

Public Consultation on Independent Healthcare Fees: Scottish Government response to the Analysis Report findings

April 2024

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Background

Effective regulation of independent healthcare is an important element in supporting public safety. From 16 October 2023 to 11 December 2023, the Scottish Government ran a public consultation on independent healthcare regulation fees with proposals to revoke and replace the Healthcare Improvement Scotland (Fees) Regulations 2016 in order to increase the maximum fees Healthcare Improvement Scotland (HIS) can charge independent healthcare providers.

The consultation particularly sought views on whether regulation of independent healthcare services should continue to be funded through fees charged by HIS to private providers, and if respondents agreed with the proposed fees.

The Consultation also pursued views on alternative approaches and strategies HIS could adopt to address rising operating costs while maintaining their regulatory responsibilities.

Findings of the Consultation and Analysis Report

We have now published the [responses to the consultation](#). The links to the Consultation Analysis Report and We Asked, You Said, We Did can be found [here](#).

The consultation received 105 responses, of which 83 were from individuals and 22 were from organisations. The majority of respondents identified themselves as being affiliated with an independent healthcare service, either identifying as the owner or working for such businesses.

We anticipated that the responses may be weighted against increasing fees and the headline findings from the analysis report support this. The headlines are as follows:

53% of respondents did not agree that the regulation of independent healthcare services should continue to be funded through fees charged

by HIS to private providers. 46% did agree, with only one respondent not providing an answer to the question.

83% of respondents did not agree with the proposed maximum fees that HIS can charge for the commencement of the regulation of independent medical agencies. Only 15% agreed, and 2 respondents did not answer the question.

87% of respondents did not agree that the proposed increases to the maximum fees HIS can charge are required. 13% did believe the increase in fees is required.

When asked about alternatives to the fee increases, 50% of respondents suggested that non-healthcare professionals should be registered. 34% felt that fees should be based on the size of the business. Other suggestions included regulating cosmetic services, basing fees on business size and services provided, and central funding by the Scottish Government.

Scottish Government Response

The response to the proposals was considered by Scottish Ministers. Ministers decided that the proposals are essential in ensuring public safety. It is vital that HIS has the necessary resources to fund its regulatory responsibilities, therefore the Scottish Government will proceed with developing this legislation in relation to fees.

However, in response to the large majority of respondents who did not agree with the proposals, we are proposing a reduced maximum fee cap in a number of areas.

Responses to the first question revealed only 46% of respondents agree that the regulation of independent healthcare services should continue to be funded through fees charged by HIS to private providers, but almost all were strongly opposed to the proposed increases to the maximum cap on HIS fees.

Through analysis and consideration of the responses, we concluded that respondents are unlikely to be fully representative of the public as a whole, who from the results of previous consultations, have been shown to be supportive of further regulation of independent healthcare services.

Although the priority for the Scottish Government must always be public safety, it is also important that we engage constructively with the responses to a consultation such as this. Following the consultation, we carefully considered the reaction to the proposed increases, and discussed the results and possible alternative solutions with HIS directly.

It was agreed that raising the maximum fees as originally outlined would have been unpopular.

We considered not increasing the maximum cap for the fees at all, but this option could result in HIS being unable to function effectively as the independent healthcare regulator, leading to public safety concerns.

We therefore considered a compromise solution, where fees would be increased and thus HIS would benefit from increased income to fund regulation, but to attempt to mitigate the impact on business by generally cutting the maximum cap originally proposed.

After due consideration, Jenni Minto MSP, Minister for Public Health and Women’s Health, confirmed that the Scottish Government’s decision was to progress with a fee increase but make reductions to some of the proposed maximum fee caps.

This solution would allow HIS to continue to raise their fees annually, covering vital operational costs, while taking account of the views and concerns of respondents to the consultation.

