



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

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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

The Department will consider requests to produce this document in other languages or alternative formats.

 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

