



Department of
Health

An Roinn Sláinte

Mánnystrie O Poustie

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Consultation on proposed amendment to The Regulation and Improvement Authority (Fees and Frequency of Inspections) Regulations (Northern Ireland) 2005

October 2016

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1. Introduction

- 1.1 The purpose of this consultation is to seek views on the proposed amendments to The Regulation and Improvement Authority (Fees and Frequency of Inspections) Regulations 2005.

2. Policy Background

- 2.1 The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 established the Regulation and Quality Improvement Authority (RQIA) as the independent body responsible for monitoring and inspecting registered establishments and agencies in order to encourage continuous improvement in the quality of health and social care services.
- 2.2 The Regulation and Improvement Authority (Fees and Frequency of Inspections) Regulations (Northern Ireland) 2005 sets out the fees payable by registered establishments and agencies and the frequency of inspections to be carried out by RQIA.

Fees

- 2.3 There are currently three categories of fees applicable to registered establishments and agencies:
- Registration Fees;
 - Annual Fees; and
 - Variation Fees
- 2.4 Fees were set in 2005 and have not been reviewed in the last ten years. Since 2005 a number of additional services have been brought under regulation and the fees for these new establishments and agencies (excluding dentists who fall under Independent Hospitals) were set at nil, pending review. This has resulted in significant variations in the current charging structure, as set out below:

Current fees charged to registered establishments and agencies

| Establishment/ Agency | Registration Fee | Annual Fee | Variation Fee |
|---|---|--|--|
| Adult Placement Agency | Nil | Nil | Nil |
| Children's Homes | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small homes - £34 | £100 £50 for small establishment or agency £25 minor variation |
| Day Care Settings | Nil | Nil | Nil |
| Domiciliary Care Agency | Nil | Nil | Nil |
| Independent Clinic | Provider = £952 Small Provider = £261 Manager = £261 | £215 | £100 £50 for small establishment or agency £25 minor variation |
| Independent Hospital (including dentists) | Person who carries on an independent hospital = £952 Person who manages an independent hospital = £261 | £46 per place (or chair) | £100 £50 for small establishment or agency £25 minor variation |
| Independent Medical Agency | Provider = £952 Small Provider = £261 Manager = £261 | £215 | £100 £50 for small establishment or agency £25 minor variation |
| Nursing Home | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small homes - £34 | £100 £50 for small establishment or agency £25 minor variation |
| Nursing Agency | £30 licence | £15 | £15 Small nursing agency = £5 Minor variation* = £5 |
| Residential Care Home | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small homes - £34 | £100 £50 for small establishment or agency £25 minor variation |
| Residential Family Centres | Nil | Nil | Nil |
| Voluntary Adoption Agencies | Nil | Nil | Nil |

Frequency of Inspections

- 2.5 The current statutory requirements provide for a minimum frequency of inspection by RQIA of its registered establishments and agencies. Voluntary adoption agencies are inspected at least once every three years. Residential care homes, nursing homes and children's homes are inspected at least twice per year. All other establishments and agencies are inspected at least once per year. These are the minimum number of inspections that take place. RQIA can inspect over and above this number when required.

3. Proposed Changes

Fees

- 3.1 The current charging structure has considerable inconsistencies. Fees remain at the original levels set in 2005 and additional categories of establishments and agencies which have come under regulation since then have had a nil charge applied. This was only ever intended to be an interim measure until all establishments and agencies were fully regulated and appropriate fee charges could be assessed. The continuation of the current regime is inequitable and unsatisfactory.
- 3.2 HM Treasury policy states that fee-setting regulators must recover full costs from providers. The Care Quality Commission in England and regulators in Scotland are moving towards full cost recovery as the basis for their fee charging. RQIA currently recovers, on average, 17% of their costs from fees and are facing the same cost reductions as many government organisations. Raising fees to full cost recovery levels would require a significant increase in charges. Whilst RQIA must be properly resourced in order to be effective and has a responsibility to cover its costs by charging fees, we are aware of the impact on providers of paying fees. Moving to full cost recovery would create a substantial financial burden on providers that we do not consider appropriate.

- 3.3 The present system of fees and charges does not reflect the actual cost of regulation. The fees are intended to be a contribution towards the cost of regulation, rather than a directly linked proportion of the cost. We are not seeking to make that link at this stage; we want to remove the disparity of having some providers who are charged and some who are not.
- 3.4 It is important that the fees we set for providers who are currently charged nil are fair and in line with existing charges. We believe that fees should be set at a level which allows providers to enter, but also to remain, in a regulated market. For that reason, we are not seeking to increase existing fees at this stage for the majority of providers who already pay. The proposed fees set out in Table 1 below are intended to address the existing imbalance between providers who pay a fee and those who do not.
- 3.5 The current regulations make provision for small establishments or agencies and lower fees are set for those providers who fall into this category. A small establishment has less than 4 approved places. We intend to keep the reduced fees for all small establishments in recognition of their financial position. A small agency employs no more than 2 members of staff at any one time, excluding someone solely employed as a receptionist. A small agency only applies to nursing agencies. RQIA are unable to monitor staffing levels in agencies and have no small nursing agencies registered. We are therefore proposing to remove the reference to small agencies.
- 3.6 An inflationary uplift will be applied to current charges year on year. This is an established mechanism leading to a nominal annual increase in fees. Without it, fees would remain static and their real value would decrease each year, leading to increased budget pressures for RQIA. An inflationary uplift would require minimal resource on RQIA's behalf to manage, meaning there would be no additional costs to pass on to providers.
- 3.7 The Department is in the process of bringing fostering agencies under regulation by RQIA. It is our intention that the fees set out below would apply to fostering agencies once they are required to be registered.

Table 1: Proposed fees for registered establishments and agencies

| Establishment/ Agency | Registration Fee | Annual Fee | Variation Fee |
|---|--|--|--|
| Adult Placement Agency | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Children's Homes | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small homes - £34 | £100 £50 for small establishment £25 minor variation |
| Day Care Settings | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Domiciliary Care Agency | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Independent Clinic | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Independent Hospital (Including dentists) | Provider = £952 Manager = £261 | £215 or £46 per place (or chair)* | £100 £25 minor variation |
| Independent Medical Agency | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Nursing Home | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small home - £34 | £100 £50 for small establishment £25 minor variation |
| Nursing Agency | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Residential Care Home | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small homes - £34 | £100 £50 for small establishment £25 minor variation |
| Residential Family Centres | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Fostering Agencies ** | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Voluntary Adoption Agencies | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |

*Where an independent hospital has no approved beds/ places then a flat fee of £215 would apply

** Currently not regulated

Frequency of Inspections

- 3.8 The existing statutory requirements in relation to the minimum frequency of inspection by RIQA have been in place since registration began. Inspections are designed to encourage improvement for those using the services and are underpinned by principles of good regulation which state that they should be transparent, accountable, **proportionate**, consistent and **targeted**.
- 3.9 RQIA has moved to a risk-based inspection regime and the benefits of this were reinforced in a recent Capability and Capacity Review. All services are risk-assessed and reviewed on an ongoing basis. However, the requirements for minimum frequencies have not been amended to reflect this approach.
- 3.10 Inspections offer the public assurances and confidence in the services being provided. They bring a level of transparency that providers and users welcome. For that reason, we are proposing new minimum frequencies rather than removing them entirely. This will ensure that providers still receive regular inspections so that any changes in performance, good or bad, can be recognised in a timely manner and trigger an appropriate response.
- 3.11 The proposed new minimum frequencies for inspections are set out in Table 2 below. They are based on regulatory experience, expertise and intelligence and will ensure that RQIA's regulation programme is appropriately focused and proportionate. We recognise that there is variation in quality between services and that a 'one size fits all' approach is not appropriate. Instead, RQIA should be able to tailor their inspection activity across different sectors and providers.
- 3.12 Inspections will continue to be central in RQIA's assessment of quality, but they will also use intelligence from incident notifications, staff surveys, user surveys, self assessments, complaints and whistle blowing to provide an up-to-date measurement of the risk posed by individual providers in between and alongside inspections. This will help RQIA to spot problems quickly so that they can prevent poor care happening in the future.

