Frequencies of Inspection
and Regulatory Fees

A Consultation Paper

CARE STANDARDS ACT 2000
Department of Health

Frequencies of Inspection and Regulatory Fees

A Consultation Paper
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The Purpose of the Consultation

1. The Care Standards Act 2000 received Royal Assent on 20 July 2000. The National Care Standards Commission (NCSC) starts its main operational activities in April 2002. This Consultation Paper outlines how the Commission will regulate health and social care, the cost of this, its funding and fees. We seek your views on our proposals.

2. This paper starts by considering proposals for the registration and inspection resources (called here the “regulatory framework”) to be allocated to each regulated area of health and social care, taking account of the risks and complexity involved. It then considers the cost of this regulatory framework and how the Commission can be funded. As a practical way of achieving this funding it considers a selective phasing in of regulatory fees and the proposed levels of these fees.

3. In order to establish the NCSC significant start-up costs will be met by the Department of Health. The Department will pay for obtaining suitable office accommodation and its equipment, including appropriate IT systems.

4. It is envisaged that, in due course, the recurrent regulatory running costs of the NCSC will be borne by the providers and purchasers of care (including people who directly fund their own care as well as public bodies that support this funding). This is what is meant by full cost recovery. It is considered that this will not impose a disproportionate burden on care providers, public purchasers of care, or service users, who will all benefit from the greater protection of vulnerable people that will be achieved by the new regulatory system. The implications of these regulatory fee proposals for providers are set out in the Regulatory Impact Assessment at the end of this document.

5. Part of the work of the Commission will be to advise the Secretary of State for Health about the range and quality of regulated services. This work will not be reflected in fees.

6. As both purchasers and providers of care, there will be significant financial implications for Local Authorities and Health Authorities. Both will be losing their regulatory functions. Local Authorities will also have to pay registration and annual fees for their own care homes and children’s homes (identical to those fees to be paid by voluntary and private providers) and annual fees (only) for their fostering and adoption services. Finally, as purchasers of care, both Health Authorities and Local Authorities may be faced with higher care fees to the extent that providers incorporate regulatory fees in the cost of placements. It is intended, through appropriate funding adjustments, to ensure that these changes should not affect either Local Authorities’ or Health Authorities’ ability to purchase or support care.
7. A Regulatory Impact Assessment is attached at the end of this document. This estimates the effect of these proposals on providers. The Government wishes to consider your responses before drafting the regulations governing the frequency of inspections and the fee regulations.

8. You are invited to respond by 18 September 2001. Please send responses to:
   
   Department of Health
   Room 629 Wellington House
   133 Waterloo Road
   London SE1 8UG

9. Alternatively please email us at:

   MB-DH-Regulatoryfees@doh.gov.uk
Proposed Regulatory Framework

Introduction

10. The effectiveness of the NCSC, as a regulator of care standards, will depend on the methodology it employs to register, inspect and encourage better practice in social care and independent health care against the standards set. The methodology has implications for the required number of inspectors, and thus for the staff and total cost of the Commission.

11. The NCSC’s regulatory activities involve:
   - registration
   - inspection
   - complaints made to the registration authority and
   - enforcement.

12. We have estimated the number and range of services that will be new to regulation. We have taken into account our aim of achieving quality improvement for the whole service. Our estimates have been calculated from known figures about current practice, together with assumptions and predictions about how this might change under the NCSC. These assumptions are described in each section.

13. Several sources have been used in developing this methodology:
   - the Personal Social Services Research Unit (PSSRU) at the University of Kent studies of the costs of regulating residential care services for adults and children, 2000
   - DH Statistics Division Survey of Registration and Inspection Units, March 2000
   - DH National Survey of Registration and Inspection Units, July 2000
   - Data supplied by members of the Regulatory Procedures Project Advisory Group, November 2000
   - DH Service Audit 2000
   - Employers’ Organisation Earnings Survey, July 2000

14. Our DH Service Audit indicates that there will be approximately 40,000 services that will be regulated and/or inspected by the NCSC. This represents an additional 10,000 services, or a 33% increase over current numbers of regulated services.
15. In estimating future work, we have considered the impact of the following factors:
   • the Commission will be a single, national organisation with a high profile
   • it will be working with consistent standards, methods and procedures
   • some services are to be regulated for the first time
   • there is likely to be a mix of experienced and inexperienced staff in the NCSC all of whom will be working to a new regulatory system
   • the intention is to raise standards through improved regulation and enforcement
   • inspections should focus on the views of service users
   • there will be automated administrative systems (IT)
   • the calculations assume a steady state i.e. assuming a “typical” working year

