trust will not be accounting for the income. NHS services have still been provided to a patient who is unable to pay for them, and the NHS must subsidise this from elsewhere within its funding. A debt may not be pursued for a number of reasons, such as the whereabouts of the patient being unknown or the patient's inability to pay. It would therefore be inappropriate not to inform the Home Office of written-off debts, since applying an immigration sanction may result in payment of a debt by someone who was previously untraceable or whose financial circumstances have changed.

*The Guidance on implementing the overseas visitor charging regulations and the Upfront charging operational framework* have recently been updated, in line with commitments made in December following a review of the regulations. The main change we have made is to emphasise that the longer a patient is expected to remain in the UK, the more likely they are to require urgent care, which is not subject to upfront charging. Therefore, visitors who are in the UK for a longer period of time will be more likely to receive treatment that does not require upfront charges. A number of case studies have been added to the framework to demonstrate this.

The Government continues to work with NHS Improvement to ensure providers are applying the regulations properly and fairly, to promote awareness of the important exemption categories and safeguards that are in place for vulnerable patients, and to ensure that all patients receive the care they need. It is also working on developing guidance that is more focused on vulnerable patients, their families and advocates.

With regard to mechanisms for patients to complain and to challenge charging decisions, the guidance relating to this has also recently been amended. This can be found at [www.gov.uk](http://www.gov.uk) by searching for 'overseas NHS visitors implementing the charging regulations'.

I hope this reply is helpful.

Best wish

Nicola

**NICOLA BLACKWOOD**