

Consultation

Regulatory fees – have your say

Fees for all providers that are
registered under the Health and
Social Care Act 2008
from April 2011

October 2010

About the Care Quality Commission

The Care Quality Commission (CQC) is the independent regulator of health care and adult social care services in England. Whether services are provided by the NHS, local authorities or by private or voluntary organisations, we make sure that people get better care.

Contents

Foreword	3
1. Background	4
Introduction	4
Our powers to set fees under the Health and Social Care Act 2008	4
The rationale for our proposals	5
2. Our fees proposals from 1 April 2011	8
Objectives and principles for our scheme of fees	8
Fee categories and bandings	9
Adult social care providers	10
Health care (excluding NHS trusts) providers	12
NHS trusts	15
Providers that carry on services within and across categories	16
Summary of fees categories and bandings	17
Fees for registration and variations – transactional charges	19
Fees payment dates	21
Primary medical services	25
Strategic developments	26
3. Give us your views	27
Appendix A – Section 85 of the Health and Social Care Act 2008	29

Foreword

From April 2010, the Care Quality Commission is gradually introducing a new registration system across the care sector. Registration is a licence to operate. To be registered, all health and adult social care providers must by law show that they are meeting new essential standards of quality and safety. We will license health care services if they meet essential standards and we will monitor them to make sure they continue to do so.

The cost of registration is therefore directly linked to providers' responsibility for meeting essential standards: the more they are able to demonstrate their compliance, the less the system will cost. Over time, we intend that fees will reflect this and help to encourage the highest levels of compliance, while ensuring that we have the resources to act where we need to.

We do not underestimate the impact on providers of paying fees, especially in the current economic climate. We have looked carefully at our costs and will continue to do so. We have a responsibility to collect fees from those we regulate and to demonstrate we are an efficient and effective regulator. The benefit of that for providers is related to the public assurance that being registered provides, and the access to information about providers' compliance that we make available to people who use services, the wider public and commissioners of services. There is also the reassurance of knowing that we will tackle poorly performing and unregistered providers to ensure that standards overall are maintained.

The fees that we charge are a key test of our commitment to good regulation, and consultation is essential for us to check that we are getting it right. We have previously consulted on separate schemes for NHS providers, and independent health care and adult social care providers. This consultation sets out the changes we are proposing to make to replace those previous interim arrangements with a single, long-term scheme, which will also include providers that are new to registration and will be entering the system from April 2011.

We will consult every time that we propose any changes to fees, and we will provide enough detail so that our plans can be scrutinised and challenged openly. We have no interest in setting fees higher than they need to be: our overall income is capped by the Department of Health, so that every pound raised in fees is deducted from the grant that we would otherwise receive from central government.

We hope you will send us your comments and suggestions on our proposals. It is important that you help us ensure that fees will be fair and reasonable, that they will send the right message in reinforcing the priority that providers should give to meeting registration standards, and that we are continuing to lay the right foundations for a system that can achieve our strategic aims.

Jo Williams
Chairman

Cynthia Bower
Chief Executive

1. Background

Introduction

This consultation is about proposed fees for all health care and adult social care providers that are registered under the Health and Social Care Act 2008 (the 2008 Act). Subject to this consultation, our legal scheme of fees will begin in April 2011, and will include all registered providers and those entering the registration system for the first time from 1 April 2011. It will set the foundation for our long-term approach to fees.

We consulted in October 2009 for our fees scheme for NHS trusts, and in March 2010 about our interim proposals for the scheme for adult social care (ASC), independent health care (IHC) and newly in scope providers. Both consultations signalled our intention that these separate schemes would remain until March 2011, when they would be superseded by a single scheme that would apply to all providers. The proposals in this consultation describe the structure of the new scheme which includes several fundamental changes from the former ones. We are also proposing technical changes we will need to make in order to streamline systems for fees payment dates.

Other documents to read alongside these proposals

We have published two other documents to support these proposals. They are available from our website (www.cqc.org.uk).

- The draft *Scheme of fees* sets out how these proposals would be reflected in legal drafting and therefore includes the exact definitions that we would use to decide what amount each provider pays.
- The draft *Impact assessment* sets out how we will evaluate the impact of different options for fees, and provides detailed analysis to underpin the rationale for our proposals.

Responding to the consultation

This document covers specific proposals that will affect a wide range of health and adult social care providers, so we want to encourage as many types of providers and associated stakeholder organisations to respond as possible.

We will take all comments that we receive into account in order to make these proposals final. You can find out how to send us your comments on page 27. Please make sure that your comments reach us by **Monday 17 January 2011**.

Our powers to set fees under the Health and Social Care Act 2008

Section 85 of the Health and Social Care Act 2008 (the 2008 Act) allows us to charge fees for applications to register, or to vary the conditions of an existing registration,

applications by a provider to cancel registration, and applications to vary or cancel a period of suspension of registration, and for maintaining registration. It allows for different levels of fees in different types of provider and in different circumstances, and for CQC to identify factors we can use to calculate the fee (for example, a large provider might pay more than a small one). It also requires CQC to consult on fee proposals and to obtain approval from the Secretary of State, and allows for the possibility of extending fee setting powers beyond registration and into CQC's other functions, if regulations are made to enable that.

The full text of section 85 is in appendix A.

