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

Operational Guidance

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Glossary

A1	Form issued to posted workers (detached workers) confirming competent state.
Asylum seeker	A person who has made a formal application with the Home Office to be granted asylum, temporary protection or humanitarian protection.
Authorised child	A child who has been granted leave to enter the United Kingdom with a parent or legal guardian who is receiving a course of treatment in respect of which no charge may be made or recovered under regulation 11; or the child of an authorised companion.
Authorised companion	A person who has been granted leave to enter the United Kingdom to accompany a person who is obtaining a course of treatment in respect of which no charge may be made or recovered under regulation 11.
EHIC	European Health Insurance Card. A valid EHIC or provisional replacement certificate (PRC) can demonstrate that a visitor may be exempt from charge and is entitled to publicly-funded health service treatment that is medically necessary during their visit until the date of their planned return home.
EUSS	The EU Settlement Scheme provides a basis for EEA and Swiss citizens resident in the UK by the end of the transition period at 11pm on 31 December 2020, and their family members, to apply for the UK immigration status which they require in order to remain in the UK after 30 June 2021.
Frontier worker permit	A permit to let an EU, EEA or Swiss citizens come to the UK to work while living elsewhere. They must have been working in the UK by 31 December 2020.
HRG Costings	Healthcare Resource Groups are clinically meaningful groupings of patient activity, based on procedures and diagnoses, which consume similar resources.
Refugee	Anyone granted asylum, temporary protection or humanitarian protection under the Immigration Rules made under section 3(2) of the Immigration Act 1971.
S1	Form issued to pensioners and their family members or frontier workers as a certificate of entitlement to health care paid for by the authorities in the issuing state.

S2	Payment guarantee from the issuing country for planned treatment.

Abbreviations

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

INTRODUCTION

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

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

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

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

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

Access to Healthcare Team

Business Services Organisation

2 Franklin Street

Belfast

BT2 8DQ

Tel: 028 9536 3822

Email: athsc.queries@hscni.net

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

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

EXECUTIVE SUMMARY

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

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

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

Nationals of countries outside the EEA must have indefinite leave to remain in the UK to be considered ordinarily resident.

From the 1 January 2021, EU, EEA and Swiss nationals must have a right to or have received settled or pre-settled status under the EU Settlement Scheme (must have applied by 30 June 2021) or have an existing indefinite leave to remain in the UK in order to be considered ordinarily resident in the UK.

Failure to apply to the EUSS may negatively impact eligibility to work, study, and access benefits and services in the UK, including healthcare.

Late applications can be made to the EUSS and the Home Office will look for reasons to grant applications, not to refuse them.

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

Access to health services

The Regulations cover access to general health services—primary medical services, general dental services, general ophthalmic services and pharmaceutical services—as well as secondary care services.

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

Note: There is no requirement to retrospectively check the EU settled status of citizens who have registered with a GP before 01 July 2021.

All HSC Trusts have responsibility for establishing whether an individual seeking hospital treatment is eligible to access publicly-funded health services. This will mean establishing whether someone is ordinarily resident or a visitor. If an individual is a visitor, Trusts must then establish whether **they or the services** they are accessing fall within one of the exemptions set out in the Regulations and should not therefore be charged (see chapters 2 and 3). Where charges do apply, Trusts must make and recover charges as appropriate (see chapter 7).

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

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

CHAPTER 1: ORDINARY RESIDENCE

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

A person will be considered ordinarily resident here when that residence is **lawful, voluntary, and for settled purposes as part of the regular order of their life for the time being, whether of short or long duration.**

- EU, EEA and Swiss nationals (except Irish) must have settled or pre-settled status under the EU Settlement Scheme or indefinite leave to remain in the UK.
- Nationals of countries outside the EEA must have indefinite leave to remain in the UK in order to be considered ordinarily resident.

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

1.2 Determining whether an individual is ordinarily resident in Northern Ireland will require an assessment of whether they are:

a. here lawfully (from 01 July 2021 non-British/Irish nationals must have an EUSS status (or evidence that an application is pending) or indefinite leave to remain);
b. here voluntarily; and
c. properly settled here for the time being.

1.3 A person is not ordinarily resident here simply because they are a British or Irish national, hold a British or Irish passport, own property in Northern Ireland, or have paid (or are currently paying) UK National Insurance contributions or taxes.

1.4 The checklist attached at **Annex A** to this document may be helpful for HSC organisations in determining whether an individual is ordinarily resident in

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

Northern Ireland. However, this can only ever be a guide to reaching a determination. HSC organisations should exercise discretion and take account of individual circumstances when assessing an individual's residence status. It may be necessary for HSC Trusts or the BSO to seek legal advice in some cases.

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

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

Being lawfully in Northern Ireland

British and Irish citizens

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

Changes due to the UK leaving the EU

1.7 The UK has left the EU and the EU right to free movement has come to an end. This means that EU, EEA and Swiss nationals resident in the UK, and their family members, need to obtain an immigration status in order to continue living and working in the UK lawfully after 30 June 2021.

1.8 Citizens of the EU, EEA and Switzerland and their family members who were lawfully residing in the UK by 31 December 2020 will keep their right to healthcare, as long as they meet the ordinary residence test.

There is some detailed guidance available here:

Ways in which people can be lawfully resident in the UK - GOV.UK (www.gov.uk)

EU, EEA and Swiss nationals resident in Northern Ireland on 31 December 2020 – EU Withdrawal Agreement, EEA EFTA Separation Agreement and Swiss Citizens' Rights Agreement rights

1.9 The EU Settlement Scheme (EUSS) is a scheme which enables EU, EEA and Swiss nationals resident in the UK, and their family members, without an existing immigration status to obtain the status they will require in order to live and work in the UK lawfully after 30 June 2021.

1.10 Some EU, EEA and Swiss nationals may be able to stay in the UK without applying to the EUSS - for example, if they are an Irish citizen or already have indefinite leave to remain.

1.11 The deadline for making an application to the EUSS was 30 June 2021, however he Home Office has put in place comprehensive arrangements to enable those with reasonable grounds for missing the deadline to make a late application. If an application to the EUSS is successful a person will be given either settled status or pre-settled status.

1.12 From 1 July 2021, EU, EEA and Swiss nationals without an existing immigration status, resident in the UK must have been granted settled or pre-settled status under the EU Settlement Scheme.

EUSS Settled Status

1.13 Settled status is usually given if a person has had a period of 5 years continuous residence in the UK and this equates to an indefinite leave to remain.

EUSS Pre-Settled Status

1.14 Pre-settled status is usually given if the person has less than 5 years continuous residence in the UK and equates to limited leave to remain. When the holder of a pre-settled status has been in the UK for 5 years they can apply for settled status. The application for settled status must be done before the pre-settled status expires five years after it has been received. Pre-settled

status is not indefinite leave to remain but a person holding either status is in the UK lawfully. https://www.gov.uk/settled-status-eu-citizens-families/what-settled-and-presettled-status-means

Checking someone's settled or pre-settled status under EUSS

1.15 When an individual applies to the EU Settlement Scheme and the application is granted the individual receives an online status and they can view this online. When they access their online status this generates a share code which allows the individual to prove their EUSS status to someone else.

1.16 To check if a person has a settled or pre-settled status input the share code and the individual's date of birth and you will be able to view their EUSS status at https://www.gov.uk/check-immigration-status.

Note: There is no requirement to retrospectively check the EU settled status of citizens who have registered with a GP before 01 July 2021.

1.17 The EU Withdrawal Agreement protects EU, EEA and Swiss citizens from discrimination, meaning service providers and employers have a duty not to discriminate against EU, EEA and Swiss citizens in light of the UK's decision to leave the EU. There are also duties under domestic equality legislation to ensure no racial discrimination in access to goods, facilities and services, including the need to avoid racial profiling.

1.18 Therefore action should not be taken to retrospectively determine the nationality or EUSS status of a person that is already registered with a GP and has a HSC number, unless their registration is within the usual initial registration checking period – usually three months from initial application. Those that have already registered with a GP before 1 July 2021 who wish to change practices and register with a new GP should only be asked to prove ordinary residence in Northern Ireland or an immigration status. However, if someone is discovered not to be registered with the EUSS and believe they have rights under the EU Withdrawal Agreement they should be encouraged to apply.

1.19 Once an application is accepted to the EUSS scheme the individual maintains their rights under the EU Withdrawal Agreement and can access publicly-funded health care services until the conclusion of the application. This can be evidenced by a certificate of application if necessary.

1.20 Consideration should be given to the length of time between an application being made to the EUSS scheme and the issue of a certificate of application. If a person can produce evidence of having made a EUSS application, for example a letter or an email of acknowledgment, these should be considered as evidence of maintaining EU Withdrawal Agreement entitlement until a certificate of application is available.

Family members of EU, EEA and Swiss nationals – EU Withdrawal Agreement, EEA EFTA Separation Agreement and Swiss Citizens' Rights Agreement rights

1.21 Family members from outside the UK have the right to join their EU, EEA and Swiss family resident in the UK who fall within the scope of the EU Withdrawal Agreement, provided they satisfy the definition of a family member under the EU Withdrawal Agreement.

- Family members from the EU, EEA or Switzerland can apply to the **EU Settlement Scheme** from outside the UK if they hold either a valid passport or identity card with a biometric chip.
- Family members not from the EU, EEA or Switzerland can apply to the **EU Settlement Scheme** from outside the UK if they hold a relevant UK document issued by the Home Office, for example; a residence card, a permanent residence card or a derivative residence card
- If they don't have the appropriate documentation they should apply for a **EUSS family permit** from outside the UK and then apply to the EUSS within three months of their arrival in the UK.

Note – On 06 August 2021 UKG decided to give temporary three months protection for joining family members.

Temporary 3 months protection for joining family members

1.22 EU Withdrawal Agreement rights will be deemed to apply for three months, commencing at the point of entry to the UK, during which time joining family members need to apply to the EUSS in order to remain non-chargeable beyond the three month period. Once joining family members have submitted evidence that they have made an application to the EUSS or a certificate of application they will remain non-chargeable until a decision is made on their application or the exhaustion of appeal rights.

https://www.gov.uk/government/news/temporary-protection-for-more-applicants-to-the-settlement-scheme

Note: For EUSS status purposes - A certificate of application under the EU Settlement Scheme is issued by the Home Office to confirm that the applicant has submitted a valid application under the scheme. It does not confirm that the person has immigration status in the UK, but it does confirm the temporary protection of their rights in the UK pending the outcome of their application and any administrative review or appeal. A certificate of application will be issued to the applicant on receipt of a valid application by them under the scheme. Consideration should be given to the length of time between an application being made to the EUSS scheme and the issue of a certificate of application. If a person can produce evidence of having made a EUSS application, for example a letter or an email of acknowledgment, these should be considered as evidence of the temporary protection of their rights in the UK until a certificate of application is available.