**Registration**

**Current Position**

<table>
<thead>
<tr>
<th>Current Number in 1999/00</th>
<th>Unit figure (PSSRU)</th>
<th>Time taken on this activity (PSSRU)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2640 applications</td>
<td>LA units receive 21 applications per year</td>
<td>Average total staff time on new registrations is 4.5** days for care/nursing homes and 8.6 for children’s homes</td>
</tr>
<tr>
<td>2340 new registrations</td>
<td>HA Units receive 5 per year</td>
<td></td>
</tr>
</tbody>
</table>

*Number for children’s homes is lower at less than one new application per unit per year.

** 4.5 days is the average figure for both care and nursing homes

**Assumptions**

16. New registrations will occur at rate of 7% of services i.e. 2,800 services per year. A manager (who is not the owner) is registered additionally to the provider and thus typically a new provider counts as two registrations.

17. Existing domiciliary care, independent fostering agencies, and residential family centres registering for the first time will not receive (nor pay for) an annual inspection in the first year, but they will be visited as part of the registration process.

18. The average total inspector staff time assumed per NCSC registration is as follows:
   • Care homes/nursing homes 4.5 days
   • Independent health care with beds and nursing homes 6.1 days
   • Independent health care without beds and agencies 3.9 days
   • Children’s homes 8.6 days
Variations and Cancellation of Registration

Current Position

<table>
<thead>
<tr>
<th>Current Number in 1999/00</th>
<th>Unit figure (PSSRU) Based on care homes for adults*</th>
<th>Time taken on this activity (PSSRU)</th>
</tr>
</thead>
<tbody>
<tr>
<td>6675 requests for variation*</td>
<td>26 variations per unit and 5 de-registrations per year</td>
<td>Average total staff time on variations and de-registration is 2.7 days.</td>
</tr>
<tr>
<td>6440 variations registered</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1800 establishments closed other than through cancellation proceedings</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Closure rate of 6%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Variation includes minor changes of client group, change in bed numbers, and building alterations.

Assumptions

19. The rate of activity for variations will increase insofar as current re-registrations (where a significant number of registered places changes) will count as variations under the Care Standards Act. Cancellations are assumed to stay the same:
   - the volume of variations will be 18% of services that have to be registered under the Care Standards Act, ie about 7000 per year,
   - the cancellation rate is 6% ie 2400 per year, and
   - the average total staff time will be 2.7 days per variation/cancellation of registration.

Inspection Frequencies

Assumptions

20. The inspection frequencies will be set in regulations. The model comprises:
   - announced inspections,
   - unannounced inspections, and
   - follow-up inspections.

21. Inspection methodologies will start from the perspective of service users and this is a priority for fieldwork activity. The proposals are based on:
   - existing practice,
   - perceived risk,
   - a level playing field between the sectors involved – private, voluntary and public,
• policy in the Care Standards Act that requires the NCSC to improve the quality of care services, but this does not apply to independent health care where a lighter touch is considered appropriate, or to boarding schools (where phasing with OFSTED is desirable), and
• a wish to minimise frequencies (and thus cost and fees) where there is no conflict with the above.

22. For example, the current inspection frequency for voluntary adoption agencies has been applied to Local Authorities. Independent fostering agencies were considered to involve greater risks requiring an annual inspection, which would then also apply to Local Authorities. The proposals for mainstream boarding schools increase the frequency slightly from current practice to once every three years with an intended link up on every second inspection to the education inspection. The same frequency could then apply to Further Education colleges, but a higher frequency would be desirable for residential special schools where risks are higher.

23. We seek your views particularly on the proposed annual frequencies of inspections and whether the balance is right between the various service sectors.

24. The proposed average times are a resource planning tool. These times will not be set in regulations and local area managers will be able to alter these to reflect risk, complexity and size. There will, in practice, be considerable variation in inspection times between establishments and agencies of the same type. Some services will require more visits than the statutory minimum and the number of inspector days may be adjusted accordingly.