- 3.13 RQIA will work closely with providers to develop a shared understanding of the risks that it is seeking to manage and the harms it is seeking to prevent. It is important to understand that all health and care interventions have an element of risk which cannot be totally eliminated. Instead, RQIA will assess the risks and determine the right approach to managing them so that care remains safe.
- 3.14 The new minimum frequencies will free up capacity to allow RQIA to concentrate more frequent inspections on those services where the quality of care is poor or changing, whilst maintaining a presence where providers are assessed to be delivering consistently high quality care. All providers will continue to receive regular inspections to provide essential data about quality.
- 3.15 Setting a lower minimum would not rule out more frequent inspections for individual providers where poor performance, or the risk of it, is identified. It does not mean reducing the overall number of inspections, but rather targeting them where needed. It will create the flexibility required to enable RQIA to be more responsive and use its resources intelligently and effectively to ensure safety and quality are given priority. Targeting inspections recognises improvement as well as identifying and acting on poor care.

Table 2: Proposed statutory minimum number of inspections per provider type

| Type of Establishment | Current legislative frequency | Proposed frequency |
|---|--------------------------------------|------------------------|
| Adult Placement Agency | Once per year | Once per year |
| Children's Homes (including secure accommodation) | Twice per year | Twice per year |
| Day Care Settings | Once per year | Once per Year |
| Domiciliary Care Agency | Once per year | Once per year |
| Independent Clinic | Once per year | Once per year |
| Independent Hospital | Once per year | Once per year |
| Independent Hospital – Dental | Once per year | Once every two years |
| Independent Medical Agency | Once per year | Once per year |
| Nursing Home | Twice per year | Once per year |
| Nursing Agency | Once per year | Once per year |
| Residential Care Home | Twice per year | Once per year |
| Residential Family Centres | Once per year | Once every two years |
| Voluntary Adoption Agencies | Once every three years. | Once every three years |
| Fostering Agencies | Not currently regulated or inspected | Once every three years |

4. Impact assessments

- 4.1 The Department carried out a preliminary screening of the policy proposals and, as part of the screening process, concluded that a full Equality Impact Assessment was not necessary. The Department is content that there will be no adverse impact on any of the Groups listed under section 75 of the Northern Ireland Act 1998.
- 4.2 The Department carried out a preliminary screening of the policy proposals and, as part of the screening process, concluded that a Regulatory Impact Assessment is necessary as there would be a financial impact on businesses. A partial Regulatory Impact Assessment has been carried out and is attached at

Appendix 2. This will be reviewed and updated following analysis of the consultation responses.

5. How to Respond

There are several ways to respond to this consultation, should you wish to do so. You could complete and return the response questionnaire which is attached at Appendix 3 or you can respond online. We would strongly encourage you to use the online consultation questionnaire which can be accessed via the Department's website:

www.health-ni.gov.uk/consultations

Additional copies of the consultation document can be obtained by contacting the Department's Quality Regulation, Policy and Legislation Branch (contact details below).

The closing date for responses is **Friday 30 December 2016**. Responses received after this date will only be considered in exceptional circumstances and with prior agreement from the Department.

We are keen to hear from everyone who will be affected by these proposals. A response can be submitted in writing to:

Quality Regulation, Policy and Legislation Branch
Department of Health
Room D1, Castle Buildings
BELFAST
BT4 3SQ

Tel: (028) 9052 8332

Or by email to: QRPL@health-ni.gov.uk

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 STATUTORY RULES OF NORTHERN IRELAND

2016 No. XXX**HEALTH AND PERSONAL SOCIAL SERVICES****The Regulation and Improvement Authority (Fees and Frequency of Inspections) (Amendment) Regulations (Northern Ireland) 2016***Made* - - - -*Coming into operation* - *1st April 2017*

The Department of Health makes the following Regulations in exercise of the powers conferred by Articles 13 (2), 16 (3), 17 (3), 40 (7) and 48 (2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(1).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Regulation and Improvement Authority (Fees and Frequency of Inspections) (Amendment) Regulations (Northern Ireland) 2016 and shall come into operation on 1st April 2017.

(2) In these regulations “the principal regulations” means the Regulation and Improvement Authority (Fees and Frequency of Inspections) Regulations (Northern Ireland) 2005(2).

2.Amendment of the Regulation and Improvement Authority (Fees and Frequency of Inspections) Regulations (Northern Ireland) 2005 –(1) The principal regulations shall be amended in accordance with the following paragraphs:

(2) In regulation 2 (1) (Interpretation) omit the definition of “small agency”

(3) In regulation 3 (Registration fees) –

(a) In paragraph (1)(a) omit the words “other than a nursing agency”;

(b) Omit paragraph (1)(b);

(c) Omit paragraph (1)(c)(3);

(d) Omit paragraph (1)(d) (4);

(e) In paragraph (2) omit the words “or the agency is a small agency”;

(f) Omit paragraph (2)(b);

(g) Omit paragraph (2)(c) (5);

(1) S.I. 2003/431 (N.I.9)

(2) S.R. 2005 No. 182 as amended by S.R. 2006 No.341, S.R. 2007 No.223, S.R. 2010 No.291, S.R. 2011 No.17 and 2014 c.5

(3) Paragraph (1)(c) was inserted by S.R. 2007 No.223

(4) Paragraph (1)(d) was inserted by S.R. 2010 No.291

(5) Paragraph (2)(c) was inserted by S.R. 2007 No.223

- (h) Omit paragraph (2)(d) **(6)**;
- (i) In paragraph (3) omit the words “or a small agency”;
- (j) In paragraph (3)(a) omit the words “other than a nursing agency”;
- (k) Omit paragraph (3)(b);
- (l) Omit paragraph (3)(c) **(7)**;
- (m) Omit paragraph (3)(d) **(8)**

(4) In regulation 4 (Variation Fees)—

- (a) In paragraph (1)(a) omit the words “other than a nursing agency”;
- (b) Omit paragraph (1)(b);
- (c) Omit paragraph (1)(c) **(9)**;
- (d) Omit paragraph (1)(d) **(10)**;
- (e) In paragraph (2) omit the words “or the agency is a small agency”
- (f) Omit paragraph (2)(b);
- (g) Omit paragraph (2)(c) **(11)**;
- (h) Omit paragraph (2)(d) **(12)**;
- (i) Omit paragraph (3)(b);
- (j) Omit paragraph (3)(c) **(13)**;
- (k) Omit paragraph (3)(d) **(14)**.