Family members of persons of Northern Ireland (PONIs)

1.23 A family member of a UK citizen who is a non-EEA national should have an immigration status in the UK to evidence their lawful right to be in the UK and to access publicly-funded healthcare.

1.24 In May 2020 the Home Office announced a Statement of Changes in Immigration Rules (CP 232) used to regulate people's entry to, and stay in, the United Kingdom.

The Rules change brought eligible non-EEA family members of the people of Northern Ireland (broadly those born in NI) within the scope of the EU Settlement Scheme (EUSS) (and of the EUSS family permit and travel permit) which means that from 24th August 2020 people of Northern Ireland can bring their non-EEA family members to the UK on broadly the same basis as non-EEA family members of EU citizens who have entry and residence rights under the EU Withdrawal Agreement.

1.25 The person of Northern Ireland must be resident in the UK by 31st December 2020 in line with the equivalent policy for EU citizens set out in the Withdrawal Agreement and the family member must apply for the EU Settlement Scheme.

Providing they meet the EUSS eligibility requirements these eligible family members will get pre-settled or settled status, with all the accompanying rights to healthcare and other benefits as an ordinary resident of Northern Ireland. They do **not** have rights under the EU Withdrawal Agreement.

1.26 If an individual has made an application to the EUSS and a certificate of application has been issued, the applicant has an immigration status that is pending and the Home Office has stated that they will remain non-chargeable until a decision is made on their application or the exhaustion of appeal rights.

<u>A relevant person of Northern Ireland</u>

1.27 The statement of changes to the Immigration Rules, laid before Parliament on 14 May 2020 defines a relevant person of Northern Ireland as a person who:

(a) is:

(i) a British citizen; or

(ii) an Irish citizen; or

(iii) a British citizen and an Irish citizen; and

(b) was born in Northern Ireland and, at the time of the person's birth, at least one of their parents was:

(i) a British citizen; or

(ii) an Irish citizen; or

(iii) a British citizen and an Irish citizen; or

(iv) otherwise entitled to reside in Northern Ireland without any restriction on their period of residence.

An eligible family member

1.28 An eligible family member of a person of Northern Ireland is the same as a relevant family member of an EEA citizen as defined in Appendix EU of the Immigration Rules. It is as follows:

A person who has satisfied the Secretary of State, including by the required evidence of family relationship that they are (and for the relevant period have been), or (as the case may be) for the relevant period (or at the relevant time) they were:

(a) the spouse or civil partner of a relevant EEA citizen, and:

(i) the marriage was contracted or the civil partnership was formed before the specified date;

or

(ii) the applicant was the durable partner of the relevant EEA citizen before the specified date

and the partnership remained durable at the specified date; or

(b) the durable partner of a relevant EEA citizen, and:

(i) the partnership was formed and was durable before the specified date; and

(ii) the partnership remains durable at the date of application (or it did so for the relevant period or immediately before the death of the relevant EEA citizen); or

(c) the child or dependent parent of a relevant EEA citizen; or

(d) the child or dependent parent of the spouse or civil partner of a relevant EEA citizen, as described in sub-paragraph (a) above; or

(e) the dependent relative, before 1 January 2021, of a relevant EEA citizen (or of their spouse or civil partner, as described in sub-paragraph (a) above) and the family relationship continues to exist at the date of application.

Frontier workers working in UK immediately before 31 December 2020

1.29 Frontier workers who were working in the UK immediately before 31 December 2020 are protected under the EU Withdrawal Agreement, the EEA EFTA Separation Agreement and the Swiss Citizens' Rights Agreement ("the agreements"). Under these agreements, qualifying frontier workers have a right to work for as long as they continue to meet the **definition of a frontier worker**.

1.30 Under these agreements rights **a person is a protected frontier worker**, and therefore eligible to apply for a frontier worker permit, if they were, immediately before the end of the transition period (11pm GMT on 31 December 2020), and have been continuously since the end of the transition period:

- a European Economic Area (EEA) citizen
- not primarily resident in the UK
- a worker or self-employed person in the UK or a person treated as a worker or self-employed person in the UK

1.31 EEA citizens apart from Irish nationals are required to obtain a document certifying their rights as a protected frontier worker. **This 'document' is the frontier worker permit.**

Note: Frontier worker permits can be issued to both -

- **cross-border workers** (for example a person that comes to the UK to work for a period of weeks/months at a time) and
- **frontier workers** - any person pursuing an activity as an employed or self-employed person in a state and who resides in another state to which that person returns as a rule daily or at least once a week

Note: Frontier worker permits and cross border workers

The holder of a frontier worker permit may be lawfully present in the UK but not all frontier worker permit holders are automatically entitled to access publicly-funded health services in Northern Ireland. **Only frontier workers that pursue an activity as an employed or self-employed person in Northern Ireland and who reside in another state to which he/she returns as a rule daily or at least once a week are entitled to access publicly funded health services in Northern Ireland.**

Cross border workers that come to Northern Ireland to work for a period of weeks/months at a time are **not** entitled to access publicly-funded health services in Northern Ireland by virtue of being the holder a frontier worker permit.

EU, EEA and Swiss nationals coming to stay in Northern Ireland on or after 1 January 2021

New immigration requirements

1.32 The UK has left the EU which means that free movement has come to an end. From 1 January 2021 the UK has introduced a new immigration system which will apply to all non-British/Irish nationals. EU, EEA and Swiss nationals will still be able to visit the UK without having to apply for a visa and stay for up to 6 months.

Frontier workers that start work in the UK on or after 1 January 2021

1.33 EU citizens[2] that come to start work in the UK as frontier workers on or after 1 January 2021 are not eligible to apply for the frontier worker permit. They must apply for a visa to work in the UK.

1.34 Frontier workers that come to start work in Northern Ireland on or after 1 January 2021 are able to access publicly funded healthcare in Northern Ireland under the terms of the Trade and Cooperation Agreement.

1.35 Citizens from Norway, Iceland or Liechtenstein that come to start work in the UK on or after 01 January 2021 are not covered under the Trade and Cooperation Agreement.

1.36 From 1st November, the UK and Switzerland have implemented the UK-Switzerland Convention on Social Security Coordination. Any frontier workers that work in Northern Ireland from 01 November 2021 will fall under the terms of the UK-Switzerland Convention on Social Security Coordination.

Note: For Trade and Cooperation Agreement and UK-Switzerland Convention on Social Security Coordination purposes a frontier worker is defined as any person pursuing an activity as an employed or self-employed person in a state and who resides in another state to which that person returns as a rule daily or at least once a week.

EU, EEA or Swiss nationals moving to Northern Ireland after 1 January 2021

1.37 From 1 January 2021, people moving to Northern Ireland from the EU, EEA or Switzerland must pay the immigration health surcharge when applying for a visa to enter and remain in the UK for more than 6 months.

[2] Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

1.38 Payment of the immigration health surcharge entitles the payer to access publicly funded healthcare on the same basis as someone who is ordinarily resident, from the date their visa is granted and for as long as it remains valid.

1.39 They are entitled to free HSC services, including HSC hospital care, except for services for which a NI ordinary resident must also pay, such as dental and optical charges and assisted conception services.

1.40 EU, EEA and Swiss nationals coming to the UK on or after 1 January 2021 for more than 6 months to study will also need to have a passport or the appropriate travel documents, Confirmation of Acceptance for Studies (CAS) and a visa. The healthcare surcharge will also have to be paid as part of the visa application.

Non-EEA nationals

1.41 Non-EEA nationals usually need to hold an immigration status to be in the UK, that is

- a visitor visa
- a standard visa and have paid the immigration health surcharge or have it waived
- a EUSS status
- indefinite leave to remain

except in some circumstances when they are not subject to immigration control, for example if they are a diplomat.

Note: For EUSS status purposes - A certificate of application under the EU Settlement Scheme is issued by the Home Office to confirm that the applicant has submitted a valid application under the scheme. It does not confirm that the person has immigration status in the UK, but it does confirm the temporary protection of their rights in the UK pending the outcome of their application and any administrative review or appeal. A

certificate of application will be issued to the applicant on receipt of a valid application by them under the scheme. Consideration should be given to the length of time between an application being made to the EUSS scheme and the issue of a certificate of application. If a person can produce evidence of having made a EUSS application, for example a letter or an email of acknowledgment, these should be considered as evidence of the temporary protection of their rights in the UK until a certificate of application is available.

Being properly settled for the time being

1.42 There is no requirement for any person to actually be living here permanently or indefinitely in order to meet the ordinary residence test and there is no minimum period of residency that confers ordinarily resident status (non-British/Irish nationals must usually have an immigration status indicating the right to live here on a permanent basis).

1.43 It is perfectly possible to be ordinarily resident here from the day of arrival, when it is clear that an individual has, upon arrival, taken up settled residence. In each case, it is for the relevant HSC organisation (the BSO in the case of GP registrations and HSC Trusts in the case of individuals presenting for hospital treatment) to decide whether the criteria within the ordinary residence test have been met.

Assessing Ordinary Residence in particular circumstances

Family members

1.44 A person who is ordinarily resident will be so in their own right and it is not usually transferable to other family members, except in certain circumstances regarding children and in relation to rights under the agreements outlined in section 1.9. Where a child[3] who normally lives elsewhere is visiting an ordinarily resident parent, they can take on the ordinarily resident status of the

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

parent if the parent can show that the child normally lives with both parents, for example on a shared residence order.

Former residents

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

People who work or volunteer outside Northern Ireland

1.46 A person can be absent from Northern Ireland for a temporary or finite period of time and still be ordinarily resident here. For example, staff, workers and volunteers for UK charity and missionary agencies may not intend to live overseas indefinitely and may maintain a base in Northern Ireland to which they return regularly or periodically between assignments. This base may be their own home or the home of close friends or family. A letter from the UK-based organisation for which they have gone overseas, confirming that their assignment is temporary, may be useful. On the other hand, if there are no indicators that the person remains, or has ever been, properly settled here, it is unlikely that they would pass the ordinary residence test.

1.47 Similarly a person whose work takes them away from Northern Ireland for the majority of the time (for example a pilot or cabin crew) but whose home—which they return to between trips—is still here, is likely to be ordinarily resident here. People who are posted overseas temporarily as part of their contract and who maintain a base here that they return to (even if only for short stays) may be considered ordinarily resident.