This table details the original fee proposal:

| Proposed Maximum Fees | | | | |
|-------------------------------------|---|--------------------------------|--|---|
| Service | Application for Registration (£) | Annual Continuation (£) | Variation or Removal of Condition (£) | Cancellation of Registration (£) |
| 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 |

| Proposed Maximum Fees | | | | |
|-----------------------------------|---|--------------------------------|--|---|
| Service | Application for Registration (£) | Annual Continuation (£) | Variation or Removal of Condition (£) | Cancellation of Registration (£) |
| Independent Medical Agency | 7,000 | 7,000 | 1000 | 100 |

* per bed

The following table details the revised fee proposal:

| Revised Maximum Fees | | | | |
|-------------------------------------|---|--------------------------------|--|---|
| Service | Application for Registration (£) | Annual Continuation (£) | Variation or Removal of Condition (£) | Cancellation of Registration (£) |
| Independent Hospital | 7,500 | 500 per place* | 1000 | 100 |
| Private Psychiatric Hospital | 7,500 | 500 per place* | 1000 | 100 |
| Independent Clinic | 5,000 | 5,000 | 1000 | 100 |
| Independent Medical Agency | 5,000 | 5,000 | 1000 | 100 |

* per bed

Frequently Asked Questions

There were a number of common questions raised by respondents to the consultation. We have collated and provided a response to the most frequently asked ones:

Fees

- **Why are you doubling the fees?**

The registration and continuation fees are not doubling. In previous years, you will have observed an incremental increase to your fees, typically reflective of inflation rates. The amendment to the maximum

cap will give HIS the flexibility to address unforeseen circumstances or exceptional changes in the economic landscape.

The proposed increase is setting the maximum amount HIS can raise its fees to in the future. Fee adjustments will still take the form of an annual increase.

- **How were the proposed fees calculated?**

HIS modelled the proposed fees in line with historical inflation rates.

- **Can you not base fees on the size of the business?**

Certain sector fees are based on the size of the business, such as independent hospitals. The calculation of fees includes consideration of the risk each sector poses. The fee is set to reflect the amount of time needed, type of service, and resource HIS anticipate they will spend regulating each sector.

Inspections

- **Why do HIS hire third parties to inspect, when surely it would be cheaper to employ full time inspectors?**

HIS employ subject matter experts to review specific clinical specialties. There is not sufficient work to justify employing dentists or medical consultants for each specialty on a permanent, full time basis. HIS keep staff costs under constant review to ensure best value for money.

- **Each inspector seem to have different criteria, are there no standardised inspection requirements?**

Inspections are carried out in line with HIS' independent healthcare inspection methodology. The methodology outlines the important principles that guide the inspection process and how HIS ensures that people who use registered independent healthcare services are at the heart of this process. The inspection process is informed by:

- i. assessing compliance with relevant legislation

- ii. evaluating how well providers have applied Healthcare Improvement Scotland's Quality Assurance Framework in their service
- iii. assessing providers' self-evaluations, annual returns and notifications, and
- iv. involving people who use services.

- **If I only have one inspection a year, and it lasts an hour, why are costs so high?**

As part of the registration process, you will receive a registration visit. This is to ensure that the premises is suitable to provide an independent healthcare service.

The Service Risk Assessment (SRA) is the operational planning tool used to plan inspection frequency. It provides a framework for monitoring services on an ongoing basis, so that the inspection approach is risk-based and proportionate. Doing this helps HIS to target resources so that they reduce inspections of services performing well and increase inspections of services with poorer performance.

Once your service is registered, an initial SRA score is calculated, which determines when the first inspection of your service will be carried out. This will usually be 18 to 24 months following your registration date, or sooner if deemed appropriate.

Following each inspection, your SRA score will be updated, which determines when the next inspection of your service will take place. Dependent on your SRA score, the next inspection will take place between 3 months and 5 years.

Dependent on the size of your service, an inspection will take between 0.5 day to 2 days.

Regulated Services

- **Why are you not regulating aesthetic/cosmetic services provided by non-medical professionals?**

We are actively engaged with stakeholders and the Scottish Cosmetic Interventions Expert Group (SCIEG) on this issue. They have recommended a phased approach to the regulation of non-surgical cosmetic procedures and the second phase involves considering procedures that pierce or penetrate the skin and are provided by people who are not qualified healthcare professionals and who work from non-regulated premises.

- **Why are you not regulating independent pharmacists?**

the Scottish Government is laying legislation in April to amend the definition of independent clinic and independent medical agency to include pharmacists and pharmacy technicians. They will be subject to regulation by HIS.

- **Why am I being regulated by HIS as well as my professional body (GMC, GPhC, etc)?**

The professional body regulates the individual. HIS regulates the business.

Contact for further information

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This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83601-244-3 (web only)

Published by The Scottish Government, April 2024

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1453818 (04/24)

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