(5) In regulation 5 (Annual Fees)-

(a) In paragraph (1)(a) for head (ii) there shall be substituted “(ii) in any other case, the amount specified in column (3), multiplied by the number of approved places or, where there are no approved places, the amount specified in column (2); and”

(b) For the table there shall be substituted the following table —

| <i>Column (1)</i> | <i>Column (2)</i> | <i>Column (3)</i> | <i>Column (4)</i> |
|------------------------------|-----------------------|---|--|
| <i>Establishment, agency</i> | <i>Amount payable</i> | <i>Amount payable for each approved place</i> | <i>Annual fee due on</i> |
| Residential Care Home; | — | £46 | (a) in the case of an existing provider, the anniversary of the date on which the annual fee was payable under the 1992 Order or the 1995 Order and thereafter on that date; |
| Nursing Home; | — | £46 | |
| Children’s Home. | — | £46 | (b) in the case of a previously exempt provider, registered from 1st April 2005, |

(6) Paragraph (2)(d) was inserted by S.R. 2010 No.291
(7) Paragraph (3)(c) was inserted by S.R. 2007 No.223
(8) Paragraph (3)(d) was inserted by S.R. 2010 No.291
(9) Paragraph (1)(c) was inserted by S.R. 2007 No.223
(10) Paragraph (1)(d) was inserted by S.R. 2010 No.291
(11) Paragraph (2)(c) was inserted by S.R. 2007 No.223
(12) Paragraph (2)(d) was inserted by S.R. 2010 No.291
(13) Paragraph (3)(c) was inserted by S.R. 2007 No.223
(14) Paragraph (3)(d) was inserted by S.R. 2010 No.291

| <i>Column (1)</i> | <i>Column (2)</i> | <i>Column (3)</i> | <i>Column (4)</i> |
|------------------------------|-----------------------|---|--|
| <i>Establishment, agency</i> | <i>Amount payable</i> | <i>Amount payable for each approved place</i> | <i>Annual fee due on</i> in accordance with Articles 4 to 7 of the Commencement No. 3 Order, on the anniversary of that date and thereafter on that date; (c) in the case of a new provider, on the anniversary of the date on which the registration certificate was issued and thereafter on that date. |
| Nursing agency | £215 | — | (a) in the case of an existing provider, on the anniversary of the date on which the licence was first issued under the 1971 Act and thereafter on the anniversary of that date; (b) in the case of a new provider, on the anniversary of the date on which the registration certificate is issued and thereafter on that date. |
| Independent Hospital | £215 | £46 | (a) in the case of an existing provider, the anniversary of the date on which the annual fee was payable under the 1992 Order and thereafter on that date; (b) in the case of a new provider, on the anniversary of the date on which the registration certificate is issued and thereafter on that date. |
| Independent Clinic | £215 | — | (a) in the case of an existing provider, the anniversary of the date on which the annual fee was payable under the 1992 Order and thereafter on that date; (b) in the case of a new provider, on the anniversary of the date on which the registration certificate is issued and thereafter on that date. |
| Independent Medical Agency | £215 | — | on the anniversary of the date on which the registration certificate is issued and thereafter on that date. |
| Domiciliary Care Agency | £215 | — | on the anniversary of the date on which the registration certificate is issued and thereafter on that date. |

| <i>Column (1)</i> | <i>Column (2)</i> | <i>Column (3)</i> | <i>Column (4)</i> |
|------------------------------|-----------------------|---|---|
| <i>Establishment, agency</i> | <i>Amount payable</i> | <i>Amount payable for each approved place</i> | <i>Annual fee due on</i> |
| Day Care Setting | £215 | — | on the anniversary of the date on which the registration certificate is issued and thereafter on that date. |
| Residential Family Centre | £215 | — | on the anniversary of the date on which the registration certificate is issued and thereafter on that date. |
| Adult Placement Agency | £215 | — | on the anniversary of the date on which the registration certificate is issued and thereafter on that date. |
| Voluntary Adoption Agency | £215 | — | on the anniversary of the date on which the registration certificate is issued and thereafter on that date. |

(c) For paragraph (2) substitute the following-

“In the case of a small establishment, the annual fee shall be £34.”;

(d) Omit paragraph (3)

(6) For regulation 6 (Frequency of Inspections) (15), substitute—

6.(1) Subject to paragraphs (2) to (4), the Regulation and Quality Improvement Authority shall arrange for premises which are used as an establishment, or for the purposes of an agency, to be inspected –

- (a) in the case of a children’s home, a minimum of twice in every 12 month period;
- (b) in the case of a residential family centre or an independent hospital providing dental care or treatment, a minimum of once every 24 month period;
- (c) in the case of a voluntary adoption agency, a minimum of once every 36 month period; and
- (d) in any other case, a minimum of once in every 12 month period.

(2) In the case of a children’s home, carried on by a person other than an existing provider and in respect of which a person is registered for the first time –

- (a) between 1st April and 30th September in a 12 month period, only one inspection is to be carried out in that period;
- (b) between 1st October and 31st March in a 12 month period, no inspection will be required in that period.

(3) In the case of an establishment or agency carried on by a person other than an existing provider or a home mentioned in paragraph (2), in respect of which a person is registered for the first time in a 12 month period, no inspection shall be required in that period.

(15) Regulation 6 was amended by S.R 2007 No.223 and S.R. 2010 No. 291

- (4) Any inspection referred to in paragraphs (1) or (2) may be unannounced.
- (5) In this regulation “12 month period” means a period commencing on and including 1st April in any year and ending on 31st March the following year.
- (6) In this regulation “24 month period” means a period commencing on and including 1st April in any year and ending on 31st March twenty-four months later.
- (7) In this regulation “36 month period” means a period commencing on and including 1st April in any year and ending on 31st March thirty-six months later.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety
on.....2016.



A senior officer of the
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Regulation and Improvement Authority (Fees and Frequency of Inspections) Regulations (Northern Ireland) 2005 (“the principal regulations”).

Regulations 3, 4 and 5 are amended to set consistent fees for all providers, including those previously charged a nil fee, and to remove the exception made for nursing agencies.

Regulation 6 is amended to set new statutory minimums for inspections for a number of providers.

Review of RQIA Fees and Frequency of Inspections Regulations - Partial Regulatory Impact Assessment

1. Title of Proposal

- 1.1 The Regulation and Improvement Authority (Fees and Frequency of Inspections) (Amendment) Regulations (Northern Ireland) 2016

2. Policy Objective/ Issue

Objective

- 2.1 To amend the RQIA Fees and Frequency of Inspections Regulations (NI) 2005 to establish a revised baseline for fees and charges and a suitable methodology for future uplifts. The revised baseline will remove the inconsistencies in the existing charging regime without significantly increasing fees for providers. The amendment to the Regulations will also adjust the minimum frequency of inspections for each registered establishment or agency, as appropriate. Where minimum frequencies are reduced, this will be done to free up capacity to target providers at greatest risk of non-compliance, and does not preclude additional inspections where deemed necessary. The new system is to be introduced in April 2017.