1.48 However, someone who works and is settled elsewhere and only spends a few weeks of the year here visiting family is not likely to be properly settled and is therefore unlikely to be considered ordinarily resident.

People who split their time between more than one country

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

Students

1.50 Someone who has been ordinarily resident in Northern Ireland studying outside of Northern Ireland temporarily can still be considered ordinarily resident here if, for example, they plan to return here after their studies. However, if it is not their intention to return to live here and they have moved residence and are simply visiting, they will not be ordinarily resident.

1.51 Non-British/Irish students who hold a valid biometric residence permit indicating that they have paid the immigration health surcharge (or are exempt from paying the surcharge) will be entitled during their stay to health care on the same basis as someone who is ordinarily resident here. See chapter 6 for more information on the health surcharge.

1.52 Students in the UK from an EU, EEA country or Switzerland who commenced their studies on or before 31 December 2020

Students in the UK from an EU[4], EEA country or Switzerland who commenced their studies on or before 31 December 2020 and who intend to return home

[4] In this scenario, during the period 01 January 2021 to 31 October 2021 the costs of treatment can only be recovered from the 27 EU countries listed within the Trade and Cooperation Agreement. From 01 November 2021 costs can be recovered from the 27 EU countries and Switzerland. This is because the UK-Switzerland Convention on Social Security Coordination came into effect on 01 November 2021, however Iceland, Liechtenstein and Norway do not have long term agreements with the UK at present.

after their studies may continue to be insured by their home state and have transitional rights until their course of study ends. These students should be asked to provide a valid EHIC or PRC so that the costs of treatment can be recovered. If a student cannot provide a valid EHIC or PRC, their eligibility to access publicly-funded health care should be assessed against the Regulations (and in particular regulation 6(2)(d)).

1.53 Students in the UK from an EU, EEA country or Switzerland who commenced their studies on or after 01 January 2021

Students who come from the EU, EEA country or Switzerland to the UK to study (for courses lasting more than six months) whose student visas start on or after 1 January 2021 will pay the immigration health surcharge as part of their student visa application and will be entitled during their stay to health care on the same basis as someone who is ordinarily resident here.

Note - full-time students in UK higher education, with an EHIC issued in an EU country and a visa which started on or after 1 January 2021, may be eligible for a refund of the Immigration Health Surcharge payment in part or in full. The Immigration Health Surcharge Reimbursement Scheme does not open until 01 January 2022. More detail to follow.

1.54 Students from Ireland

A student from Ireland who is an Irish national will not have to pay the immigration health surcharge as they do not require a UK visa. A student from Ireland who is a non-EEA national will need to pay the immigration health surcharge.

1.55 Students from an EU country whose course of study lasts for less than six months, will not pay the immigration health surcharge and may continue to use their EHIC during their course of study.

Note: Students from Switzerland coming to study in NI on or after 1 January 2021 will not have a valid EHIC/S1 for the period 01 January 2021 to 31 October 2021 as the UK-Switzerland Convention on Social Security Coordination only came into effect on 01 November 2021.

Students from Iceland, Liechtenstein and Norway coming to study in NI on or after 1 January 2021 will not have a valid EHIC/S1 as the UK does not have long term agreements with these countries at present.

CHAPTER 2: HEALTH SERVICES EXEMPT FROM CHARGE

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

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

- **Accident and emergency services; services provided at a hospital Emergency Department, minor injuries unit, or elsewhere are free of charge for visitors. Once the patient is admitted for inpatient treatment that treatment is chargeable if the patient is not otherwise exempt.**

  This exemption is limited to treatment related to an accident or an emergency. 'Elsewhere may include a part of the hospital which is not located within an Emergency Department; but where emergency services are provided, e.g. an operating theatre.

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

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

- **Family planning services**, that is services that supply contraceptive products and devices to prevent pregnancy—this does not include termination of pregnancy;
- **The treatment (including diagnosis) of certain infectious diseases as specified in Schedule 1 to the Regulations** (and replicated at

Annex B of this guidance), to protect the wider public health. This exemption from charge applies to tests to diagnose the condition, even where the outcome is a negative result. It will also apply to any treatment provided where a specified condition is suspected, up to the point that it is negatively diagnosed;

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

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

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

2.5 Even though the services listed above are exempt from charge, where appropriate Trusts should still seek to record and report details of patients with an <u>EHIC/ PRC</u>, so that costs of treatment can be recovered from the country with which the individual is insured. This applied to visitors from Iceland, Liechtenstein, Norway and Switzerland visiting over the transition period (until 31 December 2020) who had transitional rights to continue to use the EHIC scheme until their treatment was finished.

2.6 The cost of treatment can only be recovered from the 27 EU countries listed within the Trade and Cooperation Agreement[5] for EU residents who are visiting the UK on or after 1 January 2021 and recovered from Switzerland on or after 1 November for Swiss residents. This is because the UK and Switzerland entered into a reciprocal agreement which came into effect on 01 November 2021, however Iceland, Liechtenstein and Norway do not have long term agreements with the UK at present.

2.7 The UK has agreed a bilateral reciprocal arrangement with Norway which means nationals from Norway are covered for necessary healthcare there when on a visit to the UK. They will not have a valid EHIC, they need only produce their Norwegian passport to access necessary healthcare.

2.8 Any visitors to Northern Ireland from other parts of the UK should be assessed and treated as a visitor. They are more than likely to be exempt from charge under regulation 4 or 5. However, where appropriate Trusts should still seek to record details of patients so that costs of treatment can be recovered from the responsible commissioner. For more information see Finance Circular HSC (F) 08-2021 at https://www.health-ni.gov.uk/sites/default/files/publications/health/doh-hscf-08-2021.pdf

[5] Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

CHAPTER 3: VISITORS EXEMPT FROM CHARGES

3.1 This chapter provides more detail on the categories of visitors who are eligible to access publicly-funded health services while on a visit to Northern Ireland.

3.2 The table at **Annex C** summarises exempt categories of visitors, the extent of any exemptions which apply and suggests the sorts of documentary evidence that HSC organisations might ask for to assess a visitor's eligibility under these exemptions. However, the suggested documentary evidence is not intended to be an exhaustive list and the BSO Access to Healthcare Team is available to provide further advice where required.

3.3 Regulation 3 of the PNOR Regulations - Visitors to whom services forming part of health services shall be available - Extra Contractual Referral (ECR). The PNOR Regulations provide that certain categories of exempt visitors to NI are entitled to access services forming part of health services free of charge. Those services may include referral for treatment outside NI. Exempt visitors can therefore seek an ECR but their applications will be tested against the same criteria as applications made by NI Ordinary Residents.

3.4 Regulations 5 to 22 make provisions for certain categories of visitor to Northern Ireland to be exempt from charges, except where charges would apply to persons who are ordinarily resident. This is prescribed in Regulation 23: extent of exemption from charges.

3.5 The Trade and Cooperation Agreement reached between the UK and the EU in December 2020 applies to the **27 EU countries only**.[6] If any of the categories of visitor is here from the 27 EU countries and exempt from charge, where appropriate Trusts should still seek to record and report details of patients with an EHIC/ PRC, so that costs of treatment can be recovered from the country with which the individual is insured. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/977345/Main_Guidance_post_February_2021_v3.pdf

[6] Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

3.6 The agreement reached with the EU under the Withdrawal Agreement (including the EEA EFTA separation agreement and the Swiss citizens' rights agreement) was that those visiting over the transition period (until 31 December 2020), or students whose study started before the end of the transition period, would have transitional rights to continue to use the EHIC scheme, and planned treatment until their treatment is finished or their course of study ended. Therefore EHICs and S2s for nationals from Iceland, Liechtenstein and Norway will no longer be valid for visits to the UK that commenced on or after 1 January 2021 or for periods of study that started on or after 1 January 2021.

3.7 EHICs and S2s for nationals from Switzerland whose visit or period of study commenced on or after 01 January 2021 are not valid during the period 01 January 2021 to 31 October 2021. The UK-Switzerland Convention on Social Security Coordination came into effect on 01 November 2021, therefore EHICs and S1s for Swiss nationals are valid from 01 November 2021.

3.8 Nationals from Norway need only produce their Norwegian passport.

3.9 Any visitors to Northern Ireland from other parts of the UK should be assessed and treated as a visitor. They are more than likely to be exempt from charge under regulation 4 or 5. However, where appropriate Trusts should still seek to record details of patients so that costs of treatment can be recovered from the responsible commissioner. For more information see Finance Circular HSC (F) 08-2021 at https://www.health-ni.gov.uk/sites/default/files/publications/health/doh-hscf-08-2021.pdf

3.10 **Regulation 5: lawful residence for 12 months**—a person who has been living lawfully in the UK for a period of not less than 12 months the time services were provided is exempt from charge. Where, on a date during a course of treatment for which charges would have been made, a person meets the requirement to be lawfully resident in the UK for 12 months, no charge should be made for any services received after that date. Any services provided prior to the date on which the person meets the 12 months residency period will continue to be chargeable.

3.11 Most visitors who have been in the UK for 12 months will be either ordinary resident or in the case of non-British/Irish national will have the correct immigration status or visa (to be lawfully in the country) and will have paid or be exempt for the immigration surcharge and as such be entitled to access healthcare at no charge.

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

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

is exempt from charge.

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

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

3.14 It is recommended that the Ordinary Residence test is applied initially to these cases (see paras 1.1 to 1.5 of the Guidance)

Guidance in paras 1.42 and 1.55 of the guidance (people who split their time between more than one country and students) should also be considered.

3.15 **Regulation 7: Visitors with citizens' rights** —under this regulation, any visitor who is entitled to the provision of services at no charge under the EU Withdrawal

Agreement[7], the EFTA separation agreement[8] or the Swiss citizen's rights agreement[9] is exempt from charge.

3.16 The agreement reached with the EU under the Withdrawal Agreement (including the EEA EFTA separation agreement and the social security co-ordination provisions of the Swiss citizens' rights agreement) was that

- those visiting over the transition period (until 31 December 2020) will have transitional rights to continue to use the EHIC scheme, and planned treatment until their treatment is finished.
- EU citizens who are residing and/or working in the UK before 31 December 2020 will continue to have life-long reciprocal healthcare rights provided they remain within the scope of the EU Withdrawal Agreement, including frontier workers working in the UK on or before 31 December 2020.

3.17 **Regulation 7A: Visitors with Trade and Cooperation Agreement rights**

Temporary visitors from the EU, from 1 January 2021

The agreement reached with the EU ensures that EU citizens will continue to have access to emergency and necessary healthcare cover when they travel to the UK. This will operate like the current EHIC scheme.

