

Response to
Consultation Paper
Proposed Amendments to the National Health Service
(Charges to Overseas Visitors) Regulations 1989

Prepared by

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This short paper is prepared in response to the consultation document:

Proposed Amendments to the National Health (Charges to Overseas Visitors) Regulations 1989: A Consultation published on 28 July 2003.

General Comment

Examining this document one is struck by its underlying discourse that contains implicit assumptions and doctrines that render it a document with an ideological perspective. It cannot therefore be said to reflect a value free consultation on a narrow range of administrative arrangements.

A few examples will illustrate this point.

- The use of a fiscal based definition of eligibility
- Assumptions of abuse unsubstantiated by evidence
- An ethnocentric approach to the provision of health care
- Implicit acceptance of the market driven approach to health provision
- A centralised and heavily bureaucratised management approach rather than that of a decentralised health care culture
- The retention and extension of an approach that was first introduced to the National Health Service in 1982 as a consequence of a particular ideological perspective on health care.
- In Sociological terms the document accepts the basic premise of a liberal (classical sense) approach to the provision of health care. In particular the propositions advanced by rational choice theory with its implicit emphasis on the 'free rider' syndrome which is both arguable and against the spirit of the National Health Service as originally conceived

The document and its approach therefore illustrate the misconceptions that lie at the heart of the problems of the health care system in the UK. That is the imposition of inappropriate administrative and management procedures that increase rather than diminish the workload and pressure on health care professional and have nothing to do with the development of a quality approach to health care.

Further such approaches involve and require a significant diversion of resources from health care to administration and management for unproven benefits and provide an environment for a negative care culture.

There is a case to re-examine who and who is not entitled to treatment under the National Health Service but that needs to proceed from a set of argued principles that respect the original conception of the NHS, principles of equity and fairness, are mindful of administrative resources and contribute to a culture of care that is inclusive rather than exclusive.

Fundamental Objections

Bearing in mind the above points it is clear that the approach of the consultation document is fundamentally flawed on principle and in practice particularly from a modern management perspective which emphasises shared values and the development of a positive organisational culture around a common vision..

Underlying Principles

1. The first and most fundamental assumption has to be that National Health Service employees must assume entitlement for all British subjects. The use of fiscal criteria a measure of entitlement is intrinsically flawed.
2. The concept of ordinarily resident is neither simple nor a matter with which health care professionals should be concerned. It is the domain of the tax lawyer and the accountant not the Doctor or health care administrator. The introduction of such principles into the system is dysfunctional in terms of building a care environment.
3. Moreover the proposals discriminate against British subjects who have paid a lifetime of taxes, are abroad for a variety of reasons family, professional and who may be in an ambiguous situation in the country in which they live as far as medical care is concerned.
4. Moreover people have a habit of growing old, family and friends die and what may have been an acceptable level of risk at one point in time becomes unacceptable later.
5. Further the proposals discriminate between those who are abroad in the bureaucratic class from those who are abroad and may be teachers or other professionals. For some reason the rights of those in Government employ or in well paid multinational positions are to be treated more favourably than the many tens of thousands of teachers of English language or others who do not enjoy the benefits of stable, pensioned or favourable contractual arrangements.
6. The document ignores totally the implications of globalisation, changing work patterns and the economic and social benefits of the British diaspora for the British economy.
7. Those British subjects the document wishes to exclude from care will very often be making or have made a substantial contribution to the British economy. This will be through visible and invisible exports both direct and indirect, the

international development of the English language and through support for British image and endeavours abroad. As a result they may well be making a contribution to the British economy that is significantly greater than most residents in the UK.