Issue

- 2.2 The HPSS (Quality, Improvement and Regulation) (NI) Order 2003 gives RQIA the power to undertake service reviews and inspections of regulated services and to recover costs in relation to regulation, set fees for regulated establishments and agencies and determine the frequency of inspections.
- 2.3 Despite the power to levy fees and charges these have never been linked to actual cost recovery and are not consistently applied across all establishments and agencies. In addition to the significant variation in amounts, the fees have not been subject to any increase, including inflationary uplift, since 2005 and fees have not been set for any services which have become subject to regulation since 2007. This nil charge was designed as a temporary measure until a review of charging could be carried out.
- 2.4 A recent Capability and Capacity Review of RQIA recommended that it build on its risk-based inspection approach. This would mean RQIA could concentrate more frequent inspections on those providers identified as failing or performing poorly, whilst maintaining a presence where providers are assessed to be delivering high quality care. Reducing the minimum number of inspections required would release resources to target organisations considered as high risk.

3. Risk

- 3.1 Without a review of the current regulations the expenditure incurred by RQIA in its regulation of registered establishment and agencies will continue to rise, while the amounts recoverable will remain static. This will limit the resources available to carry out inspections. RQIA's purpose is to provide assurance about the quality of care, challenge poor practice, promote improvement, safeguard the rights of service users and inform the public through the publication of its reports. Additionally, if RQIA do not move to a risk-based inspection regime then what resources they do have available will not be targeted at the appropriate providers. If RQIA are unable to carry out the number of inspections they feel appropriate and necessary it is likely that safety, service standards and public confidence would fall as a result.

4. Proposal 1: establish a revised baseline for fees and charges and a suitable methodology for future uplifts

Options

- 4.1 Option A - Alternatives to Legislation - this not a feasible option as the charges are currently set in legislation and therefore any change requires a legislative amendment.
- 4.2 Option B - Do Nothing – this would preserve the status quo and make no change at present. Fees would remain at the current inconsistent levels, including NIL fees for many registered establishments and agencies. This option is not considered feasible but will be retained as an option for baseline analysis.
- 4.3 Option C - Abolish all Fees – this would address the inequalities of the present scheme. It would marginally reduce the administrative work, and therefore the cost, of RQIA in collecting fees. RQIA's income would reduce by £921k - the amount currently raised annually by fees (based on 15/16 figures). Given the current financial constraints by the Department it is unlikely that RQIA would receive additional funding to cover this loss. Therefore, RQIA would have to make significant cuts in its inspection regime which would have a direct impact on safety and quality throughout the HSC. This option is not considered feasible.
- 4.4 Option D - Apply Existing Fees to All Regulated Establishments and Agencies and set annual uplift mechanisms - This would involve setting a fee for all establishments and agencies. Amounts would be raised over time until a suitable level was reached and a mechanism agreed for an annual uplift, such as inflationary-based. All establishments and agencies would be charged on a fair and equitable basis.
- 4.5 Option E - Apply Fees to All Regulated Establishments and Agencies, Linked to the Cost of Regulation – This would mean setting fees as a percentage of full cost recovery. Fees would vary by provider type, depending on the cost of regulating

that sector. While this option does not fully meet HM Treasury policy it would provide transparency about the costs recovered.

- 4.6 Option F - Full Cost Recovery – fees would be directly linked to costs incurred by RQIA. There would be transparency about the charging structure and remove the inequalities of having some organisations pay nothing. This would require a significant increase in fees and would raise income levels considerably. RQIA currently recovers, on average, 17% of the cost of regulation through provider fees. This option would be in line with HM Treasury policy on full cost recovery.
- 4.7 Preliminary sift - at this stage options a and c have been ruled out and options b, d ,e and f will go forward for full cost benefit analysis at section 5 below.

5. Costs and Benefits

Sectors and groups affected

- 5.1 All establishments and agencies that are regulated by RQIA will be affected by a change to the fee charging structure. The numbers of registered providers by establishment and agency type are set out in Table 1 below.

| Service Type | Number of service registered | | | |
|--------------------------------|------------------------------|-------------|-------------|-------------|
| | 2013 | 2014 | 2015 | 2016 |
| Adult Placement Agency | 4 | 4 | 4 | 4 |
| Childrens Homes | 52 | 51 | 49 | 48 |
| Day Care Settings | 187 | 186 | 185 | 180 |
| Domiciliary Care Agencies | 292 | 301 | 303 | 304 |
| Independent Clinics | 29 | 7 | 6 | 6 |
| Independent Hospitals | 12 | 44 | 45 | 49 |
| Independent Hospitals - Dental | 349 | 371 | 376 | 373 |
| Independent Medical Agencies | 1 | 5 | 5 | 5 |
| Nursing Homes | 268 | 268 | 268 | 260 |
| Nursing Agencies | 28 | 28 | 32 | 33 |
| Residential Care Homes | 220 | 207 | 203 | 197 |
| Residential Family Centres | 2 | 2 | 1 | 1 |
| Voluntary Adoption Agencies | 4 | 4 | 4 | 4 |
| Total | 1448 | 1478 | 1481 | 1464 |

Table 1 - Number of registered establishments and agencies 1 Apr 2013 – 1 Apr 2016*
*figures provided by RQIA

- 5.2 Independent providers are privately owned or run on a voluntary/ charity basis. The number of registered independent providers by service type is set out in Table 2 below. It is expected that the impact of increased fees will be greater for independent providers.

| Service Type | Number of Independent Services registered | | | |
|--------------------------------|---|-------------|-------------|-------------|
| | 2013 | 2014 | 2015 | 2016 |
| Adult Placement Agency | 1 | 1 | 1 | 1 |
| Childrens Homes | 11 | 9 | 8 | 8 |
| Day Care Settings | 76 | 76 | 77 | 74 |
| Domiciliary Care Agencies | 213 | 221 | 223 | 224 |
| Independent Clinics | 29 | 7 | 6 | 6 |
| Independent Hospitals | 12 | 44 | 45 | 49 |
| Independent Hospitals - Dental | 349 | 371 | 376 | 373 |
| Independent Medical Agencies | 1 | 5 | 5 | 5 |
| Nursing Homes | 265 | 265 | 264 | 256 |
| Nursing Agencies | 28 | 28 | 32 | 33 |
| Residential Care Homes | 168 | 158 | 157 | 152 |
| Residential Family Centres | 2 | 2 | 1 | 1 |
| Voluntary Adoption Agencies | 4 | 4 | 4 | 4 |
| Total | 1159 | 1191 | 1199 | 1186 |

Table 2: Number of Registered Independent Providers 1 Apr 2013 – 1 Apr 2016*
* figures provided by RQIA

- 5.3 There will be a cost to the Department in relation to the drafting of amended legislation. However, the regulations concerned are short and not subject to negative resolution.
- 5.4 There is the potential for an additional cost to the RQIA to administrate any change, depending upon the option selected. However, this is likely to be offset by additional income generated by increased charging.

Analysis of costs and benefits

- 5.4 Based on current charges, RQIA recover an average of approximately 17% of their total regulation costs from fees (using projected 15/16 costs). They currently recover no fees from adult placement agencies, day care settings, domiciliary care agencies, independent clinics, residential family centres or voluntary adoption agencies. Applying a fee to all regulated establishments would remove the inconsistencies and inequalities created by the current charging regime where some pay and some do not.