Eligible pensioners, frontier workers and certain other groups – and their family members - will continue to have their healthcare costs covered by their competent state should they move to the UK.

EU citizens will also be able to access planned healthcare in Northern Ireland, when pre-authorised in their home state.

3.18 From 1 January 2021, eligible visitors from the EU and on or after 1 November 2021 eligible visitors from Switzerland will have access to publicly-funded healthcare, using these 4 main documents, to avoid being charged directly when they access the NHS:

- European Health Insurance Card (EHIC)

[7] Title III of Part 2 of the EU withdrawal agreement
[8] Title III of Part 2 of the EEA EFTA separation agreement
[9] Social security co-ordination provisions of the Swiss citizens' rights agreement

- Provisional Replacement Certificate (PRC) – in the absence of an EHIC
- S1 form
- S2 form

These documents currently confirm that another country will reimburse the UK for providing healthcare to that individual.

3.19 Irish visitors need only to provide evidence that they are resident in the Republic of Ireland (although a valid EHIC can be used).

3.20 If a visitor from the EU, is not eligible for either an EHIC, PRC, S1 or S2 document, they should be charged for accessing publicly-funded healthcare unless it is a service that would be free of charge for all, or an exemption category applies.

Note: Currently Iceland, Liechtenstein and Norway do not have long term agreements with the UK.

Until a new agreement is in place, the UK and Norway will apply an amended version of the 1991 Convention on Social Security and Protocol on Medical Treatment between the Governments of the UK and Norway on a temporary basis. **This includes necessary healthcare.** The patient will not have a valid EHIC and only has to provide their valid Norwegian passport.

Note: **No one will lose their EU Withdrawal Agreement rights as a result of the Trade and Cooperation Agreement. The Trade and Cooperation Agreement with the EU is without prejudice to the EU Withdrawal Agreement.**

3.21 **Regulation 8: Reciprocal healthcare agreements**—a visitor from a country or territory specified in Schedule 2 to the Regulations is exempt from charge. **Annex D** lists the reciprocal healthcare agreements and their extent.

3.22 **Regulation 9:** refugees, asylum seekers and children in care—the following categories of visitor are exempt from charge:

3.23 **Regulation 9(a):** refugees—anyone granted temporary protection, asylum or humanitarian protection under the Immigration Rules made under section 3(2) of the Immigration Act 1971 is recognised as a refugee and is exempt from charges.

3.24 **Regulation 9(b):** asylum seekers and others seeking refuge—anyone who has made a formal application to the Home Office to be granted temporary protection, asylum or humanitarian protection is exempt from charges.

Under this regulation anyone who has made an application for asylum even when it is failed is still exempt from charge. However this exemption will only apply until the individual has been issued with deportation papers from the Home Office. Failed asylum seekers who have been issued deportation papers by the Home Office, and are over-stayers, are not be entitled to access free health services.

3.25 **Regulation 9(c):** children who have been taken into the care of an authority under the Children (Northern Ireland) Order 1995—children who are looked after by an authority under the Children (Northern Ireland) Order 1995 are exempt from charges. This includes the following children:

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

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

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

Human trafficking is defined as:

"the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a

person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."[10]

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

3.29 Referral to a CA is voluntary and can happen only if the potential victim gives permission. More information on making a referral to the CA—including the referral form—is available at https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms.

3.30 The CAs will consider if there are reasonable grounds to consider the person to be such a victim and, if so, will issue a reasonable grounds decision. Individuals given a reasonable grounds decision are suspected victims of human trafficking and are exempt from charge during the recovery and reflection period (45 days in the UK). They will continue to be exempt from charge if the CAs confirm them as being a victim of trafficking with a conclusive grounds decision.

3.31 Those whom the CAs confirm not to be victims of trafficking are no longer exempt from charge.

3.32 **Regulation 11: exceptional humanitarian reasons**—this regulation allows the Department to determine an individual as exempt from charges on exceptional humanitarian grounds, as long as certain specified criteria are met. It is envisaged that the powers will only be used very rarely, where there is a clear humanitarian imperative to do so. **As far as relevant HSC bodies are concerned, their role in the context of the Regulations is to establish whether such a**

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

determination has been made by the Department, not to make the determination themselves.

3.33 Where the Department has made such a determination, it will inform the relevant Trust and will provide supporting documentation (although in an emergency this may arrive after the patient).

3.34 Where such a determination is made, the person will be allowed to be accompanied by an authorised companion (which need not be their spouse/civil partner) and any authorised children, who will be exempt from charges for treatment the need for which arises while they are here, but not for other treatment (Regulation 21.1.d).

3.35 **Regulation 12: diplomats posted to the UK**— diplomatic agents within meaning of the Diplomatic Privileges Act 1964 posted to the UK are exempt from charges.

- "Diplomatic agent" is defined in Schedule 1 to the Diplomatic Privileges Act as the head of the mission or a member of the diplomatic staff of the mission.

- The "head of the mission" is the person charged by the sending State with the duty of acting in that capacity.

- "Members of the diplomatic staff" are the members of the staff of the mission having diplomatic rank.

- Family members who are here lawfully (on a diplomatic visa) with the diplomat are covered under Regulation 22(2)(e) of the PNOR Regulations.

- Regulation 24(1)(p) of the PNOR Regulations allows family members who are exempt under Regulation 22(2) to access general medical services.

This exemption cannot apply to a UK diplomat who works aboard and is here on a visit as he would not fall within the definition of a diplomatic agent but he may be covered by Regulation 16 of the PNOR Regulations (Crown Servants) if he is not ordinarily resident.

3.36 **Regulation 13: NATO forces**—exemption from charge for anyone who is carrying out official duties and their dependents while serving in the armed forces of a country which is part of NATO.

"Dependent" is defined, in Article 1c of the NATO (Status of Forces) Agreement 1955, as the spouse of a member of a force or a civilian component, or a child of such member depending on him or her for support.

Article III of the NATO (Status of Forces) Agreement 1955 states:

2. The following documents only will be required in respect of members of a force. They must be presented on demand:
   a. personal identity card issued by the sending State showing names, date of birth, rank and number (if any), service, and photograph;
   b. individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate agency of the sending State or of the North Atlantic Treaty Organization and certifying to the status of the individual or group as a member or members of a force and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative.

3. Members of a civilian component and dependents shall be so described in their passports.

A full list of NATO countries can be found here http://www.nato.int/cps/en/natohq/nato_countries.htm.

3.37 **Regulation 14: visitors exempt from charges – long term visits by United Kingdom pensioners** – this regulation has been omitted.

3.38 **Regulation 15: war pensioners and armed forces compensation scheme payment recipients**—people who receive UK war pensions or war widows' pensions are exempt from charges, as are recipients of armed forces compensation scheme payments.

3.39 **Regulation 16: armed forces, Crown servants and others**—members of UK regular and reserve forces, UK recruited Crown servants, British Council staff and Commonwealth War Graves Commission staff; and those in employment (paid or unpaid) financed in part by the UK government (in arrangements with the government or public body of another country or territory) are exempt from charge.

3.40 **Regulation 17: former residents working overseas**—any visitor who has had (at any time) lawful residence in the UK for ten continuous years and are employed or self-employed outside the UK for a period that has not exceeded five years are exempt from charge.

3.41 **Regulation 18: missionaries**—this Regulation exempts people acting as missionaries (i.e. people doing religious and social work) who are working for UK based organisation and who either get a salary or wage from the organisation OR who receive funding or assistance from the organisation to work overseas.

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

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

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

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

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

- People in receipt of a pension or benefit under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 or the Social Security Contributions and Benefits Act 1992 who have at any time lived lawfully in the UK, or been employed by the UK government, for ten continuous years at some point.
- People who are living in an EEA country, Switzerland or a non-EEA country with which the UK has a reciprocal healthcare agreement (see annex D) and who have lived lawfully for at least ten continuous years in the UK at any time.
- Regulation 21(c) of the PNOR Regulations provides that nationals of countries that are contracting parties to the European Convention on Social and Medical Assistance 1954 or the European Social Charter 1961 who are lawfully present in the United Kingdom and without sufficient resources to pay are exempt from charge.
  Please note that this will not be affected by the UK’s exit from the EU.

Contracting parties to the European Convention on Social and Medical Assistance 1954
Belgium
Denmark
France
Germany
Greece
Iceland
Ireland
Italy
Luxembourg
Malta
Netherlands
Norway
Portugal

Spain
Sweden
Turkey
UK & NI

Contracting parties to the European Social Charter 1961
Austria
Belgium
Bulgaria
Croatia
Cyprus
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Ireland
Italy
Latvia
Lithuania
Luxembourg
Malta
The Netherlands
Poland
Portugal
Romania
Slovak Republic
Slovenia
Spain
Sweden
United Kingdom

Without resources to pay
Part II of the European Social charter states:

To ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance and, in case of sickness, the care necessitated by his condition.

Proof that all avenues/sources have been investigated will therefore be required.
This regulation does not apply to General Health Services. Only Regs 5, 6, 8 – 20 and 22 are included in General Health Services (Primary Care)

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

3.46 **Regulation 22: family members of visitors**—this regulation describes the circumstances in which the family members of visitors, exempted in certain regulations, are also exempt from charges. For the purposes of this regulation, family members are spouses or civil partners of visitors and children (under the age of 16 or under the age of 19 in full time education) in respect of whom the visitor is a parent or legal guardian.

3.47 Family members are required to provide proof that they are lawfully in the UK and evidence of their family connection to the exempt visitor—for example, a valid passport and marriage or birth certificate

3.48 No charge may be made to a visitor who is a family member of a person who is exempt under one of the following regulations, where they are lawfully present in the UK.

- Victims of human trafficking (Reg 10);
- NATO forces (Reg 13);
- HM UK Forces, Crown servants and others (Reg 16);
- Missionaries (Reg 18).

3.49 No charge may be made to a visitor who is a family member of one of the following exempt categories of visitor, where they are lawfully present with that other visitor for the entire duration of their stay in Northern Ireland:

- Lawful residence for 12 months (Reg 5);
- Presence for work, study, or to settle (Reg 6);

- Visitors with citizens' rights (Reg 7);
- Visitors with Trade and Cooperation Agreement rights (Reg 7A);
- Refugees (Reg 9a);
- Diplomats (Reg 12);
- War pensioners and armed forces compensation scheme payment recipients (Reg 15);
- Former residents working overseas (Reg 17);
- Prisoners and detainees (Reg 19);
- Employees on ships (Reg 20)

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

Chapter 4: Exemptions that apply to General Health Services

4.1 This chapter identifies the exemptions that apply to general health services which include: GP-led services, general dental services, general ophthalmic services and pharmaceutical services.

4.2 Regardless of entitlements under this regulation, GPs are required—under the terms of their contract—to provide immediately necessary treatment in the event of an accident or emergency within core hours.

4.3 **Regulation 24: visitors to whom general medical health services will be available**—this regulation makes available general health services to various classes of visitors who are exempt from charge.

4.4 These categories of visitors are entitled to register with a GP practice for the duration of their stay and are therefore entitled to access the full range of health services during their stay, as though they were ordinarily resident here.

- Lawful residence for 12 months (Reg 5);
- Presence for work, study, or to settle (Reg 6);
- Reciprocal arrangements (Reg 8);
- Refugees, asylum seekers, children in care (Reg 9);
- Victims of human trafficking (Reg 10);
- Exceptional humanitarian reasons (Reg 11);
- Diplomats (Reg 12);
- NATO forces (Reg 13);
- War pensioners and armed forces compensation scheme payment recipients (Reg 15);
- HM UK Forces, Crown servants and others (Reg 16);
- Former residents working overseas (Reg 17);
- Missionaries (Reg 18).
- Prisoners and detainees (Reg 19);
- Employees on ships (Reg 20);
- Family members of visitors (Reg 22)
    - with the exception of family members of frontier workers. Family members of frontier workers cannot register with a GP unless they

are ordinarily resident in NI and have an immigration status. Family members of frontier workers are entitled to a UK issued EHIC/GHIC, therefore the costs for any treatment the need for which arose during a visit, should not be claimed as a refund from their home state.

4.5 Visitors exempt under regulation 21 (treatment the need for which arose during a visit) are not covered by regulation 24.

CHAPTER 5: Visitors with citizens' rights and visitors with Trade and Cooperation Agreement rights (Regulation 7 & Regulation 7A)

5.1 Visitors are entitled to access publicly funded health care by virtue of citizens' rights arising under

- Title III of Part 2 of the EU withdrawal agreement;
- Title III of Part 2 of the EEA EFTA separation agreement; or
- the social security co-ordination provisions of the Swiss citizens' rights agreement

5.2 Visitors are also entitled to access publicly funded healthcare by virtue of the provisions contained within the Trade and Cooperation Agreement with the EU.

5.3 This chapter provides advice on the entitlements afforded to nationals from EEA countries or Switzerland under all four agreements.

Note: **In some instances the person may fall within provisions of more than one agreement (and regulation 8 for RoI and Swiss citizens). There is no requirement for PPOs to determine or record which agreement the patient falls under.**

European Health Insurance Card (EHIC)

5.4 A valid EHIC or PRC demonstrates that a visitor is insured by another EEA country or Switzerland (subject to paragraphs 5.5 and 5.6) and is therefore entitled to publicly-funded health service treatment that is medically necessary during their visit, provided that they have not travelled with the purpose of receiving treatment. A person who is a passenger or member of the crew on a vessel or aircraft travelling to the UK where medically necessary treatment was required during the voyage or flight is not treated as having travelled with the purpose of receiving medical treatment. Likewise hauliers have access to necessary healthcare in NI using their EHIC so long as they did not travel here with the purpose of receiving healthcare. If they fall ill on a ferry between GB and NI, they will still be eligible for necessary healthcare in NI when they arrive.

5.5 The EFTA (Norway, Iceland and Liechtenstein) separation agreement and the Swiss citizens' rights agreement provided EHIC transitional protection for anyone that was in a cross-border situation on 31 December 2020 that is a person on a temporary stay or a student for the duration of a period of study. **This means that EHICs and PRCs can no longer be used by EFTA citizens for any trip to, or period of study in, the UK which commenced after 31 December 2020.**

EHICs and PRCs cannot be used by Swiss citizens for any stay or period of study in the UK during the period 01 January 2021 and 31 October 2021. The UK-Switzerland Convention on Social Security Coordination came into effect on 01 November 2021, therefore EHICs and S1s for Swiss nationals are valid from 01 November 2021.

5.6 However UK citizens that fall within the scope of the EFTA (Norway, Iceland and Liechtenstein) separation agreement and the Swiss citizens' rights agreement will be entitled to reciprocal healthcare cover from their competent country and will still be able to use an EHIC or S1 to access publicly-funded healthcare in Northern Ireland.

For these purposes those 'falling within scope' is defined as -

- United Kingdom nationals (and family members) who exercised their right to reside in an EEA EFTA State or Switzerland before 31 December 2020 and continue to reside there thereafter;
- United Kingdom nationals who exercised their right as frontier workers in one or more EEA EFTA States or Switzerland before 31 December 2021 and continue to do so thereafter

5.7 The UK is seeking to conclude new, comprehensive agreements on social security coordination, including reciprocal healthcare with Iceland, Liechtenstein and Norway.

5.8 Until a new agreement is in place, the UK and Norway will apply an amended version of the 1991 Convention on Social Security and Protocol on Medical Treatment between the Governments of the UK and Norway on a temporary basis. **This includes necessary healthcare**. Visitors from Norway requiring

immediate medical treatment need only present their valid Norwegian passport.

5.9 The UK and Ireland signed a Memorandum of Understanding (MOU) on 18 December 2020 outlining reciprocal healthcare arrangements within the Common Travel Area (CTA). The MOU ensures residents of the UK and Ireland can continue to access necessary healthcare when visiting the other country and will benefit from the continued cooperation between UK and Irish healthcare providers.

5.10 Arrangements between the UK and Irish governments continue as they did before the end of the transition period, which means that costs of cross-border health care between the two countries are recovered on the basis of fixed amounts. Visitors to Northern Ireland from RoI do not have to present an EHIC or PRC in order to avail of medically necessary treatment during their visit. They only need provide evidence that they are resident in the Republic of Ireland (although a valid EHIC can be used).

5.11 A person with a valid EHIC/ PRC is exempt from charges for all medically necessary treatment during their stay in Northern Ireland. This means:

- diagnosis of symptoms or signs occurring for the first time after the visitor's arrival here;
- the treatment of chronic or pre-existing conditions, including routine monitoring;
- any other treatment which, in the opinion of a health service medical or dental practitioner, is required promptly for a condition which:
    - arose after the visitor's arrival; or
    - became acutely exacerbated after their arrival; or
    - would be likely to become exacerbated without treatment.

5.12 The EHIC also covers;

- All maternity care, including antenatal and postnatal care, provided that the reason for the woman's visit was not specifically to give birth or receive

maternity treatment (paragraphs 5.33 – 5.41 provide further detail on the route for planned treatment (previously known as S2)—including maternity services).

- Dialysis treatment which is required during a visitor's stay, provided that the patient has made an advance booking and that facilities are available at the time requested.

- Home oxygen services. Patients should make advance arrangements for provision during their visit, usually with a GP practice, and should ensure that they have enough oxygen to travel to their destination in Northern Ireland and return home. Oxygen for travel must be arranged privately and is not covered by the EHIC scheme.

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

5.14 Where a visitor from an EU, EEA state or Switzerland is unable to provide an EHIC or PRC (or—in the case of visitors from RoI—acceptable proof of eligibility, or in the case of visitors from Norway – their valid Norwegian passport) **charges will apply unless they are exempt from charge under a different category of the Regulations.**

Reporting EHIC treatment

5.15 The UK Treasury is able to recover the costs of treatment provided to visiting patients covered by the EHIC scheme from their home state. HSC Trusts are able to recover an incentive payment of 25% of all EHIC treatment costs. When a Trust treats a patient covered by a valid EHIC or PRC, the patient's EHIC details, the costs of treatment and the end date of the treatment episode should be reported to the Overseas Healthcare Team at DWP, via the Trust's

secure account on the EEA web portal. The continuation of this scheme is still under discussion.

Visitors insured by the UK (S1/ A1 route)

5.16 There will be some people who, while resident in an EU, EEA state or Switzerland remain insured by the UK and who are therefore entitled to access publicly-funded treatment during a stay in Northern Ireland, on the same basis as someone who is ordinarily resident here. These are;

- frontier workers—a person who lives in one country but who travels daily, or at least once a week, to another for work; and
- detached workers (formally posted workers) – a person who, for a limited time, is sent by his employer to carry out a service in another country on a temporary basis

5.17 Individuals who are entitled to access publicly-funded health services on this basis should have a valid UK-issued S1 form (or A1 form in the case of detached workers (formally posted workers). In order to check that an individual is insured by the UK in this way, HSC organisations should contact the Overseas Healthcare Team at DWP at OHT@overseasvisitorsteam@dwp.gsi.gov.uk

5.18 There is no requirement for an individual living in RoI, but insured by the UK, to apply for or register a UK-issued S1. It will be sufficient for these individuals to provide evidence of their identity, their residence in RoI, and that they are employed/self-employed in the UK.

5.19 Individuals insured by the UK in this way, and their family members (with the exception of family members of frontier workers), are entitled to access health care during a stay in Northern Ireland, as though they were ordinarily resident here. They should not be charged, except where charges would apply to Northern Ireland residents.

Frontier workers

Frontier workers working in the UK immediately before 31 December 2020 – EU Withdrawal Agreement rights

5.20 Frontier workers working in the UK immediately before 31 December 2020 will have protected rights under the EU Withdrawal Agreement and be able to access healthcare according to the same rules as before the UK left the EU, for as long as they continue to be frontier workers ('protected frontier workers').

5.21 From 1 July 2021 a protected frontier worker (other than Irish or British citizen) will require a permit in order to enter the UK as a protected frontier worker. The permit can also be used by a protected frontier worker as part of the proof of their rights to work and access benefits and services to which they are entitled in the UK.

Permits are issued for either a 2 year period or a 5 year period. Protected frontier workers can apply to renew their permit for as long as they continue to be protected frontier workers in the UK.

5.22 Under the Common Travel Area agreement British and Irish citizens are free to move between the two countries, therefore Irish nationals will always be here lawfully and do not need a permit in order to enter the UK as a protected frontier worker.

Note: The frontier worker permit can be issued to both persons previously referred to as

- **cross-border workers (for example a person that comes to the UK to work for a period of weeks/months at a time), and**
- **frontier workers - any person pursuing an activity as an employed or self-employed person in a State and who resides in another State to which that person returns as a rule daily or at least once a week;**

Family members of protected frontier workers

5.23 Family members of protected frontier workers who reside in an EU member state are generally entitled to access publicly-funded health services where this becomes necessary on medical grounds during a visit to Northern Ireland. Family members of protected frontier workers who reside in an EU member state are not entitled to access general health services during a stay in NI.