The rationale for our proposals

The new system of registration was introduced between April and October 2010 – first for NHS trusts and then for ASC, IHC and newly in scope providers. In November 2010, we will continue that process for other providers new to the scope of regulation, including dental, ambulance and prison health services, which will be registered for the first time in April 2011. The scope of registration will extend further in 2012, when primary medical services providers will also enter the registration system.

All providers that are registered with us will need to pay the fees in our legal scheme, which we are required to consult on. Our single scheme must accommodate the different types of providers that are currently within the scope of registration, but must also take account of those sectors that will be new to regulation and that will be paying registration fees for the first time.

Our approach to fees will need to:

- Take account of government policy.
- Recognise the impact on providers of making changes to the existing fees arrangements, some of which have been in place in both structure and fee levels for several years.
- Avoid unnecessary levels of change and disruption.
- Cope with continued transitional phases of registration, where providers enter it at different times.
- Provide a long-term, strategic approach to fees that contributes to the ongoing aims of registration.

We have said in our previous consultations, and repeat here, that we place great emphasis on ensuring that our approach to fees should not distort the operation of the health and social care markets, or impact on the Department of Health's policies for health and social care. As part of that, we recognise that there are different factors that have an impact on fees for publicly and privately funded services; large, medium and small-sized enterprises; not-for-profit bodies and self-employed individuals. We are also committed to ensuring

that our overall approach to fees should be equivalent across all providers without creating favour or unfairness.

This consultation on our strategic approach to fees for all sectors sets out the principles, objectives and financial models that have underpinned our proposals. We have developed our approaches to include the principle of fairness between sectors, and a significant degree of protection for small and medium-sized enterprises. Over time, we will develop this framework further, taking account of the new Government's proposed policy developments for health and social care, and, as data improves and the new compliance system beds down, building in incentives that recognise the lower cost of regulatory activity where we are confident about providers' performance.

Taking account of government policy for cost recovery

As the regulator for health and social care we must ensure that the costs of our regulatory activity are borne by the providers, including commercial, publicly funded and charitable bodies. As required by HM Treasury's guidance, our fees should normally be set so that we can recover full costs. In our case, cost recovery relates to our regulatory functions for registration and the ongoing monitoring of providers' compliance.

The new fees scheme influences how much income we recover from fees. The remainder of our income comes from grant-in-aid payment from the Department of Health.

We are intending a staged approach to full cost recovery, as the new registration system becomes business as usual, and our data on the costs of regulating the different parts of the health and social care market against the new registration model becomes more precise. In 2011/12, we expect to recover an additional £19.0 million in fees from providers, some £13.0 million of that being from the new providers of dental, ambulance and prison health care services. The additional £6.0 million of fees represents an additional £3.0 million from NHS trusts, £3.3 million from adult social care providers and a decrease of £0.3 million from independent health care providers. The total fee income proposed represents a recovery of about 67% of CQC's total operating costs compared to current levels of about 56%.

The fees scheme we are proposing will lead to a large number of providers seeing a decrease in their fee level, as well as a number of providers that will have an increase in fees. The annual fee proposed includes an element for registration, variation and registered manager fees (which we are proposing not to continue to charge separately), equating to approximately £5 million, distributed across the sectors.

Taking account of changes in the provider markets

The health and adult social care markets have long been subject to changing models of delivery, whether as a consequence of government policy, changing demographics or the economic climate, among many other factors.

The most significant change that will affect providers of services over the next few months is the government policy for Transforming Community Services (TCS). Under this policy, the responsibility for provision of community services will be transferring from

primary care trust (PCT) providers to other types of providers by 1 April 2011. We have taken account of the likely impact of the changes within our framework for fees, as far as is possible, given that the shifts in service delivery are not yet precisely known. We do know that the majority of PCTs will no longer be registered providers of services after 1 April 2011, so have modelled our framework for NHS trusts to accommodate these changes. As information about the patterns of service provision becomes clearer during the course of the consultation, it may mean that the final amounts we charge NHS trusts need to be amended to reflect this.

The TCS policy will also bring about the creation of new Community Trusts which we have accounted for within the NHS trust fees framework. It will also create new social enterprise organisations and Community Interest Companies, which will not be classed as NHS Trusts. They will be included within the other categories in our scheme as independent providers of services. We do not yet know the likely numbers, size or range of services that will be provided by these new organisations, which will be entering the health and social care markets for the first time and, as more information becomes available, we may need to adjust our modelling to account for this.

2. Our fees proposals from 1 April 2011

Objectives and principles for our scheme of fees

We set our interim fees schemes for NHS, adult social care (ASC) and independent health care (IHC) providers against four main principles, and we think they are still relevant for our new scheme and provide the essential basis for our long-term approach to building a fees model.

Those principles are:

1. **Adequacy:** fee income, when added to grant-in-aid from the Government, should provide adequate resources for us to carry out our statutory duties and our operating plan with regard to our registration functions. This means that we should be able to recover our costs as defined, but also that we should not exceed the costs related to the provision of the services we charge for. Our annual operating plan includes efficiency targets and is agreed with the Department of Health and used by them to hold us to account.
2. **Fairness:** our long-term scheme of fees should comply with the spirit and the letter of the law, including provisions of the Health and Social Care Act 2008 and other relevant legislation such as competition law. This includes being fair in any cases where we treat providers differently.
3. **Simplicity:** fees should be as simple as possible for us to administer and for providers to understand what they must pay and when, and be as convenient as possible for providers when making payments.
4. **Evolution:** the way we communicate with providers about fees and involve them in planned changes, and the way we calculate fees, should ensure that there is a planned evolution over time, without any radical or unexpected changes. We must ensure that the scheme does not destabilise the market, that future entrants to the scheme can be included with relative ease, and that likely changes to the market can be accommodated.