8. The lack of a global perspective is also shown by the manner in which that the document implies that the Health Service is exploited by people living abroad who are queuing to enjoy the benefits of UK health care. Such attitudes are a symptom of parochial attitudes and an ethnocentric mentality that were characteristic of Parish Councils when administering the Poor Law.
9. It conveniently ignores the basic reality, which is that the Health Service is systematically exploiting the investments of third countries in medical and health care. The National Health Service would collapse if it did not regularly lure overseas Health Care professionals to work in the UK. It is somewhat ignoble therefore to make unsubstantiated claims about the exploitation of its resources by those self same countries.
10. In particular the stereotypical thinking of the authors of the document is evidenced by its view on expatriates. It clearly sees them as a group of affluent tax dodgers on a holiday spree (hence the reference to a fiscal definition of residence). The reality is that British citizens live abroad for many reasons, that tax is but one factor and their residence abroad saves the British taxpayer substantial sums as they do not enjoy the societal benefits they may have paid for over many years. It is therefore both cruel and heartless to withdraw what is effectively a safety net for British subjects abroad who may have very modest means and who through no fault of their own may be forced to seek medical help in the UK.
11. It is important for any Government to recognise they are dealing with individual human being and not subscribe to crude stereotypes and unsubstantiated claims. The Consultation Document by its flawed arguments, unsubstantiated allegations and crude managerialist perspectives demonstrates a thinking that is a long way from the original ideals of the National Health Service.
12. Many of its proposals will impose additional and unnecessary burdens on hospitals and medical staff and most importantly detract from a caring culture that is critical for the development of a successful and invigorated health service that has high standards at the centre of its mission.

Comments on Consultation Document by Chapter and Paragraph

Introduction

- 1.1 The Regulations referred to were first made in 1982 as a political response to conditions and that time. They are therefore not part of the Health Service's original mission
- 1.2 It is equally arguable that the Health Service was intended to provide health care for all British subjects and others who were in the United Kingdom and that residence was not a condition. The existing regulations can themselves be

considered an aberration that complicate and not support good health care practice. Uniformity in regulations is not itself a virtue if it produces inflexibility

- 1.3 The closing of loopholes is a process that in this case involves the creation of additional bureaucratic burdens on a service that has been substantially damaged by misconceived managerial and administrative initiatives. A thin layer of rhetoric is used to justify imposing these extra administrative burdens. The alleged gaps and loopholes can be considered exceptions to the general that are acceptable if they provide flexibility.
- 1.4 The term 'abuses' prejudices the outcome of the consultation. What are termed abuses are in many cases the worthy by products of a National Health Service that are justified on the basis of equity, common decency and administrative convenience. In particular what is the moral justification for withdrawing medical care from an asylum seeker whose application has failed. Such hospital care may have stated before hand. What will medical staff do on hearing an application for asylum has failed? Show them the exit! What is the moral case for declining free hospital care for someone who has worked abroad for longer than five years, for example an underpaid overseas care worker, merely because they are not in Government service or work on contract for a multinational? It is also clear that the system is not being made fairer for overseas pensioners and the use of such language is Orwellian.
- 1.5 The regulations may not 'require' but they would (as the existing regulations already have) undoubtedly make life extremely unpleasant at a difficult time and erect substantial barriers between a hospital and all its patients. Bureaucratic regulations such as those proposed require a non-caring interface between a patient and a potential patient whether or not the patient lives permanently in the UK. The layers of subtle distinctions envisaged in the Consultation Document of necessity turn care staff into investigators.
- 1.6 Noted and submitted by the due date
- 1.7 Noted
- 1.8 Noted
- 1.9 Noted

What are the Current Rules?

- 2.1 The assumptions made here ore of relatively recent origin, In principle it is inequitable to deprive British citizens of a service that they have paid for purely on the basis of where they may be living. The principle logically followed in other areas can for example deprives British Citizens of their basic pension rights
- 2.2 The assumption that a taxation principle subsequently extended to the education service should therefore thereby necessarily be a criteria for access to the National Health Service implicitly accepted here is neither logical nor appropriate as one is dealing with fundamentally different social mechanisms and processes.

2.3 There is no reason why the existing principle which allows flexibility and humanity in a Trust's approach to those needing care should be put in the interpretative straitjacket proposed by this paragraph.