5.5 Option B – Do Nothing. The current charging structure is set out in Table 3 below. The benefit of this option is that it would require no changes to legislation or implementation. Additionally, existing providers who pay nothing would not face an increase in costs due to having to pay a fee and no providers would have to pay an annual uplift. However, there would be no opportunity to make fees more equitable. Table 4 below sets out RQIA’s annual income against the number of providers registered since 2005. In that time, the number of registered establishments has more than doubled while the income has gone up by less than a third. Doing nothing means that the value of RQIA’s income would continue to fall, relative to the increasing costs of regulation, particularly with no mechanism for annual uplift. No additional income would be generated. While it does not preclude further action in the future, the inequalities created by the current situation are neither fair nor equitable

| Establishment/ Agency | Registration Fee | Annual Fee | Variation Fee |
|---|--|--|--|
| Adult Placement Agency | Nil | Nil | Nil |
| Children’s Homes | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small homes - £34 | £100 £50 for small establishment or agency £25 minor variation |
| Day Care Settings | Nil | Nil | Nil |
| Domiciliary Care Agency | Nil | Nil | Nil |
| Independent Clinic | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Independent Hospital (including dentists) | Provider = £952 Manager = £261 | £46 per place (or chair) | £100 £25 minor variation |
| Independent Medical Agency | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Nursing Home | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small homes - £34 | £100 £50 for small establishment or agency £25 minor variation |
| Nursing Agency | £30 licence | £15 | £15 Small nursing agency = £5 Minor variation = £5 |
| Residential Care Home | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small homes - £34 | £100 £50 for small establishment or agency £25 minor variation |
| Residential Family Centres | Nil | Nil | Nil |
| Voluntary Adoption Agencies | Nil | Nil | Nil |

Table 3 – Current Charging Structure

| Year | Number of establishments/ agencies registered at 31 March | Income from Fees £ |
|---------|---|--------------------|
| 2005/06 | 659 | 735,577 |
| 2006/07 | 682 | 767,878 |
| 2007/08 | 671 | 790,089 |
| 2008/09 | 797 | 782,171 |
| 2009/10 | 936 | 931,418 |
| 2010/11 | 1,074 | 938,063 |
| 2011/12 | 1,278 | 1,206,869 |
| 2012/13 | 1,448 | 889,643 |
| 2013/14 | 1,480 | 914,670 |
| 2014/15 | 1,481 | 954,459 |
| 2015/16 | 1,464 | 920,939 |

Table 4 – RQIA Income from fees in relation to the number of establishments and agencies registered*

* figures provided by RQIA

5.6 Option D – Apply Existing Fees to All Regulated Establishments and Agencies and set annual uplift mechanisms. Paying providers are currently charged a flat fee per establishment or on a per place basis. This proposal would see existing registration fees and annual fees rolled out to those providers who are currently charged Nil as set out in Table 5 below.

5.7 This will result in immediate increased costs to those providers currently paying NIL (residential family centres, domiciliary care agencies, adult placement schemes, adult day care and adoption agencies) but no immediate increase in costs for those providers who are currently charged a fee. In subsequent years it is intended that all fees will be uplifted annually in line with inflation and this would result in a minor increase for all providers. Providers who are already registered with RQIA and paying NIL fees will not have to pay the new registration fee, they will only have to pay the new annual fee of £215. This is not considered a significant burden. Any providers not already registered with RQIA and who wish to do so will be subject to the registration and annual fees.

| Establishment/ Agency | Registration Fee | Annual Fee | Variation Fee |
|---|--|--|--|
| Adult Placement Agency | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Children's Homes | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small homes - £34 | £100 £50 for small establishment £25 minor variation |
| Day Care Settings | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Domiciliary Care Agency | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Independent Clinic | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Independent Hospital (Including dentists) | Provider = £952 Manager = £261 | £215 or £46 per place (or chair)* | £100 £25 minor variation |
| Independent Medical Agency | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Nursing Home | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small home - £34 | £100 £50 for small establishment £25 minor variation |
| Nursing Agency | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Residential Care Home | Provider = £952 Small Provider = £261 Manager = £261 | £46 for each approved place Small homes - £34 | £100 £50 for small establishment £25 minor variation |
| Residential Family Centres | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |
| Voluntary Adoption Agencies | Provider = £952 Manager = £261 | £215 | £100 £25 minor variation |

Table 5 – Proposal to roll out existing fees to all providers

*£215 flat fee will apply where no overnight bed exists

- 5.8 The definition of small nursing agencies has been removed. There have been no nursing agencies registered with RQIA as “small” so this change is not expected to have any impact.
- 5.9 The proposal to roll out existing fees to all providers will result in an increase in income to RQIA as set out in Table 6 below. These figures represent the estimated increase in income that RQIA would have received if the existing fees were rolled out in 2015/16. Table 7 below shows the number of new service registrations for the past three years and the figures for 2015/16 have been included in Table 6. It should be noted, however, that while there are a number of new registrations each year, there are other registered providers who deregister each year. Table 1 shows that the overall number of providers registered with RQIA since 2013 have remained fairly static.

| Fee Type | Number of providers currently charged Nil* | Proposed Charge | Potential Additional Income |
|------------------|--|-----------------|-----------------------------|
| Registration Fee | 16 | £1,213** | £19,288 |
| Annual Fee | 565 | £215 | £120,995 |
| Variation Fee | 56 | £100*** | £5,555 |
| | | | £145,838 Total |

Table 6: Estimated increase in RQIA income for 15/16 based on proposed charges

*Also includes nursing agencies who currently pay a reduced charge

**includes provider fee of £952 *and* manager fee of £261

*** Assumed as standard variation fee, rather than minor

| Establishment/ Agency | New Registrations | | |
|---|-------------------|-----------|-----------|
| | 2013/14 | 2014/15 | 2015/16 |
| Adult Placement Agency | 0 | 0 | 0 |
| Children's Homes | 1 | 0 | 0 |
| Day Care Settings | 5 | 0 | 1 |
| Domiciliary Care Agency | 21 | 14 | 11 |
| Independent Clinic | 8 | 0 | 1 |
| Independent Hospital (including dentists) | 32 | 11 | 13 |
| Independent Medical Agency | 4 | 0 | 0 |
| Nursing Home | 2 | 4 | 2 |
| Nursing Agency | 2 | 5 | 4 |
| Residential Care Home | 0 | 1 | 2 |
| Residential Family Centres | 0 | 0 | 0 |
| Voluntary Adoption Agencies | 0 | 0 | 0 |
| Total | 75 | 35 | 34 |

Table 7 – New Service Registrations 1 Apr 13 – 31 Mar 16*

*figures provided by RQIA

5.9 The annual inflationary uplift would be based on the consumer price index and rounded to the nearest £1. Since December 2003 the Government has used the Consumer Price Index (CPI) as its main measure of inflation in the economy rather than the Retail Prices Index (RPI). CPI annual changes since 2005 are set out in Table 8 below.