25. The table shows total inspector days (including pharmacists, nurse inspectors and other specialist inspectors). This assumes that an inspection will take this long, regardless of whether there is one or more people doing the work.

Other Assumptions

26. Follow-up inspections represent additional work needed to ensure that action plans arising from inspections are implemented. As such, they are considered to be part of the compliance and enforcement process rather than routine inspection work. They are not counted in the inspection frequencies but are added in at 0.5 inspector days per service per year (0.25 for small independent health care). However, they will be used flexibly by local Area Managers as required.
## Proposed Inspection Frequencies and Time for Completion

<table>
<thead>
<tr>
<th>Service</th>
<th>Inspection frequency per annum</th>
<th>Number of Inspector days per service per annum (including planning, fieldwork and reporting time)</th>
<th>Total inspector days per year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Now</td>
<td>Proposed</td>
<td>Announced</td>
</tr>
<tr>
<td><strong>Adult Care</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Care and nursing homes for older people</td>
<td>Under 4 beds</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>4-29 beds</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>30+ beds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Homes for Adults</td>
<td>Under 4 beds</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Over 4 beds</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Placement Schemes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Domiciliary Care Agencies</td>
<td>None (some accredited)</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Nurses’ Agencies</td>
<td>None</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td><strong>Child Care</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children’s Homes</td>
<td>Under 4 beds</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Over 4 beds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential Family Centres</td>
<td>None</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Residential Special Schools</td>
<td>Some “at reasonable times”*</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Boarding Schools</td>
<td>1 in 4 years (with interim visits)</td>
<td>1 in 3 years</td>
<td></td>
</tr>
<tr>
<td>FE Colleges with accommodation</td>
<td>None</td>
<td>1</td>
<td>1 in 3 years</td>
</tr>
<tr>
<td>Independent Fostering Agencies</td>
<td>None</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>LA Fostering</td>
<td>None (some DH SSI)</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Voluntary Adoption Agencies</td>
<td>1 in 3 years (DH SSI)</td>
<td>1 in 3 years</td>
<td></td>
</tr>
<tr>
<td>LA Adoption</td>
<td>None (some DH SSI)</td>
<td>1 in 3 years</td>
<td></td>
</tr>
<tr>
<td><strong>Independent Health care</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acute Hospitals</td>
<td>Medium units</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Large units plus specialist inspectors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mental Health Hospitals</td>
<td>Medium units</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Large units plus specialist inspectors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hospices</td>
<td>plus specialist inspectors</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Abortion clinics and maternity homes plus specialist inspectors</td>
<td></td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Private doctors plus specialist inspectors</td>
<td>None</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Independent medical agencies plus specialist inspectors</td>
<td>None</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Prescribed Techniques and Technologies plus specialist inspectors</td>
<td>2</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>
27. The IT system will be able to generate pre-inspection information, including information assessing risks, and standard report formats, and there will be administrative support to initiate the inspection and prepare pre-inspection information. Pre-inspection information will be used to prepare for fieldwork including a self-assessment questionnaire for providers.

28. In addition:

- These models cover inspector time only. This includes nurse inspectors, pharmacists, boarding school professionals and independent health care specialists where relevant.
- Inspector travelling time is included in the figures.
- Lay assessors will participate in inspections but their time is not included in the figures. Their preparation is included in planning time.
- Planning time includes preparation of service users.
- Administrative overheads will be added pro-rata to this framework.

Complaints Investigation

Current position

<table>
<thead>
<tr>
<th>Current Number in 1999/00 (DH statistics)</th>
<th>Unit figure (PSSRU) Based on care homes for adults</th>
<th>Time taken on this activity (PSSRU)</th>
</tr>
</thead>
<tbody>
<tr>
<td>13,305 complaints received</td>
<td>36 general complaints and 30 substantial complaints per 100 homes</td>
<td>Substantial complaints would result in 0.8 inspector days per home per year. This is based on their calculation of approximately 3 days per complaint.</td>
</tr>
<tr>
<td>of which</td>
<td>3,520 (26%) require substantial investigation</td>
<td></td>
</tr>
</tbody>
</table>

Assumptions

29. Local and Health Authorities will handle complaints about the service commissioning process. Complaints about service providers will be directed in the first place to service providers, but if this fails to resolve the problem they may be then addressed to the NCSC. In addition, officers at regional level will investigate complaints about the NCSC and its inspectors. These are not included in the estimates below.

