

NHS Cost Recovery
Department of Health and Social Care
2nd Floor North East, Quarry House, Quarry Hill, Leeds, LS2 7UE

Dear Department of Health and Social Care,

Thank you for your invitation to provide evidence for the internal policy assessment relating to the National Health Service (Charges to Overseas Visitors) Regulations 2015.

As organisations working closely with migrant and BME communities impacted by the NHS charging policy, and with the healthcare workers forced to implement it, we are keenly aware of the serious issues with the current policies, the way that they are implemented, and their negative impact on public health. We have previously provided the Department with evidence to this effect, and more recently produced research alongside the New Economics Foundation detailing the impact of the coronavirus crisis on migrant communities.ⁱ

We are deeply concerned with the way in which this review is being carried out, and as such, we politely decline your request to provide further submissions until these concerns are addressed.

We reiterate the requests made to you in the letter from Maternity Action in response to this review process and call for evidence, of which we were signatories. Further, we write to you to outline our main concerns about this review process and the reason we have decided to decline your request to participate at this time:

1. **The review process lacks transparency.** Only select organisations have been approached to provide further evidence, and it is unclear why the Department has chosen to limit the range of submissions in this way and whether these organisations are representative of the population affected by the charging regime.
2. The Department does not set out any plan to involve in their review process **people who are or have been directly affected by the charging regulations.**
3. There is no assurance that the outcome for this process will be made publicly available to ensure accountability and transparency. The previous review conducted by the Department remains unpublished, and the written Ministerial statement about the findings did not include the evidence of harm submitted during the review process.

4. By focusing solely on a small section of individuals considered most vulnerable, the review will fail to consider or identify the breadth and depth of the harm arising from these policies. The vulnerable categories listed in the review are wholly insufficient and exclude many groups that would be considered vulnerable and are currently being deterred from seeking healthcare. Further, the very nature of being deterred from seeking healthcare places everyone in a vulnerable position. Focusing solely on the selected groups of people will grossly underestimate the harm that these policies cause.
5. The review does not seek to examine the way in which the NHS charging policy, the systems which are used to implement it, and the training delivered to staff, serve to embed discrimination into the NHS. Nor does it seek to examine the effect this has on marginalised groups' ability to seek care.
6. The review process fails to set out a plan for assessing the true cost of imposing NHS charging on NHS trusts in terms of:
 - a. The administrative cost of charging;
 - b. The training costs for staff;
 - c. The litigation cost associated with wrongful charging decisions;
 - d. The cost to public health of the charging regime in terms of:
 - i. Treatment denied under the regulations;
 - ii. Treatment wrongly denied;
 - iii. Those deterred from seeking treatment;
 - iv. Treatment delayed until it becomes urgent or immediately necessary
7. The human rights implications and effect on vulnerable groups of the above.

This is not an exhaustive list, but highlights some of our main concerns.

Due to the issues above, it is our opinion that the current review process does not actually fulfil your duties under the Public Sector Equality Duty. We also consider that you are failing in your duty under Article 2 of the European Convention on Human Rights to investigate and satisfy yourself as to the risk to life posed by the charging regime, particularly in the current pandemic. We encounter on a daily basis the deterrent effect that the charging regime has on individuals seeking the healthcare that they need, not just those with insecure immigration status, but also those from BME communities. We believe that the current review process will fail to adequately assess this impact of the charging regime.

The DHSC and NHS Trusts should be carrying out substantial and continuous monitoring of the impact of NHS charging and make the findings available to the public. This review does not replace the duty the Government has to assess the impact of its policies on individuals and on public health, nor does it comply with the Public Sector Equality Duty to monitor the impact on marginalised groups.

We would welcome the opportunity to participate in a full and independent review of the impact of the NHS Charging Regulations on both individuals and on public health, as the Academy of Medical Royal Colleges has called for.ⁱⁱ We would be happy to participate in a review process which is genuinely transparent, accountable, and effective, and which can truly shed light on the harm and fundamental threat to

the founding principles of the NHS - a healthcare system based on need, and not ability to pay - caused by these regulations.

Yours sincerely,

James Skinner
Access to Healthcare Campaigner
Medact

Brian Dikoff
Legal Organiser
Migrants Organise

ⁱ Medact, Migrants Organise, and the New Economics Foundation (2020) *Migrants Access to Healthcare During Coronavirus*. Published 5 June 2020. Available:

<https://neweconomics.org/2020/06/migrants-access-to-healthcare-during-the-coronavirus-crisis>

ⁱⁱ Academy of Medical Royal Colleges (2019) *NHS Charges to overseas visitors regulations – Academy statement*. Published 14 March 2019. Available: <http://www.aomrc.org.uk/statements/nhs-charges-for-overseas-visitors-regulations-academy-statement/>