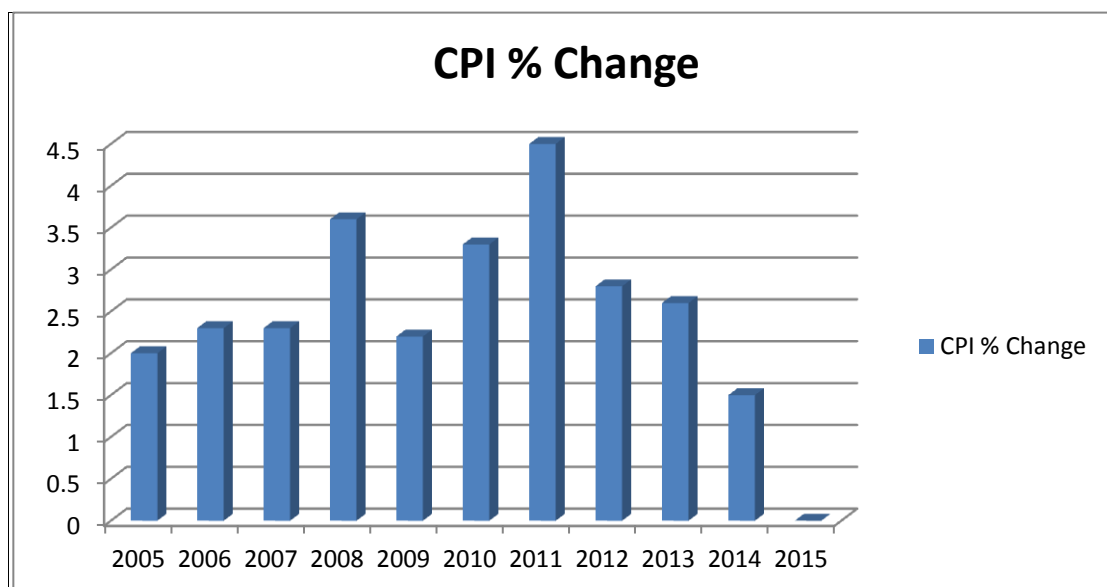


Table 8 – CPI % Change 2005 – 2015

Taking an average of these figures gives an estimate of a 2.5% increase, year on year. Table 9 below shows the increase to fees caused by an inflationary uplift of 2.5%. These figures are for illustrative purposes only, as CPI variations fluctuate from year to year.

| Fee Category | Current Fee | Revised Fee (incl inflationary uplift of 2.5%) |
|---------------------------------|-------------|--|
| Registration | | |
| Provider | £952 | £976 |
| Small Provider | £261 | £268 |
| Manager | £261 | £268 |
| Annual | | |
| Flat Fee | £215 | £220 |
| Per Place | £46 | £47 |
| Per Place (small establishment) | £34 | £35 |
| Variation | | |
| Standard | £100 | £103 |
| Standard (small establishment) | £50 | £51 |
| Minor | £25 | £26 |

Table 9: example increase to fees based on 2.5% inflationary uplift

5.10 Option E - Apply Fees to All Regulated Establishments and Agencies, Linked to the Cost of Regulation – This would mean setting fees as a percentage of full cost recovery. It would partially fulfil HM Treasury requirements and would provide transparency about costs. However, given the current variation in amounts recovered, it would be difficult to determine what percentage would be reasonable. Fees would vary greatly by provider type, depending on the cost of regulation and if this option was taken to its full conclusion, it would require separate amounts to be calculated for each individual provider. Additionally, any link to actual costs would need to be done retrospectively. This would create a significant resource burden on RQIA and would make it difficult for providers to plan their budgets effectively. This option is therefore not considered reasonable at this time.

5.11 Option F – Full Cost Recovery. Providers are currently charged a flat fee per establishment or on a per place basis. This proposal would involve a move to full cost recovery, where fees would be directly linked to the actual costs incurred by RQIA through regulation of registered providers. This would create total transparency in costs and would ensure that fees were in direct relation to the cost of regulation. Costs would have to be calculated for each provider type (or possibly each individual provider) and recovered retrospectively. This would create a significant additional cost burden to RQIA to administrate and providers would find it difficult to budget for. Providers currently pay fees which are, on average, 17% of the actual cost of regulation. A move to full cost recovery would therefore greatly increase costs to all providers as set out in Table 10 below. It would also substantially increase RQIA's income.

| Establishment/ Type | Agency | Income recovered by RQIA (based on existing charge) | Full Cost of Regulation |
|------------------------------|--------|--|----------------------------|
| Adult Placement Agency | | £0 | £3,950 |
| Childrens Homes | | £17,148 | £340,378 |
| Day Care Settings | | £0 | £393,987 |
| Domiciliary Care Agencies | | £0 | £741,125 |
| Independent Clinics | | £5,029 | £5,070 |
| Independent Hospitals | | £114,902 | £684,557 |
| Independent Medical Agencies | | £860 | £3,819 |
| Nursing Homes | | £576,638 | £1,772,873 |
| Nursing Agencies | | £2,507 | £25,355 |
| Residential Care Homes | | £203,855 | £1,214,959 |
| Residential Family Centres | | £0 | £1,222 |
| Voluntary Adoption Agencies | | £0 | £1,222 |
| Total | | £920,939 | £5,188,517 |

Table 10: Current income generated by fees and actual cost of regulation 2015/16*

*Figures provided by RQIA

5.12 Recommendation – Option D – Apply Existing Fees to All Regulated Establishments and Agencies and set annual uplift mechanisms is considered the most appropriate option to pursue at this stage. It will remove the current inconsistencies and ensure that all providers pay an equitable contribution towards the cost of regulation, without placing a significant additional financial burden on existing providers. It will generate an increase in income for RQIA. The annual inflationary uplift will make sure that contributions do not remain static and that their value does not decrease year on year.

6. Proposal 2: to adjust the frequency of inspections for each registered establishment or agency, as appropriate

Options

- 6.1 Option A - Alternatives to Legislation - self regulation by the industry/ sector would involve stakeholders themselves in the process of regulation. While self regulation may be cheaper and more flexible, the risks involved are considered too high to be without some form of statutory regulation. Although there is potential to explore some self regulation methods such as self assessment and peer review this would be part of RQIA's risk assessment/ intelligence gathering. Additionally, self regulation is not a feasible option as the frequencies are currently set in legislation and therefore any change requires a legislative amendment.
- 6.2 Option B - Do nothing - this would preserve the status quo and make no change at present. Minimum inspection frequencies would remain at the current levels. Maintaining the existing minimum number of inspections does not allow RQIA to free up capacity to appropriately target providers. It does not preclude further action in the future. This option is not considered feasible but will be retained as an option for baseline analysis.
- 6.3 Option C - Revise minimum frequency for inspections – lowering the statutory minimum number of inspections for certain provider types will free up capacity to allow RQIA to target those providers which have been identified as being at higher risk of failing to comply with expected levels of service. There is a risk that providers which are performing well are only doing so as a result of the statutory inspections and that to reduce the minimum number would increase the number of Providers considered to be failing. However, RQIA have developed a broad intelligence base that highlights any potential or suspected failings and this, along with maintaining a statutory minimum number of inspections, will mitigate this risk.