Our objective is that this fees scheme forms the framework for how CQC will charge fees from April 2011 onwards. It may be subject to review and development over time, but is designed as a permanent foundation and not another interim scheme. We want to design a scheme that is simple to understand, is straightforward to implement and does not impact perversely or adversely on the markets when we apply it across the sectors.

We are proposing three main elements to our scheme:

- The first proposal is about the structure for fees categories and bandings we have developed, which includes the fees amounts we wish to charge for the different provider types.

- The second concerns a proposal to incorporate the former separate charges for registration and variation fees into one, single annual fee.
- The third is a proposal to harmonise the date on which providers will pay their annual fee.

Fee categories and bandings

Summary

- **There are three main provider categories – adult social care providers, health care (excluding NHS trusts) providers and NHS trusts. Each category is divided into bands depending on the size of the provider.**
- **There are three measures used to determine size – the number of people accommodated in the case of ASC providers with accommodation, locations for other ASC and health care (excluding NHS Trusts) providers and turnover in the case of NHS trusts.**
- **Where ASC and health care (excluding NHS trusts) providers carry on services that span within or across categories, they will pay the fees relevant to each category. Those fees will be charged as a single payment.**

In developing our fees model, we analysed several fees schemes set by other regulators and reviewed a number of possible structures for developing a single fees scheme. We developed this review into a test model that used provider turnover as the proxy for determining the distribution of fees charges through bandings. We tested this earlier in the summer in a simulation exercise with a sample of ASC and IHC providers, but the results demonstrated that using turnover as the criteria for the scheme was a difficult and unpopular choice and could not be fairly and universally applied.

Detailed analysis of the provider market confirmed that the total market is effectively divided between a small number of very large providers and a large number of small providers, with a small group thinly spread out between those two parameters. These trends will continue with primary dental and medical (and other) providers being included in regulation in the future.

We carried out a further review to identify how best to segment provider types so that large providers would not disproportionately subsidise smaller providers and the scheme could account for the difference in relative size of the many small providers.

We have developed this into our proposal that service providers will be separated into three main provider categories – ASC, health care (excluding NHS trusts) and NHS trusts. The categories for ASC and health care (excluding NHS trusts) will be further subdivided to represent the different elements that make up these provider types. Each category will be divided into different fee bands that set out the amount providers will pay annually,

based on criteria indicating the providers' size. We have limited the number of criteria to ensure that similar principles apply fairly across provider types and to make the scheme as simple as possible.

Adult social care providers

The category for ASC providers covers the types of providers that would have been registered for adult social care provision under the Care Standards Act 2000, as well as some providers that are new to the scope of registration. It will not include any NHS trusts that also provide adult social care-type services. Where Community Interest Companies and social enterprise organisations provide adult social care services, they will also be classed as providers within this category. Where a provider solely or primarily provides NHS adult social care services, but where they are not an NHS trust, this category will apply to them.

For the ASC sector, we have divided the category into two. The first is for providers of care home services – where accommodation for people who use services is provided by the service provider. The second is for providers where no accommodation is provided, such as agency providers, shared lives providers (formerly known as adult placement schemes), extra care housing and supported living services.

The fee base for the care home provider sector is higher than that for other types of ASC provider, as is the case currently under the legacy interim scheme. For the care home service providers, we have used the number of people who use services who may be accommodated at any one time, as stipulated in the service provider's conditions of registration, as the determinant of size, as is the case under the current scheme. Our modelling shows that this is the most appropriate proxy for this service type. This is because there is a much higher percentage of ASC providers that provide accommodation than those that do not, and as 60% of our annual fees income is derived from this type of ASC provider, we will use this proxy to ensure stability in our fees structure. Providers that took part in our turnover simulation exercise confirmed that using accommodation as a proxy of size was their preferred option.

Under the existing, legacy fees scheme, care home providers are charged a flat rate annual fee plus a "per bed" fee. Our proposals in this consultation are to introduce a bandings model based on the number of registered places, which applies to each location that the provider is registered for. This would mean that a provider with a single care home that is registered to accommodate 15 people who use services would pay an annual fee of £1,600. A provider with 3 locations, each with 100 places, and 2 locations, each with 45 places will pay 3 x £11,000 and 2 x £5,500 in one annual fee payment.

For the other category of ASC providers, without accommodation, we have used the number of locations as the determinant of size. We have set out guidance on our website which defines our meaning of locations (www.cqc.org.uk/locations). In most instances, locations will be each of the places where the service is provided or organised from.

For both sub categories, we have divided the upper and lower ranges into six bandings, from very small to very large providers.

Adult social care providers						
Category 1a (residential accommodation provided)	S1	S2	M1	M2	L1	L2
Lower range (registered places)	0	11	21	31	41	61
Upper range (registered places)	10	20	30	40	60	
Proposed fee	£650	£1,600	£3,000	£4,250	£5,500	£11,000
Category 1b (no residential accommodation provided)	S1	S2	M1	M2	L1	L2
Lower range (number of locations)	0	2	4	7	13	26
Upper range (number of locations)	1	3	6	12	25	
Proposed fee	£1,000	£2,000	£4,000	£8,000	£16,000	£32,000

We have included here some examples of how the proposed fees rates for next year will differ from the current rates for providers in these categories, taken from the sector averages.