They cannot register with a GP unless they are ordinarily resident in NI and have an immigration status.

Retired protected frontier workers

5.24 Frontier workers that retired on or before 31 December 2020 who reside in a member state are no longer entitled to access the full range of publicly-funded health services in Northern Ireland. However, they are entitled to access continuing treatment which began before they retired if they are in receipt of a UK state pension.

Planned treatment scheme (S2)

5.25 Protected frontier workers and their family members also have entitlement to the planned treatment scheme, previously referred to as S2 route

Frontier workers starting work in the UK from 01 January 2021 - Trade and Cooperation Agreement

5.26 A person that starts frontier working in the UK on or after 01 January 2021 will be subject to the immigration rules and will need a visa to travel to and work in the UK.

5.27 Under the Common Travel Area agreement British and Irish citizens are free to move between the two countries, therefore Irish nationals will always be here lawfully and do not need a visa. Other EU/EEA nationals that live in RoI and travel to NI to start work on or after 01 January 2021 will need a visa.

5.28 For Trade and Cooperation Agreement (TCA) purposes 'frontier worker' has the definition –

- any person pursuing an activity as an employed or self-employed person in a State and who resides in another State to which that person returns as a rule daily or at least once a week

Retired frontier workers

5.29 There is no access to publicly funded healthcare in Northern Ireland for a retired frontier worker that started frontier working in the UK on or after 01 January 2021.

Family members of frontier workers

5.30 Family members of frontier workers who reside in an EU member state are generally entitled to access publicly-funded health services where this becomes necessary on medical grounds during a visit to Northern Ireland.

5.31 Family members of frontier workers who reside in an EU member state are not entitled to access general health services during a stay in NI. They cannot register with a GP unless they are ordinarily resident in NI and have an immigration status.

Planned treatment scheme (S2)

5.32 Frontier workers and their family members also have entitlement to the planned treatment scheme, previously referred to as S2 route.

Planned treatment (formerly S2 route)

5.33 Patients from EU can apply to the social security institution in their state of residence, via the planned treatment application process, for approval to travel to the UK for planned treatment.

Note: **Planned treatment scheme does not apply to citizens from Iceland, Liechtenstein or Norway as they do not have long term agreements with the UK at present. However a NI patient can request to go to Iceland, Liechtenstein or Norway for treatment. But see paragraph 5.6 for UK citizens resident in Iceland, Liechtenstein, Norway or Switzerland at 31 December 2020.**

5.34 NHSBSA have a process in place, agreed with DHSC, to check if someone is in scope of the EU Withdrawal Agreement. As such, they are able to receive referrals from DAs where an applicant wants to have treatment in Iceland, Liechtenstein or Norway, where no deal has been agreed.

HSCB should contact NHSBSA in order for them to complete this check. Emails should be titled **'S2 planned treatment – WA triage'** and sent to nhsbsa.ohsapplications@nhs.net

Information required:

Applicant's information:

- Full name
- Date of birth
- Address (include post code)
- HSCB number
- Contact telephone number
- Email

Treatment details:

- Type of treatment
- Name of treatment provider

- Place of treatment address (including country)

NHSBSA will reply confirming if the applicant is in scope of the EU Withdrawal Agreement. If the applicant is in scope, BSA will send the S014 to the country of treatment via RINA.

5.35 Only treatment in the state sector is available via the planned treatment (S2) route and patients must have obtained authorisation from their state of residence in advance of treatment. An approved planned treatment (S2) form is an undertaking that the costs of treatment will be met by the social security institution in the patient's state of residence, meaning that the patient should not be charged for their treatment.

5.36 There may be occasions when patients will apply to the authorities in their state of residence to access planned treatment in Northern Ireland.

5.37 It is normally the case that a patient will only be issued with a planned treatment (S2) certificate to travel to the UK or another member state after the consent of the provider in the country they are travelling to, has been sought. Therefore, HSC Trusts should be made aware of cases of planned treatment (S2) requests from member states in advance. However, it is possible that a patient (or their clinician) may contact an HSC clinician directly about treatment under the planned treatment (S2) route. HSC clinicians should be advised of the appropriate Trust contact in such circumstances, to ensure that all relevant staff are involved in handling requests for treatment in Northern Ireland under the planned treatment (S2) route.

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

- the service requested is not one which is available within the HSC to patients who are ordinarily resident in Northern Ireland; or

- there is no capacity within the HSC to facilitate the requested treatment.

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

Reporting treatment provided under planned treatment (S2) route

5.40 The costs of cross-border health care under the planned treatment (S2) route are recovered on a state-to-state basis between the UK government and the relevant member state. Although HSC Trusts do not recover money directly for treatment provided to patients with a valid planned treatment (S2) certificate, treatment details should be recorded and reported to the Overseas Healthcare Team at DWP to allow the Treasury to recover costs.

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

Directive 2011/24/EU[11] - closure of the Cross-Border Healthcare Scheme

5.42 Directive 2011/24/EU is separate to social security coordination rules and is linked to free movement of services. It was not provided for within the UK/EU Withdrawal Agreement and nor does not form part of the Trade and Cooperation social security coordination agreement – **therefore neither the UK nor the EU felt it should continue.**

5.43 The Cross-Border Healthcare Scheme ceased to apply to the UK from the end of the transition period (31 December 2020). However, transitional arrangements for patients from Northern Ireland whose treatment has been, applied for, authorised or commenced, on or before the end of the transition period have been provided for and they will be able to complete their treatment and seek reimbursement.

5.44 This means applications received by the Board on or before 31 December 2020 will be processed under the Cross Border Directive route and if approved, patients will still be able to submit receipts as proof of payment to claim reimbursement.

5.45 On the 28th December 2020 the Irish Government approved the implementation of a new *Northern Ireland Planned Healthcare Scheme*. The new scheme, operational from 1 January 2021 for 12 months on an administrative basis, will enable persons resident in the Republic of Ireland to access and be reimbursed for private healthcare in Northern Ireland by the HSE, provided such healthcare is publicly available within the Republic of Ireland.

5.46 A RoI citizen that requires medically necessary treatment while on a temporary stay in NI for the purposes of receiving healthcare under the RoI

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

Northern Ireland Planned Healthcare Scheme should not be treated as having travelled for treatment.

5.47 On 01 July 2021 a limited administrative version of the cross-border healthcare scheme was introduced to the Republic of Ireland only for a 12-month period and is subject to strict criteria. The *Republic of Ireland Reimbursement Scheme* sets out a framework, based on the Cross-Border Healthcare Directive that allows patients to seek and pay for treatment in the private sector in Ireland and have the costs, up to the cost of the treatment to Health and Social Care in Northern Ireland, reimbursed by the Health and Social Care Board. The scheme is managed by the Health and Social Care Board and all treatment is subject to prior authorisation.

CHAPTER 6 - IMMIGRATION HEALTH SURCHARGE

6.1 In April 2015, an immigration health surcharge became payable by non-EEA nationals who applied for a visa to enter or remain in the UK for more than six months. From 1 January 2021, people moving to the UK from the EU, EEA or Switzerland must pay the immigration health surcharge when applying for a visa to enter and remain in the UK for more than 6 months. The health surcharge is paid to the Home Office at the same time as a visa applicant pays their visa application fee. There are exemptions from paying the health surcharge for certain people, and the Home Secretary has the discretion to reduce, refund or waive all or part of the health surcharge.

A visitor who has paid or is exempt from paying the health surcharge is exempt from charge and is entitled to access health services in the UK on the same basis as someone who is ordinarily resident, for as long as their visa remains valid.

Identifying patients who have paid the surcharge

6.2 The Home Office issues a biometric residence permit (BRP) to nationals coming to the UK for longer than six months, in order to evidence their status or, if they have a EUSS digital immigration status, a share code to prove their status online. The BRP provides a simple and secure means of determining and verifying a person's immigration status and entitlements. It contains the holder's photograph, basic biographical information and their immigration status, on the face of the card.

6.3 The vast majority of those applying to come to the UK will only have been issued with a BRP if they have paid the health surcharge, are exempt or waived from payment of the surcharge, or were granted leave to remain in the UK prior to the surcharge being implemented.

6.4 As from 1 January 2021, any foreign national granted leave exceeding 6 months, with the exception of leave under the EU settlement scheme, will be issued with a biometric immigration document. In some cases this will consist of an online immigration status, but the Home Office will still issue physical BRPs to foreign nationals who need one to travel to the UK.

6.5 There is one exceptional category of individuals who will be issued a BRP but who are chargeable for health services. This is a small number of visitors—for example visiting students and academics—who are permitted to stay for longer than six months but less than a year. These individuals will be issued with a BRP but will not have paid the surcharge, and will therefore be liable to charges for health services accessed while on a visit to Northern Ireland (unless an exemption under the Regulations applies). Their BRPs will be marked to demonstrate their visitor status.

6.6 **Therefore, in the vast majority of cases a valid BRP/share code will indicate that an individual is lawfully in the UK and is eligible to access health services on the same basis as someone who is ordinarily resident until their visa expires - unless it indicates a visitor status.**

6.7 Visitors coming to Northern Ireland for six months or less will not be exempt from charges unless an exemption under the Regulations applies.

6.8 The only exception to this is a sub-category of intra-company transfers known as 'skills transfer', where leave is only granted for a maximum of six months. The 'skills transfer' category is not a visitor route and the person's visa (a category D visa) will be distinct from a visitor visa. The visa will clearly state the immigration category of intra-company transfer and this will indicate eligibility to access free health services.

Extent of exemption following payment of health surcharge

6.9 The exemption from charges applies to the period of leave to enter or remain in the UK granted to an individual. Once that leave expires or is curtailed, the person becomes liable for charges from then on including where the person is part-way through a course of treatment.

6.10 The BRP is only valid for the period shown on the card, which covers the period of leave to enter or remain in the UK which has been granted to the individual. If the card has expired, and the person has not obtained a new card to extend their stay or cannot provide evidence that they are in the process of making an in-time application (i.e. they submitted their application before their previous leave expired), then they are likely to be chargeable for health services.

CHAPTER 7—DETERMINING ELIGIBILITY AND RECOVERING COSTS

7.1 All relevant HSC organisations must have systems in place to determine if:

- a patient is ordinarily resident in Northern Ireland;
- to identify, without discrimination, potentially chargeable patients;
- to confirm whether visiting patients—or the services they are accessing—meet an exemption under the Regulations; and,
- if not, to make and recover charges accordingly.

7.2 Ordinary residence or visitor status cannot be judged from external appearance, name, accent or language. It is therefore important that—where there is any doubt about an individual's residence status ie. they do not have a health and care number—all patients are asked the same questions to establish entitlement to health services in Northern Ireland. For patients seeking to register with a GP, a questionnaire has been developed for use by the BSO in assessing all patients' entitlement to health services.

7.3 All HSC Trusts should have designated staff who will be responsible for identifying whether patients are ordinarily resident or, if not, whether they are chargeable or meet an exemption under the Regulations. These staff will need to be supported in their role by staff across all settings. **To that end, the Access to Healthcare Team in the BSO will continue to offer training to Trust staff on the implementation of, and compliance with, the Regulations.**

Determining patient entitlement

7.4 Patients registered with a GP practice are not assessed for entitlement to access publicly-funded health care in Northern Ireland by the BSO until at least three months after registration and issue of HCN number. Therefore when patients present at secondary care their current registration with GP may not on its own be sufficient to determine entitlement.

7.5 To ensure an equitable approach to identifying potentially chargeable patients, Trust staff should undertake an electronic data matching exercise of PAS

reports on every patient referred or admitted as an emergency, and should arrange to speak to those patients who do not have a health and care number and/ or are not registered with a GP in Northern Ireland.

7.6 Where a patient is not registered with a GP, it is important to establish whether they may still qualify as ordinary resident—for example, they may have recently moved to Northern Ireland with the intention of settling here for the time being—or whether they meet an exemption as set out in the Regulations and are therefore entitled to receive publicly-funded health services.

7.7 Trust staff will need to deal sensitively with patients when carrying out interviews to establish ordinary residence or visitor status and, if not ordinarily resident, whether they are exempt from or liable for charges. Interpreting and translation services must be provided where these are required. The questionnaire developed by the Access to Healthcare Team in BSO (Annex A) is intended as an aid to assist Trusts, but it is unlikely that the examples of evidence suggested will fit every circumstance. It is therefore important to consider each individual's entitlement on a case by case basis and Trust staff should be flexible and work with patients to consider what other documentation they may be able to provide to evidence their entitlement.

Determine if the patient is a visitor from the UK

7.8 Visitors to Northern Ireland who are resident elsewhere in the UK are entitled to access health services during their visit here, see paragraph 2.8. For hospital treatment, Trusts can recover the costs of UK cross-border emergency treatments from the relevant commissioning authority in the patient's jurisdiction. Further information on the process for reclaiming costs is issued on an annual basis by the Department of Health.[12]

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

[12] See HSC (F) 08-2021 at https://www.health-ni.gov.uk/sites/default/files/publications/health/doh-hscf-08-2021.pdf

7.9 As explained at paragraphs 5.16 – 5.19, there will be some people who reside in an EEA country for whom the UK remains the competent state and who are therefore entitled to health care during a stay in Northern Ireland as though they were ordinarily resident here.

Determine if the patient is a visitor insured by an EU member state

7.10 It is possible for a person to stay in the UK or an EEA country but remain insured by another, and long-term EEA visitors to Northern Ireland (for example students) may have a health and care number. The UK Treasury can recover the cost of treatment provided to any patient who is insured by an EEA country or Switzerland, either under the EHIC, S1 or S2 funding routes. Chapter 5 provides further information to help identify people who have a right to access publicly-funded health care in the UK and outlines the process for recovering the cost of that health care from the competent state.

7.11 In addition, retired frontier workers that retired on or before 31 December 2020 may remain registered with a GP and have a health and care number but are only entitled to access publicly-funded health care in Northern Ireland, insofar as this is a continuation of treatment which began while they were still a frontier worker.

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

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

Determine if the patient is a chargeable visitor

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

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

Immediately necessary/ urgent treatment

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

7.16 Immediately necessary treatment is treatment which a patient needs:

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

NOTE Maternity treatment

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

7.18 When a patient is in need of immediately necessary treatment, it may not be possible to assess their eligibility to access publicly-funded health care or to inform them ahead of treatment commencing that charges might apply. Patients who are subsequently identified as a visitor should be notified at the earliest appropriate opportunity that charges might apply and they should be interviewed by relevant Trust staff to establish this definitively, once it is medically appropriate to do so.

7.19 In circumstances where it is possible and appropriate to assess charges and request payment before or during a course of immediately necessary treatment, HSC Trusts must make it clear to the patient that treatment will not be withheld or delayed if they do not pay in advance.

7.20 Urgent treatment is that which clinicians do not consider immediately necessary, but which nevertheless cannot wait until the person can be reasonably expected to return home. For urgent treatment, every effort should be made to secure payment in the time before treatment is scheduled. However, where this is not possible, the treatment should not be delayed or withheld for the purposes of securing payment.

Non-urgent treatment

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

Making and recovering charges

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

7.23 Except where treatment is immediately necessary or urgent, Trusts should seek deposits equivalent to the full estimated cost of the charges to be paid.

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

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

UK immigration rules—working with the Home Office

7.25 UK immigration rules require that NHS bodies (including the HSC Board and HSC Trusts) notify the Home Office of outstanding debts owed by persons subject to immigration control, as a ground to refuse an application for a new visa or extension of stay.

7.26 These rules apply to invoices raised for treatment provided from 1 November 2011 onwards. They require that:

a. in respect of relevant health services provided from 1 November 2011 up to, and including, 5 April 2016, relevant NHS bodies must notify the Home Office of outstanding debts of £1,000 or more that have been outstanding for three months or more*; and

b. in respect of relevant health services provided on, or after, 6 April 2016, relevant NHS bodies must notify the Home Office of outstanding debts of £500 or more that have been outstanding for two months or more*.

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

<u>Informing patients</u>

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

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

7.28 Where an invoice is particularly large, or where the patient is genuinely willing to provide payment for services provided but cannot meet repayment in full, then Trusts should agree with the patient, at the earliest opportunity, a meaningful repayment plan.

7.29 A repayment plan needs to be meaningful to allow for the debt to be repaid within a realistic timeframe. HSC Trusts will therefore need to consider an individual's particular circumstances such as amount of disposable income against the amount of debt to decide whether a repayment plan is a suitable way of recovering the debt.

7.30 Payments agreed as part of the repayment plan will need to be made on the specified date. The individual should be made fully aware of the consequences if the plan is not adhered to i.e. the Home Office will be notified of the outstanding debt.

Criteria for referring debts to the Home Office

7.31 Information relating to cases of outstanding debt owed by a person should only be shared when all of the following criteria are met:

a. For charges relating to health service treatment from 1st November 2011 until 5th April 2016:

- Single or multiple invoice debts amount to £1,000 or more; and
- The debt has been outstanding for three months or more (from date patient is formally charged, rather than date of treatment).

b. For charges relating to health service treatment from 6th April 2016 onwards:

- Single or multiple invoice debts amount to £500 or more;

- The debt has been outstanding for two months or more (from date patient is formally charged, rather than date of treatment);
- Charges relate to health service and not private treatment;
- There are no genuine outstanding challenges to, or doubt about, the legitimacy of the charge[13];
- No reasonable arrangement has been made, and is being adhered to, for a schedule of payments to clear the debt. If a patient has entered into a repayment plan, and then subsequently cancels that plan, the debt information should be submitted to the Home Office as described;
- The debt has not been cancelled.

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

Details of the information to be shared with Home Office

7.33 The Home Office requires as many pieces of information as can be reasonably provided in order to verify the unique identity of the person who has incurred the debt. Clinical information relating to the treatment provided must not be included. Care should also be taken not to provide information from which the clinical history of the patient can be deduced.

<u>Mandatory Information</u>

- Trust
- Invoice Number
- Date of Debt
- Amount of Debt

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

- Title (Ms, Mr Mrs etc)
- Forename of debtor
- Surname of debtor
- Date of Birth
- Nationality
- UK address, if applicable
- UK postcode, if applicable

Desired Information – Only if applicable

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

How data should be shared with the Home Office

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

Annex A

Checklist to help determine ordinary residence in Northern Ireland

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

From the 1 January 2021, EU, EEA and Swiss nationals must have a right to or have received settled or pre-settled status under the EU Settlement Scheme (must have applied by 30 June 2021) or have an existing indefinite leave to remain in the UK in order to be considered ordinarily resident in the UK.

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

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

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

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

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

2a	Can the person provide an address of their own in NI?		
2b	Can they show that they are paying utility/ rates bills at their NI address?		

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

2c	Does their housing situation in NI appear stable and settled, e.g. a tenancy agreement in their own name?		
	If the answer to 2a-2c is no:		
2d	Is the reason due to homelessness?	*	
2e	Is the person a Gypsy or Traveller established in NI i.e. a person with a cultural tradition of nomadism or of living in a caravan?	*	
2f	Is there another reason why the person does not have a settled home in NI (e.g. see Q7, Q9)?		

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

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

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

5	If an EEA/Swiss pensioner, have they registered an S1 in the UK, to demonstrate their entitlement to health care in the UK for which the UK is reimbursed by the country which pays their pension?[5]		

6	If a student, are they attending a course in NI the length of which suggests they would have to settle here for the time being?[6]		

[3] Receiving Jobseekers' allowance and/ or registered as a jobseeker at the job centre.

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

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

[6] For the purposes of EU law, students from the EEA are usually considered to be 'habitually resident' in their home member state when their funding comes from that state, they return there frequently, and intend to reside there again after their studies. This is the case even if they could also be said to have established ordinary residence here. Therefore, they may still have, or be entitled to hold, an EHIC from their home

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

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

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

member state, even if they are ordinarily resident here, in which case the relevant HSC bodies should still capture this information and process it for the UK to be reimbursed for the provision of healthcare.

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

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

Annex B

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

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

Acute encephalitis
Acute poliomyelitis
Anthrax
Botulism
Brucellosis
Cholera
Coronavirus Disease (COVID-19)
Diphtheria
Enteric fever (typhoid and paratyphoid fever)
Food poisoning
Haemolytic uremic syndrome (HUS)
Infectious bloody diarrhoea
Invasive group A streptococcal disease and scarlet fever
Invasive meningococcal disease (meningococcal meningitis, meningococcal septicaemia and other forms of invasive disease)
Legionnaires' disease
Leprosy
Leptospirosis
Malaria
Measles
Mumps
Pandemic influenza (defined as 'phase 6' in the WHO's influenza pandemic phases, or influenza that might become pandemic (defined as 'phase 4' or 'phase 5' by WHO)
Plague
Rabies
Rubella
Severe acute respiratory syndrome (SARS)
Smallpox
Tetanus
Tuberculosis
Typhus
Viral haemorrhagic fevers
Viral hepatitis
Whooping cough
Yellow fever

Annex C

Summary of exempt categories of visitors

Category	Extent of exemption	Family members covered by exemption (Y/N)	Evidence of eligibility
Lawful residence for 12 months (Reg 5)	Exempt from charge for all treatment, including general health services.	Y—when they are here lawfully with the exempt visitor for the entire duration of their stay.	Proof of lawful presence in the UK and identity e.g. passport and visa (where appropriate). Proof of period of residence e.g. biometric residence permit, payslips, insurance documents, benefit award letter. Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
Presence for work, study or to settle (Reg 6)	Exempt from charge for all treatment, including general health services.	Y—when they are here lawfully with the exempt visitor for the entire duration of their stay.	Proof of lawful presence in the UK and identity e.g. passport and visa (where appropriate). Proof of reason for presence in UK e.g. letter from university along with student card; pay slips; Department for Communities (DfC)/DWP benefit award letter. Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
Visitors with citizens' rights	Varies according to rights exercised: People who are residing and/or working in the UK	Y—when they are here lawfully with their EU family member	Proof of lawful presence in the UK Family members will also need to demonstrate lawful presence in the UK and

	before 31 December 2020 will continue to have life-long reciprocal healthcare rights provided they remain within the scope of the EU Withdrawal Agreement.		their relationship to the EU family member e.g. marriage certificate, birth certificate.
Visitors with Trade and Cooperation Agreement rights	EHIC/ PRC—Exempt from charge for medically necessary treatment during a visit, unless travel has been specifically for the purpose of accessing treatment. S1—exempt from charge for all treatment. S2—exempt from charge for pre-arranged planned treatment.	Y—when they are here lawfully with their EU family member	Proof of lawful presence in the UK and identity along with a valid EHIC/PRC, S1 form (either issued by UK or member state and registered in UK), or approved S2 form. Note that visitors from RoI do not need to provide an EHIC or S1, but will need to provide proof of identity and residence in RoI and (in case of frontier workers or UK state pensioners) copies of pay slips, pension statements or letter from HMRC with Unique Taxpayer Reference confirming Self-Assessment for tax purposes. Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
Reciprocal healthcare agreements	Varies according to country, though generally immediately necessary treatment only (see Annex D for more details)	N—unless they are covered under reciprocal agreement in their own right.	Each agreement sets out the proof required to benefit under that particular scheme. For referrals for elective treatment, confirmation is required from the relevant country/ DWP that the referral has been agreed.
Refugees, asylum seekers and looked after children (Reg 9): • Refugees	Exempt from charge for all treatment, including general health services.	Y—when they are here lawfully with	Confirmation from Home Office of asylum, temporary protection or humanitarian protection having been granted.

		the exempt visitor for the entire duration of their stay.	Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
• Asylum seekers and others seeking refuge		Y—when they are here with the exempt visitor for the entire duration of their stay.	Application registration card (ARC) and IS96 letter issued by the Home Office, showing the individual's current address. Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
• Children taken into care of an authority under the Children (Northern Ireland) Order 1995		N/A	Confirmation from relevant authority that the child is a looked after child.
Victims, and suspected victims, of human trafficking (Reg 10)	Exempt from charge for all treatment, including general health services.	Y—providing that they are here lawfully. They do not need to have been here with the qualifying person during the entire period of their stay.	Letter from the CA confirming the person's status as a victim (a 'conclusive grounds' decision), or suspected victim (a 'reasonable grounds' decision). Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
Exceptional humanitarian reasons (Reg 11)	Exempt from charge for all treatment, including general health services.	N, although any authorised companion and authorised children accompanying the qualifying person will be exempt from charge for any treatment the need for which arises while they are here	The relevant Trust will be advised by the Department that a determination of exemption on exceptional humanitarian grounds has been made, and supporting documentation will be provided.

		with the qualifying person.	
Diplomats posted to the UK (Reg 12)	Exempt from charge for all treatment, including general health services.	Y—when they are here with the exempt visitor for the entire duration of their stay.	Visa confirming diplomatic status. Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
NATO forces (Reg 13)	Exempt from charge for all treatment, including general health services.	Y—providing that they are here lawfully. They do not need to have been here with the qualifying person during the entire period of their stay.	Appropriate documentation confirming NATO status and official duties in NI. Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
War pensioners and armed forces compensation scheme payment recipients (Reg 15)	Exempt from charge for all treatment, including general health services.	Y—when they are here with the exempt visitor for the entire duration of their stay.	Proof of appropriate pension/compensation scheme payment, pension book/slip, letter from the MoD or DWP. Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
Armed forces, Crown servants and UK government-funded employment (Reg 16)	Exempt from charge for all treatment, including general health services.	Y— when they are here lawfully. They do not need to be here with the exempt visitor during the entire period of their stay.	Proof that person is a serving member of the UK forces, e.g. valid UK forces ID card or confirmation letter from MoD. Proof of appropriate employment e.g. letter from employer Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g.

			marriage certificate, birth certificate.
Former residents working overseas (Reg 17)	Exempt from charge for all treatment, including general health services.	Y—when they are here with the exempt visitor for the entire duration of their stay.	Proof of 10 years' continuous residence in UK e.g. letter from previous employer/ school; Proof of employment elsewhere for no more than five years e.g. letter from employer, contract of employment, passport stamps. Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
Missionaries (Reg 18)	Exempt from charge for all treatment, including general health services.	Y—providing that they are here lawfully. They do not need to have been here with the qualifying person during the entire period of their stay.	Letter from relevant organisation based in UK, confirming person is carrying out missionary work for them. Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
Prisoners and detainees (Reg 19)	Exempt from charge for all treatment, including general health services.	Y—when they are here with the exempt visitor for the entire duration of their stay.	Prisoner/ detainee will have been referred by appropriate authorities. Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
Employees on ships (Reg 20)	Exempt from charge for all treatment, including general health services.	Y—when they are here with the exempt visitor for the entire duration of their stay.	Proof of employment e.g. letter or contract. Proof that ship is registered in UK e.g. letter from ship's owner

			Family members will also need to demonstrate lawful presence in the UK and their relationship to the exempt visitor e.g. marriage certificate, birth certificate.
Treatment the need for which arose during a visit (Reg 21)	Treatment which, in the opinion of a clinician, is required for the prevention or diagnosis of an illness or for the care of women who are pregnant or in childbirth. Or treatment which, in the opinion of a clinician, is needed quickly to prevent a pre-existing condition increasing in severity.	N	Proof that someone is a UK state pensioner who has lived lawfully in UK, or been employed by the UK government for 10 continuous years. Proof that someone has at some point had ten continuous years lawful residence in UK and is now living in an EEA country, or non-EEA country with whom the UK has a reciprocal healthcare agreement. Proof that someone is a national of a country party to the European Convention on Social and Medical Assistance 1954[1] and the European Social Charter 1961[2], and are genuinely without resources to pay.

[1] Parties to the European Convention on Social and Medical Assistance 1954 are Belgium, Denmark, Estonia, France, Germany, Greece, Iceland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Turkey and the UK.

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

Annex D

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

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

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

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

Reciprocal healthcare agreements for visitors to the UK

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

British Virgin Islands	1*	Applies to all residents of that country. Can also refer four patients to the UK for free NHS hospital treatment (persons hoping to be referred should contact authorities in the British Virgin Islands in the first instance).
Falkland Islands	4	Applies to all residents of that country. Can refer an unlimited number of patients to the UK for free elective treatment (patient should arrange this with the Falkland Islands).
Faroe Islands	1	Applies to all Faroese residents with proof of residence.
Gibraltar	Up until 31 December 2020 - 3	Applies only to citizens resident in that country when that citizen is not expected to stay in the UK for more than 30 days. Can also refer an unlimited number of patients to the UK for free elective treatment. Patient should arrange this with the Gibraltar authorities.
	From 01/01/21 4	Gibraltar residents entitled to relevant services in the UK on the same basis as an ordinary resident. Can refer an unlimited number of patients for treatment free of charge, with the exception of patients for maternity treatment, who are excluded from the Reciprocal Healthcare Agreement
Ireland	4	Residents in either state can access emergency, routine and planned publicly funded health services in each other's state, on the same basis as citizens of that state.
Isle of Man	2	Applies to all residents of the Isle of Man for a period of stay in the UK that has not exceeded, nor is expected to exceed, three months.

Jersey[3]	2	Applies to all residents of Jersey for a period of stay in the UK that has not exceeded, nor is expected to exceed, three months.
Kosovo	3	Applies to all insured persons of that country.
North Macedonia	3	Applies to all insured persons of that country.
Montenegro	3	Applies to all insured persons of that country.
Montserrat	1*	Applies to all residents of that country. Can also refer four patients per year for free NHS hospital treatment (persons hoping to be referred should contact authorities in Montserrat in the first instance).
New Zealand	2	Applies only to citizens resident in that country.
Norway	1	Applies to all nationals of that country on production of a Norwegian passport.
Serbia	3	Applies to all insured persons of that country.
St Helena	1*	Applies to all residents of that country. Does not include Ascension Island or Tristan da Cunha. Can also refer four patients per year for free NHS hospital treatment (persons hoping to be referred should contact authorities in St Helena in the first instance).
Switzerland	4	The UK Switzerland Convention only covers UK nationals, Swiss nationals, EU citizens, refugees and stateless persons. It is not necessary to check the nationality of people presenting a Swiss EHIC since in Switzerland only eligible individuals are given Swiss EHIC.
Turks and Caicos Islands	1*	Applies to all residents of that country. Can also refer four patients per year for free NHS hospital treatment (persons hoping to be referred should

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

		contact authorities in Turks and Caicos Islands in the first instance).

Key:

1. Immediate medical treatment only.

2. Only treatment required promptly for a condition which arose after arrival into the UK or became, or but for treatment would have become, acutely exacerbated after such arrival. Services such as the routine monitoring of chronic/ pre-existing conditions are not included and free treatment should be limited to that which is urgent in that it cannot wait until the patient can reasonably return home.

3. All treatment on the same basis as for a person insured in the other country, including services such as the routine monitoring of pre-existing conditions, but not including circumstances where a person has travelled to the other country for the purpose of obtaining health care.

4. All treatment free on the same terms as for an eligible UK resident (an 'ordinary resident'), including elective treatment.

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

   *For these countries, the agreement will also apply to those persons requiring treatment if they are a member of the crew, or a passenger, on any ship, vessel or aircraft travelling to, leaving from or diverted to the UK and the need for urgent treatment has arisen during the voyage or flight.