2.4 Noted

2.5 Noted

2.6 Noted

2.7 Noted

2.8 In a clinical and caring situation the question proposed is inappropriate and detracts from a caring relationship. As to the point about specialised staff, what is being referred to here is a further layer of bureaucracy that will inevitably create further and increasingly more complicated procedures. Questions as to what sort of documentation arise first, then inevitably how does one trust the documentation and then what happens if the documentations changes or is out of date etc in an endless spiral of self justification and protective behaviour on the part of staff whose first task is to deter rather than care.

2.9 There are, in clinical conditions, close juxtapositioning of the trivial and the serious. To limit a health professional's judgement in the manner proposed is fundamentally unethical.

2.10 Noted

Why do the Regulations need to be amended?

3.1 The reference to inaccurate media coverage is welcomed but then ignored in practice as the Consultation document accepts the very prejudice to which it refers. To classify British subjects who may have lived abroad for some time but who nevertheless may regard the UK as home in the same group as so called 'health tourists' is disingenuous.

To base a radical change on such flimsy foundations as '*it seems* that the patient has come to the UK expressly to receive free health care' is really rather weak. Further research as to the facts is clearly needed, as it is a basic maxim in any sound control system that benefits must outweigh the costs.

The cost of preventing some poor women from a country that has been stripped of its health professionals from receiving the care of those same professionals on British soil just in case it may be free is going to be significantly greater than the marginal cost to the NHS of that service. Particularly when those changes are creating fear in the elderly British community spread throughout the world.

3.2 The justification for the changes based on '*there seem* to be more people' etc ignores the fact that such perceptions could easily be based on the isolated instance.

Further the fact that in the UK there are now there are more 'foreign looking people' who may not fit into accepted categories easily gives rise to fundamentally mistaken assumptions.

3.3 'It has become clear' is based on what evidence? The anomalies mentioned may well be considered normal variation in a system or based on potential misconceptions or incorrect or arguable assumptions

3.4 Did the DH consult with medical or care staff or did they merely restrict themselves to administrative staff who are not aware of the foundations of a caring service.

The use of a cliché like 'global society' unfortunately does not hide the ideological and ethnocentric prejudice that is at the heart of the document.

3.5 The document clearly accepts it is a small minority that abuse the situation and yet it proposes measures that are clearly disproportionate to what may, or may not, be considered abuse.

Proposed Amendments to Existing Exemptions

4.1 A most objectionable, weakly argued, morally reprehensible and unpleasant amendment. One of the pre-eminent situations for a healthy family life is that a man supports his wife in giving birth. What sort of staff are employed in a national health service that find it surprising that a pregnant women would want her spouse or partner around when giving birth. By definition the husband or partner is in the UK and presumably making an economic contribution to the Community and the fact that his spouse or partner may prefer to normally live with her family abroad is wholly irrelevant.

4.2 The amendment is not justified by the argument and ignore the very different cultural traditions abroad that encourage a wife and children to stay at home while the husband is abroad supporting the British economy

4.3 A paragraph that is an excellent illustration of the mind of the petty official. Consider the situation of a pregnant women coming over to be with her husband and then going through the mill of officialdom to provide evidence suggested. The damage to the reputation of the UK as a compassionate country which is of great political benefit overturned because of an officials reaction to one case (in 4.1) which itself is perfectly acceptable to anyone with British interests at heart.

Questions

- Charges should not depend on the individual residence of the spouse or children
- The regulation proposed is misconceived

- To erect further bureaucratic regulations on dependents is unnecessary and provides for potential conditions for an expensive administrative nightmare
- The only evidence a hospital should need is confirmation by an employer that the employee is employed in the UK. End of story.
- The final question on schooling has nothing to do with the consultation but merely illustrates the prejudice and bias of the Consultation document.