Type of provider	Description	2009/10 fee	Type of provider	Description	2011/12 proposed fee
Care home	25 registered places (sector average)	£2,772	Residential accommodation provider	25 registered places	£3,000
Domiciliary care agency	Two branches registered	£1,822	Providers without accommodation	2 locations	£2,000
Nurses agency	Two branches registered	£1,822	Providers without accommodation	2 locations	£2,000
Adult placement scheme	Two branches registered	£2,186	Providers without accommodation	2 locations	£2,000

Health care (excluding NHS trusts) providers

The category for health care (excluding NHS trusts) providers covers a wide range of providers, including those that would have been registered as independent health care providers under the Care Standards Act 2000, plus primary dental services, independent ambulance providers and independent providers of health care in prisons. It is intended that primary medical services will be included in this category from April 2012 onwards. Where Community Interest Companies and social enterprise organisations provide health care services, they will also be classed as providers within this category. Where a provider solely or primarily provides NHS health care services, but where they are not an NHS trust, this category will apply to them.

For the health care (excluding NHS trusts) providers we have divided the category into three:

- Health care (hospitals)
- Health care (other)
- Health care (dental services).

The health care (hospitals) category is for providers of hospital services, which cover certain types of services that are described in our publication, *Guidance about compliance: Essential standards of quality and safety*. The chapter on service types (which starts on page 13 of the publication) includes four service types that describe the types of services that we are classing as a hospital for the purposes of this fees scheme. They are acute services (ACS), hyperbaric chambers (HBC), hospital services for people with mental

health needs and/or learning disability and/or problems with substance misuse (MLS) and long-term conditions (LTC).

The health care (hospitals) category will therefore include providers of services such as:

- Acute independent hospitals
- Independent sector treatment centres
- Cosmetic surgery hospitals
- Specialist or single speciality hospitals
- Maternity hospitals
- IVF clinics providing surgical treatment or endoscopy
- Haemodialysis units
- Termination of pregnancy clinics
- Type 1 and 2 hyperbaric chambers
- Independent sector providers of specialist hospital services for people with mental health needs, learning disabilities and problems with substance misuse
- Treatment of people with long term conditions, provided in a specialist unit where people are admitted for medical treatment and technical interventions

The second category is for providers of other health care services, excluding hospital and dental services. The health care (other) category will include providers of services such as:

- Hospice services
- Independent health care in prisons
- Private doctors consultation and treatment services (including mobile services)
- Stand-alone diagnostic and screening services
- Independent ambulance services, including air ambulance providers where these provide regulated activities

The third category is for providers of dental services. We will be registering approximately 8,000 providers of these services in April 2011. We do not currently have precise data on how many providers will be registering, and this will not become clearer until further into the transitional application process which will be taking place during and after the course of this consultation. Because of the volume of these providers, including them within the category of health care (other) could skew the bandings and therefore the fees for both types of provider, so we are proposing to have a separate category for this year for dental providers called health care (dental services). We intend to review the model further for 2012, when the data on how the market is formed is better understood.

The fee base for the hospital provider sector is higher than that for the other types of health care provider, as is the case currently under the interim scheme.

For all three sub-categories, we have used the number of locations as the determinant of size, and have divided the upper and lower ranges into six bandings, from very small to

very large providers. We have set out guidance on our website which defines our meaning of locations (www.cqc.org.uk/locations).

We are not continuing to use the number of registered places as the determinant for the category of health care (excluding NHS trusts), as is the case for some providers under the current scheme, as the percentage of providers in this category that have no registered places is significantly higher than those which do.

Health care providers (excluding NHS trusts)						
Category 1 (Hospitals)	S1	S2	M1	M2	L1	L2
Lower range (number of locations)	0	2	4	7	11	16
Upper range (number of locations)	1	3	6	10	15	
Proposed fee	£8,500	£17,000	£34,000	£68,000	£110,000	£150,000
Category 2 (Other)	S1	S2	M1	M2	L1	L2
Lower range (number of locations)	0	2	4	7	11	16
Upper range (number of locations)	1	3	6	10	15	
Proposed fee	£1,500	£3,000	£6,000	£12,000	£24,000	£48,000
Category 2b (Dental services)	S1	S2	M1	M2	L1	L2
Lower range (number of locations)	0	2	4	11	51	101
Upper range (number of locations)	1	3	10	50	100	
Proposed fee	£1,500	£3,000	£6,000	£12,000	£24,000	£48,000

Here are some examples of how the proposed fees rates for next year will differ from the current rates for providers in these categories, taken from the sector averages.

Type of provider	Description	2009/10 fee	Type of provider	Description	2011/12 proposed fee
Acute hospital	47 registered places (sector average)	£12,833	Health care (Hospital)	One location	£8,500
Private doctor	One establishment registered	£1,305	Health care (Other)	One location	£1,500
Hospice	14 registered places (sector average)	£1,521	Health care (Other)	One location	£1,500

NHS trusts

The category for NHS trusts will cover those provider trusts that are defined as an English NHS body under the 2008 Act, but will not include the new Community Interest Companies or social enterprise organisations that are being developed under the Department of Health's policy for community services. These types of providers will be classed under the category of health care provider (excluding NHS trusts) (see the section above). NHS trust providers will include acute, mental health and ambulance trusts, foundation trusts, primary care trust provider arms (where these exist after 1 April 2011), NHS Direct, NHS Blood and Transplant and the Health Protection Agency.