- 6.4 Option D - Move to a Purely Risk-Based Inspection Regime – removing entirely the statutory minimum frequency of inspections by RQIA will provide RQIA with total flexibility to target those providers where intelligence indicates the greatest risk. This approach would require closer liaison between RQIA and the HSC, the Voluntary/ Community sector and the Department. There is a risk that providers which are performing well are only doing so as a result of the Inspections and that to remove all statutory inspections would increase the number of Providers considered to be failing. Currently, intelligence gathering alone, outside of any routine inspections, is not considered strong enough to mitigate the risk of failing to identify under-performing providers. In addition to offering assurances about the services being provided, inspections bring a level of transparency that providers and users welcome. Therefore, removing minimum frequencies entirely is not considered feasible at this stage.
- 6.5 Preliminary Sift – at this stage options A and D have been ruled out and options B and C will for forward for full cost and benefit analysis at section 7 below.

7. Costs and Benefits

Sectors and groups affected

- 7.1 Potentially, all establishments and agencies that are regulated by RQIA will be affected by a move to a risk based approach to inspections. The numbers of registered providers by establishment and agency type are set out in Table 11 below.

| Service Type | Number of service registered | | | |
|--------------------------------|------------------------------|-------------|-------------|-------------|
| | 2013 | 2014 | 2015 | 2016 |
| Adult Placement Agency | 4 | 4 | 4 | 4 |
| Childrens Homes | 52 | 51 | 49 | 48 |
| Day Care Settings | 187 | 186 | 185 | 180 |
| Domiciliary Care Agencies | 292 | 301 | 303 | 304 |
| Independent Clinics | 29 | 7 | 6 | 6 |
| Independent Hospitals | 12 | 44 | 45 | 49 |
| Independent Hospitals - Dental | 349 | 371 | 376 | 373 |
| Independent Medical Agencies | 1 | 5 | 5 | 5 |
| Nursing Homes | 268 | 268 | 268 | 260 |
| Nursing Agencies | 28 | 28 | 32 | 33 |
| Residential Care Homes | 220 | 207 | 203 | 197 |
| Residential Family Centres | 2 | 2 | 1 | 1 |
| Voluntary Adoption Agencies | 4 | 4 | 4 | 4 |
| Total | 1448 | 1478 | 1481 | 1464 |

Table 11 - Number of registered establishments and agencies 1 Apr 2013 – 1 Apr 2016

7.2 There will be a cost to the Department in relation to the drafting of amended legislation. However, the regulations concerned are short and not subject to negative resolution.

7.3 There should be no additional cost to RQIA as any change made to the inspection regime will be done within existing budgets. Revising the current statutory minimums should not affect the overall number of inspections carried out.

Analysis of Costs and Benefits

7.4 The Regulation and Improvement Authority (Fees and Frequency of Inspections) Regulations (Northern Ireland) 2005 set out the minimum frequency of inspection by RQIA of its registered establishments and agencies, as set out in Table 12 below. These are the minimum number of inspections that take place. RQIA can inspect over and above this number as required.

| Type of Establishment | Current Legislative Frequency |
|---|-------------------------------|
| Adult Placement Agency | Once per year |
| Children’s Homes (including secure accommodation) | Twice per year |
| Day Care Settings | Once per year |
| Domiciliary Care Agency | Once per year |
| Independent Clinic | Once per year |
| Independent Hospital | Once per year |
| Independent Hospital – Dental | Once per year |
| Independent Medical Agency | Once per year |
| Nursing Home | Twice per year |
| Nursing Agency | Once per year |
| Residential Care Home | Twice per year |
| Residential Family Centres | Once per year |
| Voluntary Adoption Agencies | Once every three years |

Table 12 – Current statutory minimum number of inspections

7.5 Option B – Do Nothing. The benefit of this option is that it would not require any change to legislation or implementation. However, the existing statutory minimums for inspections have been in place since registration began. RQIA has moved to a more risk-based inspection regime, something that was reinforced by the recommendations of a recent Capability and Capacity Review. However, the requirements for statutory minimum frequencies have not been amended to reflect this approach. In reality, this means that RQIA are carrying out repeated inspections required by legislation on many providers who are delivering high quality care and are not able to focus their efforts on those who are failing to meet the required standards. Inspections have an associated cost for providers, in terms of staff time etc. Over-regulation generates unnecessary costs without any additional benefit to the public.

7.6 Option C – Revise Minimum Frequency for Inspections. This option allows RQIA to reflect the principles of good regulation which state that inspections should be proportionate and targeted. The proposed new minimum frequencies for inspections are set out in Table 13 below. They recognise that different services have different levels of risk. As the level of risk increases, the regulatory force (by way of inspections) required to manage that risk will also increase. The current statutory minimums tie up a considerable amount of RQIA’s regulatory resource. The proposed new minimums are designed to free up some of that resource which can then be targeted at providers who are identified as under-performing. Setting a lower minimum does not rule out more frequent inspections for individual providers where poor performance, or the risk of it, is identified. Instead, this option creates the flexibility RQIA requires to be more responsive and to use its resources intelligently and effectively to ensure that safety and quality are given priority.

| Type of Establishment | Proposed Legislative Frequency |
|---|--------------------------------|
| Adult Placement Agency | Once per year |
| Children’s Homes (including secure accommodation) | Twice per year |
| Day Care Settings | Once per year |
| Domiciliary Care Agency | Once per year |
| Independent Clinic | Once per year |
| Independent Hospital | Once per year |
| Independent Hospital – Dental | Once every two years |
| Independent Medical Agency | Once per year |
| Nursing Home | Once per year |
| Nursing Agency | Once per year |
| Residential Care Home | Once per year |
| Residential Family Centres | Once every two years |
| Voluntary Adoption Agencies | Once every three years |

Table 13 – proposed new statutory minimums for RQIA inspection frequencies

7.7 The most obvious impact will be on Dentists, Nursing Homes, Residential Care Homes and Residential Family Centres who would see a reduction in their statutory minimum number of inspections. Inspections have an associated cost for providers in terms of staff time spent facilitating the Inspector's visit and requests for information etc. For those providers who are delivering high quality care this will result in a saving. However, enabling RQIA to use a risk based approach to target inspections will result in an increased number of inspections for those providers who are not meeting the required standards.

7.8 **Recommendation** – Option C – Revise Minimum Frequency for Inspections. This is the preferred option as it allows RQIA the flexibility to target their resources where there is the biggest risk. The revised minimums are the lowest number of inspections that RQIA will carry out in a given period. Where there is increased risk of poor performance, RQIA can use the extra resources freed up from reducing the statutory requirements to carry out as many additional inspections as necessary.

8. Small Business Impact Test

8.1 The Regulation and Improvement Authority (Fees and Frequency of Inspections) Regulations (Northern Ireland) 2005 define a small agency as *a nursing agency where no more than two members of staff, including registered persons but excluding someone employed solely as a receptionist, are employed at any one time* and a small establishment as *an establishment, other than an independent hospital, which has less than four approved places*. There are currently (as of 31 March 2016) 15 providers registered with RQIA as a small establishment and none as a small nursing agency. The Regulations do provide for a reduced fee to be paid by certain small businesses in recognition of their lower turnover in relation to overheads etc. The Department held five pre-consultation engagement events, including three workshops during March 2016, to engage with providers and stakeholders. Unfortunately, none of the providers who attended can be classified as small businesses. We hope to hear from small businesses during formal consultation.