Regulation 4(a)(i)

- 4.4 One case seems scarcely to justify the potential imposition of a new bureaucratic control structure. The public relations benefit and goodwill engendered by the case mentioned was probably quite substantial. What does employment based in the UK mean? Does it exclude those in the UK who may effectively be employed by offshore companies?
- 4.5 The proposed amendment is imprecise, discriminates against those such as Foreign correspondents and others who are providing the UK with significant benefits. The problems are well illustrated by the questions covering this section
- 4.6 The original intent of the exemption was to provide health care for those in the UK who were performing a useful function in our Society. The amendment fails to recognise the globalisation it so carelessly refers to earlier and the complexity and potential unfairness of the proposed restriction.

Questions

- The amendment is not too widely drawn and would lead to increasingly complex administration .
- While rejecting the need from anything other than a simple letter from an employer or the patient themselves this question implicitly recognises the procedural problems such changes engender.
- The need for definitions and subtle distinctions and the consequent administrative machinery required to maintain such distinctions and definitions justifies rejection of the concept proposed.
- A sad question. If someone is working as self employed in the UK and has the misfortune to injure themselves, is it reasonable to say ‘ Hard luck you will now have to pay even though we have had the benefit of your talent but you are now of no more use to us’
- This change will not effect the well paid sportsman but much more the poorly paid entertainer or Circus performer who has enriched British life but has limited resources

Regulation 4(a)(ii)

4.7 Sandwich courses and MBA programmes are still provided. And care needs to be taken that the new exemption includes such students who provide a valuable income to many Universities and other training institutions

4.8 Noted

4.9 Noted

Questions

- Insufficient information of education and training provided for students other than Nurses to respond

Regulation 4(b)

4.10 This paragraph mixes two unrelated issues. The first issue covering those coming here for private medical treatment is very different from the second. The second issue covering other potential groups is very much more contentious. It is a matter of civilised behaviour. It is clear that asylum is a very emotive issue and it is a matter for the Home Office not for Hospital Authorities who should have a very different set of priorities.

4.11 The issue is only a difficult one if the assumption is made that providing free treatment for persons who have spent the previous twelve months in the UK is wrong. The principle is a very simple one and it must not be for Hospital Services to work as an immigration controllers. What was the original intention of the exemption was to demonstrate that the United Kingdom was a Country with compassion and a sense of decency. The Consultation document here demonstrates yet again its ideological bias in wishing to take issue with a simple and basic principle.

4.12 The point about those here for private treatment is clear and not unreasonable. To further extend the argument to other groups totally unrelated involves issues of privacy, misplaced roles and the unjustified destruction of a basic principle.

4.13 It is the task of the Home Office and the relevant organs of the State to deal with these issues. It is not the job of a hospital, a doctor or nurse or a care assistant to take on the role of policeman. It also involves fundamental issues of confidentiality and patient care. Though of course we could introduce the Communist system of a denunciation book where hospital staff could note anonymously those they suspect!

Questions

- It is reasonable to exclude those admitted for private treatment subject to exemption on compassionate grounds (death of breadwinner for example)
- Exemptions are both desirable and essential to prevent hardship
- The general principle of free treatment for any those living in the UK for over twelve months should remain as it provides clarity and ensures that the Health Service does take roles that are inappropriate for a caring service
- National Health Service should remain inclusive and not exclusive as a basic principle so further categories of the excluded are not justified,
- Hospitals should refrain from interfering in relations between legal authorities and the individual and merely satisfy themselves that the patient is resident
- Hospital confidentiality should be total and it is, to use a cliché, the thin end of the wedge to argue confidentiality is correct here but not there so that ultimately it becomes a voluntary principle. It is frankly the antithesis of care to make patients terrified to come for medical treatment in case they are reported to the police. Such attitudes should be unacceptable to any democratic state. It is a hallmark of authoritarian regimes.

Regulation 4(k)

4.14 This regulation is already too strict and it is totally unacceptable to further destroy the rights of British Citizens.

It is clear that the intention of the original legislation was that British Citizens who had worked in the UK for 10 years and who lived abroad but nevertheless felt that home was the United Kingdom should continue to be entitled to free care under the National Health Service.

The principle is a fundamental one that this consultation document consistently tried to undermine.

4.15 It is not an awkward exemption category because it is not an exemption as such but sets out in the form of an exemption a basic principle. It is only awkward for those who by definition consider British Citizens those who live abroad to be ineligible for National Health care which is the underlying assumption of the Consultation document.

4.16 The proposed amendment will create major difficulties for many British citizens as it is ill conceived, inequitable, breaches a fundamental principle of the National Health Service, will cause suffering to many vulnerable people and breaches the psychological contract that exists between the State and its Citizens abroad

4.17 The NHS was created by British Citizens and UK residents who through their taxes and national insurance contributions created a service to provide a free

health care to those that needed it. It was never intended to discriminate among UK citizens on the basis of residence.

The use of the word 'manipulate' in line 9 is an insult to the many pensioners and others living abroad who are forced through social and economic circumstances to return on health grounds to the place considered home.

The issue cannot be jugged by the crude and simplistic economic determinism suggested in this paragraph by crass use of the terms such as 'manipulation' and 'otherwise have to pay for'.

The Health Service benefits from the hundreds of thousands of British Citizens who live abroad and pay for local health care and therefore do not use the National Health Service. These British Citizens have previously contributed to the National Health Service through taxes and other contributions and undoubtedly the NHS has benefited to many billions of pounds. To deprive a minority of their rights is therefore little short of theft.

The amendment misunderstands the nature of the expatriate community, the reasons why people go abroad, the reasons why British Citizens may need to return to the UK for health care, the nature of employment abroad, the temporal changes in family life cycles and it also demonstrates a fundamental ignorance of the original intention of the National Health Service.

- It discriminates against mixed marriages where a British Citizen feels obliged to live abroad for the sake of the other.
- It discriminates against the self employed or casually employed British Citizens who live abroad and do not have secure or permanent positions and are therefore not entitled to health care The example here being those tens of thousands of British teachers, academics and journalists who bring substantial benefits to the UK yet are in a legal limbo in their host country.
- It discriminates against family life by forcing British Citizens to bring their spouse to the UK or face future problems
- It discriminates against those British Citizens who may lose a national partner and who find it difficult to cope with the culture, language and attitudes of health organisations in their host country.
- It discriminates against the mentally ill and the frail, who are already feeling threatened by these proposals and who feel forced to return to England or face an uncertain future.
- It discriminates against spouses or partners who move abroad to be with their partner and may subsequently need to return to the UK following divorce or family breakdown

- There are of course many other categories of British Citizens who may be abroad for longer than five years such as health workers, missionaries, business-people and technicians and who would despite their contributions to the UK coffers and their other contributions to the UK face discrimination because they have been abroad for longer than five years.

Questions

- The exemption should be retained and the underlying principle explained to Administrators.
- A British passport and an address in the UK should be all that is required by Hospital staff
- Many exemptions are required which are listed above and demonstrate the fundamental inequity of the proposals

Proposed New Category Exemptions

New Exemption 1 Overseas Students

The change appears to be a welcome simplification and easy to administer

New Exemption British State Pensioners

5.3 Noted

5.4 Noted

5.5 Noted

5.6 The existing regulations are already grossly unfair to British pensioners who have paid a lifetime of taxes for which they see little benefit. These Pensioners represent a considerable saving to National Health Service as they only return to the UK for treatment when necessary. . The proposals do not change this fundamental inequality and the Consultation document will make their situation worse. To present the proposals as an improvement is therefore rather a misuse of language

5.7 The use of emotive language in relation to British Pensioners who have paid a lifetime of taxes and contributed to the growth of the British economy and the National Health Service is unfortunately indicative of the narrow minded, bigoted and intellectual frailty of the views that are present throughout this document. 'Deliberate abuse ' is neither a considered judgement nor is it an objective analysis of the reality of the situation of British pensioners.

5.7 The UK has a moral obligation to all its pensioners who live abroad. This Consultation document should endeavour to ensure that British Citizens who have lived in the UK all their life are assured access to the National Health Service when necessary. Why discriminate against someone because he chooses to live in Estonia rather than Norway?

End Of Response