In terms of the fees bandings, we believe the best proxy to use as the determinant of size for the NHS is turnover, rather than beds and/or the number of locations. Our rationale is that we have used turnover in the existing NHS fees scheme as a proxy for PCTs (which has worked well), turnover information is readily available for each type of trust, bed numbers for acute and mental health trusts approximate to turnover ranges, and trusts have significantly different numbers of locations which are not always a universal determinant of their size and do not equate well to turnover. The bandings set out a lower and upper range for turnover, dividing NHS trusts into small, medium or large bands.

We are proposing to use the total amount of operating revenue associated with each trust provider as the basis of the measurement of the size of the trust, including where that turnover may include non-registerable activities. We will assess turnover from the latest set of published audited accounts for each NHS trust. Where new trusts are formed, or services have been merged or integrated, we will use the turnover figures taken from the trust's business plan.

Some NHS trusts also provide adult social care services. Under the previous fees arrangements, these trusts paid separate fees relating to their health care and social care services. As trust turnover amounts will include the turnover relating to all the trusts'

activities, we are intending that trusts will be only be charged under the NHS trust fee category.

NHS trusts						
	S1	S2	M1	M2	L1	L2
Lower range (£ turnover)	-	75,000,001	125,000,001	225,000,001	325,000,001	500,000,001
Upper range (£ turnover)	75,000,000	125,000,000	225,000,000	325,000,000	500,000,000	
Proposed fee	£40,000	£55,000	£70,000	£85,000	£100,000	£115,000

Providers that carry on services within and across categories

The health and social care markets are diverse and ever changing. They do not fit neatly into fixed provider categories and we have considered this factor within our fees proposals. We recognise that providers may well carry on services that span within and across the categories we have set out in our scheme, and that we need to be clear about the fees such providers would be expected to pay.

In the existing interim schemes for providers of adult social care and independent health care, this is already recognised, and where a service provider carries on services across the different service types, they pay the fees relevant to that description under the separate parts of the scheme. We propose to continue this principle within the new scheme, as we consider it to be a fair way of apportioning fees to mirror the types of services that a provider carries on and because it reflects the costs to CQC of regulating those different types of service provision.

We are also proposing that where providers do fall within different categories, the separate fees they are liable for will be combined together as one payment on a single date.

We have already said above under our proposals for NHS trusts, that where trusts provide both health care and adult social care services, they will only be charged the fee within their banding under the NHS category. This is because we believe it would be unfair to charge trusts in multiple categories, as their total turnover will include the turnover relating to all their activities.

Where an ASC or health care (excluding NHS trusts) service provider carries on:

- ASC services both with and without accommodation;

- both social care and health care services;
- health care services across two or more of the three health care (excluding NHS trusts) categories,

we are proposing to charge the fees relevant to their banding within each of those categories, and charge that as a single fees invoice on one date.

It may be that some providers carry on services which span across more than one category from the same location. We believe that this will apply to a very small number of providers and are therefore proposing to continue the principle of charging under each category.

Summary of fees categories and bandings

We believe that this structure provides a simple scheme, with limited variants, which is based on a common principle of using size as the proxy to determine the fee band. Size is measured in three different ways with the single criteria of turnover used for NHS trusts, and the number of number of people who use services who may be accommodated at any one time, as stipulated in the service provider's conditions of registration, or locations for other providers.

Charitable and voluntary providers are treated in the same way as any other providers in this fees scheme. We consider that it would not be fair or equitable to reduce or waive fees for certain groups of providers, nor should providers cross-subsidise fees for other providers. Most charitable and voluntary organisations fall into the small or medium bandings within our fees proposals, and we believe that we have set the fee rates within those bands at a level that does not penalise small providers.

Question 1

Do you agree with our proposals to charge fees based on the categories and bandings we have set out above?

Yes No

Please provide more information on your answer, specifically on the proposal that you do not agree with, and why

Question 2

Do you agree with our proposals to charge fees at the levels we have set out above?

Yes No

Please provide more information on your answer, specifically on the proposal that you do not agree with, and why

Question 3

Do you agree with our proposals to charge separate fees to providers that carry out services that span within or across categories?

Yes No

Please provide more information on your answer, specifically on the proposal that you do not agree with, and why

Fees for registration and variations – transactional charges

Summary

- **We are proposing to incorporate the fees charges for registration and variation applications within the annual fee charge by distributing these costs across the bands for ASC and health care (excluding NHS trusts) providers.**

Under the current interim schemes, providers and some managers pay fees when they submit an application to register and providers also pay fees when they apply to vary their conditions of registration. They are received at variable times depending on how many applications are received at any given time. The proportion of income derived from these “transactional charges” makes up approximately 6% of our overall income. The bulk of these charges is largely comprised of registered manager application fees, which are mainly made in the ASC sector.

In the new system of registration, providers will continue to be required to submit applications to register and to make changes to their registration. We have designed the application process to be as straightforward as possible, but recognise that it is, by necessity, a detailed and sometimes lengthy process.