9. Enforcement and compliance

9.1 RQIA will issue notices for recovery of the fees as necessary. Fees are directly related to registration and, where they are not paid, RQIA can deregister an establishment or agency.

10. Consultation

10.1 The Department held five pre consultation engagement events with providers and stakeholders, including three workshops during March, to seek their views. The draft amendments to the Regulations will go out for public consultation in 2016.

11. Summary and Recommendation

11.1 Proposal 1: establish a revised baseline for fees and charges and a suitable methodology for future uplifts

Option D – Apply Existing Fees to All Regulated Establishments and Agencies and set annual uplift mechanisms is considered the most appropriate option to pursue at this stage. It will remove the current inconsistencies and ensure that all providers pay an equitable contribution towards the cost of regulation, without placing a significant additional financial burden on existing providers. The annual inflationary uplift will make sure that contributions do not remain static and that their value does not decrease year on year.

12. Proposal 2: to adjust the frequency of inspections for each registered establishment or agency, as appropriate

Option C – Revise Minimum Frequency for Inspections. This is the preferred option as it allows RQIA the flexibility to target their resources where there is the biggest risk. The revised minimums are the lowest number of inspections that RQIA will carry out in a given period. Where there is increased risk of poor performance, RQIA can use the extra resources freed up from reducing the statutory requirements to carry out as many additional inspections as necessary.

CONSULTATION RESPONSE QUESTIONNAIRE

Background

This consultation seeks views on the Department's proposal to amend The Regulations and Improvement Authority (Fees and Frequency of Inspections) Regulations (Northern Ireland) 2005 to ensure that fees are consistently applied across registered establishments and agencies and that the frequency of inspections reflects assessed risk.

Questionnaire

The questionnaire can be completed by a provider or manager of a registered establishment or agency, a stakeholder, a member of the public, or it can be completed on behalf of a group or organisation. Part A provides an opportunity to answer questions relating to specific recommendations. Part B provides an opportunity for respondents to give additional feedback relating to any equality, human rights or regulatory impacts of the recommendations.

Freedom Of Information Act 2000 – Confidentiality Of Consultations

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances.

For further information about confidentiality of responses please contact the Information Commissioner's Office or see their web site at: <https://ico.org.uk>

I am responding: as an individual
On behalf of an organisation
(please tick box)

Name (print): _____

Job Title: _____

Organisation (name and service provided):

Address: _____

Tel: _____

E-mail: _____

Date: _____

**RESPONSES MUST BE RECEIVED NO LATER THAN 5pm ON FRIDAY 30
DECEMBER 2016**

In writing to: **Quality Regulation, Policy and Legislation Branch
Department of Health
Room D1, Castle Buildings
BELFAST
BT4 3SQ**

Tel: (028) 9052 8332

Or by email to: QRPL@health-ni.gov.uk

Part A

Feedback on Proposal

Q1. Do you agree with the proposal to set fees for those registered establishments and agencies currently charged a NIL fee to amounts in line with existing charges, to ensure a fair and consistent approach?

Yes

No

If No, please state why

Q2. Do you agree that the proposal to raise fees year on year in line with inflation is reasonable?

Yes

No

If No, please state why/what alternative would you propose?

Q3. Do you agree with the distinction made for small establishments?

(A small establishment has less than 4 approved places.)

Yes

No

If No, please state why

Q4. Do you agree with the proposal to remove the distinction made for small nursing agencies?

(A small nursing agency employs no more than 2 members of staff at any one time, excluding someone solely employed as a receptionist. RQIA are unable to monitor staffing levels in agencies and have no small nursing agencies registered)

Yes

No

If No, please state why

Q5. Do you agree with the proposal to change the inspection model to a risk-based, targeted approach?

Yes

No

If No, please tell us which approach should be used for inspections and why?

Q5. Continued

If Yes, are there other sources of intelligence that could be used to inform the decision-making process?

Q6. Do you agree with the proposed changes to the minimum frequency of inspections?

Yes

No

If No, please tell us how frequently you consider they should take place and why.

Q7. Do you think that the minimum frequency of inspections should change for any other providers?

Yes

No

If Yes, please add your comments here.

Q8. Do you have any other comments you would like to make in relation to the policy proposal?

Yes

No

If Yes, please add your comments here.

Part B

Feedback On Impact Assessments

Human Rights and Equality Implications

Section 75 of the Northern Ireland Act 1998 requires Departments, in carrying out their functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity between:

- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- men and women generally;
- persons with a disability and persons without; and
- persons with dependents and persons without.

In addition, without prejudice to the above obligation, Departments should also, in carrying out their functions relating to Northern Ireland, have due regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group. Departments also have a statutory duty to ensure that their decisions and actions are compatible with the European Convention on Human Rights and to act in accordance with these rights.

While the Department, as part of its screening process, has concluded that an Equality Impact Assessment is not necessary, we welcome your views on the following questions:

Q9. Is the proposal likely to have an adverse impact on any of the nine equality groups identified under Section 75 of the Northern Ireland Act 1998? If yes, please state the group(s) and provide comment on how these adverse impacts could be reduced or alleviated in the proposals.

Yes

No

Comments:

Q10. Are you aware of any indication or evidence – qualitative or quantitative – that the proposal set out in the consultation document may have an adverse impact on equality of opportunity or on good relations between people of different religious belief, political opinion or racial group?

Yes

No

If yes, please provide comment on what you think should be added or removed to alleviate the adverse impact:

Q11. Is there an opportunity to better promote equality of opportunity or good relations between people of different religious belief, political opinion or racial group?

Yes

No

If yes, please give details as to how:

Q12. Are there any aspects of these recommendations where potential human rights violations may occur?

Yes

No

If yes, please give details:

Regulatory Impact Assessment

Departments are required to carry out a Regulatory Impact Assessment (RIA) when considering any new, or amendments to existing, policy proposals which are likely to have a direct or indirect impact on businesses, charities, social economy enterprises and voluntary sector. The RIA is an assessment of the impact of the policy options in terms of costs, benefits and risks of a proposal. The production of a RIA gives an opportunity to Departments and their stakeholders, particularly those potentially affected by the proposals, the opportunity to consider fully all the impacts, including whether there are any unintended consequences.

The Department has drafted a Regulatory Impact Assessment on the proposals to increase the fees set for those registered establishments and agencies currently charged a NIL fee to amounts in line with existing charges, to ensure an equitable approach, and to amend the inspection frequencies in support of a risk-based, targeted methodology. The Department has considered the impacts identified in the RIA and considers them proportionate in relation to the need for fair and consistent charges to be applied across all registered establishments and agencies. However, the Department will consider and update the RIA in light of any comments or further information identified as a result of this consultation and welcomes your views on the following questions:

Q13. Are there any impacts associated with the Department's proposals which have not been identified in the Regulatory Impact Assessment? If yes, are any of these specific to small businesses?

Yes

No

Comments:

Q14. Do you foresee any unintended consequences as a result of the introduction of these proposals? If yes, please provide further details.

Yes

No

Comments: