

# **Healthcare Improvement Scotland: Independent Healthcare Fees Consultation**

**October 2023**

# Healthcare Improvement Scotland: Independent Healthcare Fees Consultation

## Background/Introduction

Independent hospitals have been regulated by Healthcare Improvement Scotland (HIS) since 1 April 2011 and from 1 April 2016, independent clinics where services are provided by a medical practitioner, dental practitioner, registered nurse, registered midwife or dental care professional have also been regulated by HIS.

Following a consultation in early 2023 on various aspects of the regulation of independent healthcare services, we intend to amend current regulations in order to:

1. regulate independent healthcare services provided by pharmacists and pharmacy technicians which are not provided under the terms of an NHS contract or from non-General Pharmaceutical Council (GPhC) registered premises;
2. regulate independent medical agencies providing healthcare services which consist of or include the provision of services by a medical practitioner, dental practitioner, registered nurse, registered midwife, dental care professional, pharmacist, or pharmacy technician. This would include independent medical agencies operating entirely online.

The analysis of the consultation be found [here](#). This further consultation is required to ensure that the fees required for the effective regulation of independent healthcare services is fairly implemented.

[Section 10Z5 of the National Health Service \(Scotland\) Act 1978](#) (The 1978 Act) states that HIS must impose fees in respect of:

- a. applications for registration or for cancellation of registration of independent healthcare services;
- b. the annual continuation of any such registration;
- c. applications for the variation or removal of a condition of registration under the 1978 Act; and
- d. issuing to a person a new certificate of registration—
  - (i) at the instance of that person;
  - (ii) by virtue of any application by that person; or
  - (iii) by virtue of any new information provided by that person in pursuance of regulations under this group of sections (within the meaning of section 10S(2)(a)).

In fixing fees under section 10Z5 of the 1978 Act, HIS must have regard to its reasonable expenses in carrying out its functions.

[The Healthcare Improvement Scotland \(Fees\) Regulations 2016](#), which commenced on 1 April 2016, prescribe the current maximum fees for registration, continuation, cancellation, and application made for the variation or removal of a condition of registration which may be imposed by Healthcare Improvement Scotland.

The regulation of independent healthcare by HIS should be self-funded. However the Scottish Government agreed to provide HIS £260,000 annually from 2022-23 as HIS advised that income from fees was not keeping pace with the growth in, nor the cost of regulating, independent healthcare services. The increase in fees will work towards addressing the gap in funding required for the regulation of independent healthcare, however we anticipate an annual SG fund will be required to address any shortfall.

Since the maximum fees that HIS is able to charge to regulate independent healthcare services were set in 2016, HIS continues to review its costs for carrying out its regulatory functions annually and consults with independent healthcare services prior to any increases in fees.

## Proposals for reform

In 2023-2024, HIS reached the statutory maximum registration fees of £3500 and £5000 that it is able to charge to regulate independent clinics and independent hospitals respectively. HIS is also approaching the maximum statutory continuation fees that it is able to charge to regulate services. Details of the current fees is available on the [HIS website](#).

The statutory maximum fee that HIS can charge for the variation or removal of a condition of registration or the cancellation of independent healthcare services is currently £100. However, in the past it has not routinely charged for these to help reduce costs for service providers. In many cases variations to individual independent healthcare services are relatively minor but HIS is now seeing an increasing number of significant and often speculative variations which require greater input and resources from HIS and the costs to HIS far exceed the £100 statutory maximum fee limit. For example a change to add general dental services to a service requires input from dental practice inspectors or changes to mental health services may require input from a psychiatrist. Where clinical specialties are not available in house, HIS has to pay commercial rates for this expertise. We propose to increase the maximum fees for variation to services to £1000 to give HIS scope to address the more complex changes to independent healthcare services. As with other fees, it is envisaged that HIS will charge for variations on a scale which is representative of the cost of the work, or look to bill for each variation based on the actual cost, up to the maximum.

For the cancellation of independent healthcare services, the current maximum statutory fee for the cancellation of a service is £100 and we do not propose to increase this.

In addition to the fees set in regulations for independent hospitals and independent clinics, we will need to amend the fees regulations to prescribe maximum fees that HIS will be able to charge in relation to independent medical agencies (a new type of service being regulated).

The following tables list the current statutory maximum fees and proposed new maximum fees.

### **Current Maximum Fees**

| <b>Service</b>               | <b>Application for Registration (£)</b> | <b>Annual Continuation (£)</b> | <b>Variation or Removal of Condition (£)</b> | <b>Cancellation of Registration (£)</b> |
|------------------------------|---|--------------------------------|--|---|
| Independent Hospital         | 5,000                                   | 250 per place*                 | 100  | 100                                     |
| Private Psychiatric Hospital | 5,000                                   | 250 per place*                 | 100  | 100                                     |
| Independent Clinic           | 3,500                                   | 3,500                          | 100  | 100                                     |
| Independent Medical Agency   | N/A                                     | N/A                            | N/A  | N/A                                     |

\*per bed

### **Proposed New Maximum Fees**

| <b>Service</b>               | <b>Application for Registration (£)</b> | <b>Annual Continuation (£)</b> | <b>Variation or Removal of Condition (£)</b> | <b>Cancellation of Registration (£)</b> |
|------------------------------|---|--------------------------------|--|---|
| Independent Hospital         | 10,000                                  | 500 per place*                 | 1000   | 100                                     |
| Private Psychiatric Hospital | 10,000                                  | 500 per place*                 | 1000   | 100                                     |
| Independent Clinic           | 7,000                                   | 7,000                          | 1000   | 100                                     |
| Independent Medical Agency   | 7,000                                   | 7,000                          | 1000   | 100                                     |

\* per bed

While we are proposing an increase in maximum fees, it's important to note that any annual fee adjustment will take the form of a minor incremental increase, typically reflective of inflation rates.

HIS' intention is to ensure that their services remain affordable while allowing them to cover rising operational costs. We understand the significance of financial stability for both independent healthcare providers and HIS, and the aim is to strike a balance that maintains fairness and quality.

The proposed increase in maximum fees is a precautionary measure, giving HIS the flexibility to address unforeseen circumstances or exceptional changes in the economic landscape. However, the primary focus remains on gradual and predictable adjustments that keep pace with the cost of living and/or the costs of regulating these services. The costs should reflect the amount of time, type of service and resource HIS spends regulating the sector.

In HIS' ongoing commitment to upholding the highest standards and ensuring an effective regulatory framework, it is essential to address the changing landscape of HIS' operational costs. Over the years, HIS has diligently overseen the safety and compliance of services, while supporting improvements through regulation and therefore contributing to the independent healthcare landscape integrity. As HIS' responsibilities and remit continue to adapt to this evolving healthcare environment, there needs to be a necessary adjustment to the fees they are permitted to charge.

As the complexities of regulation increase, so do the costs associated with maintaining a proficient team, sophisticated technology, and streamlined processes. The decision to revise HIS' fees is in direct response to the escalating costs of running the organisation, enabling them to sustain the quality expected by the public.

The Scottish Government and HIS remain committed to transparency and accountability. The revised fees reflect a balanced approach that considers the growing expenses while ensuring fairness to all regulated independent healthcare providers.

We understand that changes in fees can raise questions and possibly concerns, and we want to provide you with a transparent understanding of the reasons behind this proposal.

The independent healthcare sector is wide and varied and the landscape has evolved significantly in the recent years. The Scottish Government and HIS' commitment to ensuring the highest quality of service remains unwavering, and it is therefore now necessary to consider making adjustments to HIS' fee structure.

It is important fees reflect the increasing costs in order to maintain the standard of excellence across the independent healthcare landscape in Scotland. We invite you to share any thoughts or questions you may have regarding this fee adjustment through this consultation. Your feedback is incredibly important to us, and we are here to address any concerns or clarify any points you'd like to discuss.

## Responding to this Consultation

We are inviting responses to this consultation by 11 December 2023.

Please respond to this consultation using the Scottish Government's consultation hub. Access and respond to this consultation online [here](#). You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 11 December 2023.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Safety Openness & Learning  
Directorate of Chief Operating Officer  
Scottish Government  
GER  
St Andrews House  
Edinburgh  
EH1 3DG

## Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our [privacy policy](#).

## Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material,

responses will be made available to the public on our [consultation hub](#). If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

## Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [independenthealthcare@gov.scot](mailto:independenthealthcare@gov.scot)

## Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online via the [consultation hub](#). Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

## Consultation Questions

- 1) Do you agree that the regulation of independent healthcare services should continue to be funded through fees charged by HIS to private providers?

Yes

No

- 2) Do you agree with the proposed maximum fees that HIS can charge for the commencement of the regulation of independent medical agencies?

Yes

No

- 3) Given the increasing costs required to regulate independent healthcare, do you agree that the proposed maximum fees Healthcare Improvement Scotland can charge, as outlined in the background information, is required?

Yes

No

- 4) If you do not agree with the proposed maximum fee adjustment, what alternative approaches or strategies do you believe would be fair and effective? Specifically, how would you suggest HIS address the challenges of the rising costs they incur while regulating independent healthcare services due to inflation, while minimising the impact on their stakeholders?



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