We recognise that requiring transactional payments by the current method of submitting a cheque is cumbersome and that the introduction of more modern methods, such as online payment facilities, would simplify the application process. However, the income we would expect to receive from these charges would still be disproportionate to the time required to administer, verify, process and audit these individual payments, and would still require providers to ensure accurate payments are submitted with every application.

We intend our fees scheme to be as simple and straightforward as possible. Retaining separate charges for registration and variation fees for the multiple types and sizes of providers would result in a scheme that is as complex for providers to understand and for the Commission to implement as the existing interim fees scheme. The bulk of the fees-related queries we currently receive concern registration and variation charges, which has an impact on the prompt processing of applications.

We are therefore proposing to simplify the application process by not charging separate fees for applications to register and vary existing conditions of registration and to “roll up” those charges into the single annual fee payment. This will apply to new providers applying for the first time, and registered providers that are applying to adjust their existing registration.

We recognise that some providers will benefit from this approach more than others. For example, if a provider does not experience any staff turnover in their registered managers or does not make any applications to vary their conditions of registration, they would not

have needed to pay any registration or variation fees. Under this proposal, they will pay for a proportion of that regulatory activity within their banding. At the other extreme, providers that make multiple, regular applications would not need to be charged for each of those. The reality is that most providers need to make some degree of change to their registration, as their services change and develop, expand or contract, or are affected by routine or unexpected staff turnover.

It will also affect new service providers that are registering for the first time, as there will be no separate registration fee charged. However, new providers will be charged an annual fee on the date of their first registration, based on the bandings set out in the section above, which will include a proportion of the fees payable for registration purposes.

We are proposing to apportion the distribution of transactional charges across the two categories of ASC and health care (excluding NHS trusts) providers based on the income we received from registration and variation fees from ASC and IH providers during the 2009/10 financial year. We recognise that the introduction of the 2008 Act has changed certain registration requirements, which will affect how we calculate that anticipated income. For example, the former application process of registration at the level of establishment or agency has been superseded by a variation application to add a new location. The former full registration process, in most cases, would have required a registration fee of approximately double the fee that would have been charged for a variation application. So we have taken account of this effect and have reduced overall the transactional charges we will apply.

For ASC and health care (excluding NHS trusts) providers, we have distributed registration and variation fees across both categories and within the individual bandings within those categories. For example, ASC providers have a much higher proportion of change in registered manager applications, which does not apply to the health care (excluding NHS trusts) provider group, so the larger proportion of transaction registration charges associated with registered manager applications has been spread across the ASC categories and bandings.

For NHS trusts, the anticipated income from registration and variation fees is an insignificant amount compared to the annual fees charges we will be levying for those providers, so we are not proposing to include transactional fees as a proportion of the annual fee in this category.

This change is a significant one for providers that have been used to submitting a separate cheque payment with each application. However, we believe that the resulting simplification of the administrative processing of applications will be beneficial to providers.

Question 4

Do you agree with our proposals to incorporate registration and variation application fees into a single annual fee?

Yes No

Please provide more information on your answer, specifically on the proposal that you do not agree with, and why

Fees payment dates

Summary

- We are proposing to streamline payment dates for annual fees so that all providers pay a single fee on a specified date each year, and on the anniversary of that date thereafter.
- NHS trusts, registered on 1 April 2010, will continue to pay their annual fee on 1 April each year.
- New trusts registered for the first time other than on 1 April will pay their annual fee on the date of first registration.
- ASC and health care (excluding NHS trusts) providers that have only one location, and who are registered before 1 April 2011, will continue to pay their annual fee on the anniversary of the date of their first registration.
- Providers with one or more locations, that will be registered for the first time from 1 April 2011 onwards, will be charged on the date of their first registration.

- **ASC and health care (excluding NHS trusts) providers with more than one location, that have been previously charged on different dates under the interim fees schemes for the Care Standards Act 2000 will be streamed into the nearest median date on specified dates between 1 July 2011 and 1 January 2012.**
- **We are proposing not to round up or down fees amounts where a provider would have paid one or more location charges before or after their new allocated fee date.**
- **Where there are changes to the registration of any provider which takes them into a higher banding, the subsequent increase in the annual fee will not take effect until their next annual payment date is due.**

Under the interim fees schemes, providers are required to pay an annual fee on the anniversary date of their first registration. However, for ASC and IHC providers, this was based on a fee charged against each establishment or agency, which in the majority of cases, are now classed as locations in the new registration system. This means that service providers have been paying separate annual fees for each location on different dates throughout the year. Our fees scheme from April 2011 will be based on one annual fee for each provider, payable on a single date, so we will need to harmonise some of the existing fees payment arrangements to ensure a smooth transition from the legacy system to the new one.

We are proposing to streamline annual fees dates so that all providers will pay one fee each year on a defined date rather than the multiple payments they are currently making. This will align annual fees charging with the provider-level registration model, rather than the former establishment/agency one, reduce the overall number of invoices we need to process every year, and will avoid, where possible, significant peaks of invoicing activity during particular times of the year. We also want to give providers advance notice of when they should expect to pay their annual fee so they can plan their arrangements.

We considered the feasibility of charging all providers on a single date, 1 April. However, this proposal was discounted, as to prepare and send out thousands of individual invoices to all providers on a single date would require significant increases in our staff for a short-term annual activity. It may also disadvantage providers, particularly the smaller providers, who may have paid their annual fee later in the financial year and who may find it difficult to make adjustments to their accounting systems.

The arrangements we are proposing to cover the different sets of provider circumstances are shown in the table below.

Any in-year changes to a provider's circumstances that affect their fee banding and fee rate will not take effect until their next annual fee date.

Category	Date of first registration	Number of locations	Date of annual fee	Comments
NHS trusts	Before 1 April 2011	Not applicable	1 April	No change
	On or after 1 April 2011		Date of first registration	Current practice
Health care (excluding NHS trusts) / adult social care providers	Before 1 April 2011	One	Anniversary date of first registration	No change
		More than one	Either: 1 July, 1 October or 1 January	Determined by the average date of all locations (see explanation and example below)
	On or after 1 April 2011	One or more locations	Anniversary date of first registration	This will include providers new to regulation on 1 April 2011

We are proposing to continue charging NHS trusts the annual fee on 1 April each year. In the event that a trust is registered for the first time on a date other than 1 April, we will charge that trust on the date of that first registration, and on that same date thereafter.

For ASC and health care (excluding NHS trusts) providers that have only one location, and that are registered before 1 April 2011, we are proposing to continue charging them on the anniversary of the date of their first registration, whether this was under the Care Standards Act 2000 or under the 2008 Act, wherever this falls during the financial year. So for most of the smaller providers, they will pay their annual fee on the same date as this year.

For ASC and health care (excluding NHS trusts) providers with one or more locations, that will be registered for the first time from 1 April 2011 onwards, we are proposing to charge them on the anniversary of the date of their first registration, wherever this falls during the financial year. This will include providers of dental services, independent ambulances and providers of health care in prisons, that will be entering the registration system on 1 April 2011, and that will be charged their first annual fee in early April 2011.

For those ASC and health care (excluding NHS trusts) providers with more than one location, who have been previously charged at establishment or agency level on different dates under the interim fees schemes for the Care Standards Act 2000, we are proposing several changes.

We are proposing that 1 July, 1 October 2011 and 1 January 2012 will form the payment dates for providers that need to be streamlined from multiple payment dates into a single

one. Those payment dates will then form the annual payment date thereafter for those providers.

In order for CQC to arrive at the annual fee date for providers with multiple locations that are registered before 1 April 2011, the first step will be to calculate the average date of all locations for that provider. That date will then be compared to the three calendar dates and the one most appropriate will be selected, as follows:

- Providers with an average date between April and June will be charged on 1 July.
- Providers with an average date between July and September will be charged on 1 October.
- Providers with an average date between October and March will be charged on 1 January.

Example

A provider has three locations, which are currently billed in May, June and November. May is the fifth month, June the sixth and November the eleventh. Adding these three numbers and dividing by three produces just over seven. So the average month for this distribution is July. This means that this provider's annual fee date will be set at 1 October.

We are also proposing that where a provider would have paid one or more location charges before or after their new allocated annual fee date, we will not round up or down those fees amounts. This is because fees paid under the former fees schemes were payable against each location and in this scheme we are proposing to charge for locations within sets of bandings. This means we cannot fairly apportion a "per location" charge to address any gaps in payment in the streamlining approach. This is likely to benefit providers where a higher proportion of their former payment dates fall before the new allocated annual fee date than fall after it. At the time of consultation, we do not have precise information about exactly where fee dates will fall, however, our modelling based on Care Standards Acts providers' fee dates suggests that most providers will have a mix of former dates that fall before or after the new allocated annual fee date, so the effect is likely to be evened out.

Subject to this proposal being accepted, we will notify all providers that are affected by their dates moving to one of the new quarter dates. We also intend this to be a one-off exercise, which is needed for this year only, to harmonise fees payments dates so that there will be a steady state in future years for providers included in this exercise.

Question 5

Do you agree with our proposals to streamline payment dates for annual fees so that all providers pay a single fee on a specified date each year, and on the same date thereafter?

Yes No

Please provide more information on your answer, specifically on the proposal that you do not agree with, and why

Primary medical services

Providers of NHS primary medical services (GP practices and out-of-hours services) will enter the registration system on 1 April 2012, and we will need to include those providers within the fees scheme from that date. This will require us to carry out a further consultation in autumn 2011 so that we can amend the legal fees scheme in order for it to take effect to include NHS GP services from April 2012. We will be carrying forward into 2012 and beyond the essential principles for setting fees which are described earlier in this consultation document, so NHS GP providers can be clear now that any future proposals we make relating to their fees will be based on those principles.

We will be registering approximately 9,000 primary medical service providers in April 2012. At this stage, we are considering whether to include primary medical service providers within the non-NHS health care category for their fees charges, in a similar way to the proposals for dental providers in this consultation. This would mean that NHS GP providers would be charged for the number of locations they are registered for if those proposals were put into effect.

This is not the subject of this consultation, though, and we will be developing further modelling and engagement on this in order to inform our proposals for the next consultation. However, we would welcome feedback now from GP providers that will be affected by our proposals for next year, and would encourage their responses using the feedback options listed on the following page of this document.

Strategic developments

This fees scheme, as we have proposed, will form the foundation for our long-term approach to fees. However, we will need to regularly review it to ensure that it is able to include new providers coming into regulation, and is sufficiently flexible to take account of changing trends within the health and social care markets and the wider political and economic climate. In particular, we will want to consider the potential impact on CQC's fees scheme of the recent government White Paper, *Equity and Excellence: Liberating the NHS* (www.dh.gov.uk/LiberatingtheNHS).

We may also wish, over time, to develop the fees scheme to encourage performance, both in terms of providers' compliance and to improve our own efficiencies as a regulator. This will require us to collect further data in order to more accurately measure the direct and indirect costs of our regulatory activities as the registration model beds in.

At the same time as consulting on fees proposals, we are reviewing our fees payment systems, including online payment facilities. We recognise that developing our payment systems serves two purposes – it improves our customer services and increases processing efficiencies.

3. Give us your views

The questions we have asked about fees for providers that are registered under the Health and Social Care Act 2008 from April 2011 are:

1. Do you agree with our proposals to charge fees based on the categories and bandings we have set out above?

Yes No

Please provide more information on your answer, specifically on the proposal that you do not agree with, and why.

2. Do you agree with our proposals to charge fees at the levels we have set out above?

Yes No

Please provide more information on your answer, specifically on the proposal that you do not agree with, and why.

3. Do you agree with our proposals to charge separate fees to providers that carry out services that span within or across categories?

Yes No

Please provide more information on your answer, specifically on the proposal that you do not agree with, and why.

4. Do you agree with our proposals to incorporate registration and variation applications fees into a single annual fee?

Yes No

Please provide more information on your answer, specifically on the proposal that you do not agree with, and why.

5. Do you agree with our proposals to streamline payment dates for annual fees so that all providers pay a single fee on a specified date each year, and on the same date thereafter?

Yes No

Please provide more information on your answer, specifically on the proposal that you do not agree with, and why.

Please send us your response by **Monday 17 January 2011**.

There are three ways you can give us your feedback:

Email

Email your response to feeconsultation@cqc.org.uk.

Post

Write to us at:
April 2011 Fees Consultation
Care Quality Commission
103-105 Bunhill Row
Freepost Lon 15399
London EC1B 1QW

Online

Using our online form at
www.cqc.org.uk/yourviews/consultations/registrationfeesscheme.cfm

Protecting your rights**Following the code of practice for public consultations**

This consultation follows the Cabinet Office Code of Practice on public consultation. This means we aim to:

- Consult widely throughout the process, allowing 12 weeks for written consultation at least once during the development of the policy.
- Be clear about what our proposals are, who may be affected, what questions we want to ask and the timescale for responses.
- Ensure that our consultation is clear, concise and widely accessible.
- Ensure that we provide feedback regarding the responses received and how the consultation process influenced the development of the policy.
- Monitor our effectiveness at consultation, including through the use of a designated consultation coordinator.
- Ensure our consultation follows better regulation best practice, including carrying out a regulatory impact assessment if appropriate.

Confidentiality of information

The information you provide in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you want the information you provide to be treated as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation. But we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding. We will process your personal data in accordance with the DPA and, in most circumstances, this will mean that your personal data will not be disclosed to others.

Further information

If you have any comments or queries about the consultation process, please contact us on 03000 616161 or use the contact details above.

Appendix A

Section 85 of the Health and Social Care Act 2008

85 Fees

(1) The Commission may with the consent of the Secretary of State from time to time make and publish provision—

- (a) requiring a fee to be paid in respect of—
 - i. an application for registration as a service provider or manager under Chapter 2,
 - ii. the grant or subsistence of any such registration, or
 - iii. an application under section 19(1);
- (b) requiring English NHS bodies, English local authorities, persons registered under Chapter 2 and such other persons as may be prescribed to pay a fee in respect of the exercise by the Commission of such of its other functions under this Part as may be prescribed.

(2) The amount of a fee payable under provision under subsection (1) is to be such as may be specified in, or calculated or determined under, the provision.

(3) Provision under subsection (1) may include provision—

- (a) for different fees to be paid in different cases,
- (b) for different fees to be paid by persons of different descriptions,
- (c) for the amount of a fee to be determined by the Commission in accordance with specified factors, and
- (d) for determining the time by which a fee is to be payable.

(4) Before making provision under subsection (1) the Commission must consult such persons as it thinks appropriate.

(5) If the Secretary of State considers it necessary or desirable to do so, the Secretary of State may by regulations make provision determining the amount of a fee payable to the Commission by virtue of this section, and the time at which it is payable, instead of those matters being determined in accordance with provision made under subsection (1).

(6) Before making any regulations under this section, the Secretary of State must consult the Commission and such other persons as the Secretary of State thinks appropriate.

(7) For the purpose of determining the fee payable by a person by virtue of this section, the person must provide the Commission with such information, in such form, as the Commission may require.

(8) A fee payable by virtue of this section may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

© Care Quality Commission 2010

Published October 2010

This document may be reproduced in whole or in part in any format or medium for non-commercial purposes, provided that it is reproduced accurately and not used in a derogatory manner or in a misleading context. The source should be acknowledged, by showing the document title and © Care Quality Commission 2010.

How to contact us

Phone: 03000 616161

Email: enquiries@ccq.org.uk

Registered Office:

Care Quality Commission

Finsbury Tower

103–105 Bunhill Row

London EC1Y 8TG

Please contact us if you would like a summary of this document in other formats or languages.



Corporate member of
Plain English Campaign
Committed to clearer communication.

459