30. We aim to achieve improved quality through greater attention to complaints and enforcement work. We assume that the volume of complaints will be 1 for every 3 providers per year, and that each complaint will take 3.7 days to complete.
Enforcement Action

Current Position

<table>
<thead>
<tr>
<th>Current Number in 1999/00</th>
<th>Unit figure (PSSRU) Based on care homes for adults</th>
<th>Time taken on this activity (PSSRU)</th>
</tr>
</thead>
<tbody>
<tr>
<td>850 establishments subject to compliance orders (2.5%)</td>
<td>Rate of regulation 20/15 notices per 100 homes per year is 2.56 for LA units, 2.30 for HA units, 4.90 for joint units.</td>
<td>Huge variation makes it hard to determine appropriate figure</td>
</tr>
<tr>
<td>30 were prosecuted</td>
<td></td>
<td>5% of total inspector time reported as being spent on enforcement</td>
</tr>
</tbody>
</table>

Assumptions

31. There is currently little formal enforcement action, but when it arises it can be complex, time consuming and take many months to complete. The Social Services Inspectorate has recently been critical of too much tolerance of poor standards by existing inspection units.

32. We assume that there should be an increase in enforcement action from 5% to 8% of inspector time, plus selected use of the proposed follow up visits to improve compliance with the regulations and standards.

Conclusion

33. This section has set out the proposed regulatory framework for the NCSC. In estimating the requirements for inspectors under the NCSC, we have taken into account the increased amount of regulation and inspection activity, and the aim for quality improvement.

34. Your views are sought about this framework, which directly leads to the cost of inspection and thus to the full cost recovery fee levels.
The Cost of the Regulatory Framework

Start-up Costs

35. The Department of Health will meet the full start-up costs of the Commission, as it will not have its own income until it assumes regulatory responsibility in April 2002. The Department of Health does not intend to recover these costs through fees.

36. These start-up costs will cover the costs of acquiring leases for 80 offices and their refurbishment and fit out, including furniture and IT. The Headquarters will be in Newcastle. In addition, there will be eight Regional Offices and 71 Area Offices.

37. The start-up costs also include the recruitment and salaries for some of the Headquarters and Regional Office staff and some consultancy work to prepare for the new services.

Running Costs

38. The most significant cost is staff. The Commission will be inspecting new services and some current services, such as small homes, more frequently. The above regulatory framework, when taken with the estimated work volumes for each regulatory sector, would require 1,475 registration and inspection staff, compared with approximately 1,160 now.

39. The Commission will also require managers for every 8 to 10 inspectors and one support person for every 3 to 4 inspectors. Support staff will be needed to follow up complaints made about establishments and agencies, provide information to the public, and organise and support the inspection programme.

40. For each sector the proposed amount of inspector time within the regulatory framework leads to the inspector staff requirement for that sector. When the costs of support staff and office costs are added the full cost for each sector becomes apparent. It is these costs that would be offset by full cost recovery fees.
41. The percentage division of these inspectors by service is shown in the chart below.

**Share of Inspectors and Costs**

![Pie chart showing the percentage division of inspectors by service]

- Homes for Adults: 28%
- Care Homes – Nursing: 18%
- Care Homes – Elderly no nursing: 30%
- Domiciliary Care Agencies: 9%
- Nurses Agencies: 2%
- Children’s Homes & Residential Family Centres: 5%
- Residential Special Schools: 1%
- Boarding Schools and FE: 1%
- Fostering and adoption: 1%
- Independent Hospitals with beds: 2%
- Hospitals without registered beds: 3%
- Hospices: 0%

**Total Resource Costs**

42. We estimate that total operating costs of the Commission will be about £130m a year (at 2002/03 prices). We expect this to be accounted for as follows:

<table>
<thead>
<tr>
<th>NCSC Operating Costs</th>
<th>£m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff</td>
<td>81</td>
</tr>
<tr>
<td>Accommodation &amp; Services</td>
<td>37</td>
</tr>
<tr>
<td>Capital</td>
<td>12</td>
</tr>
<tr>
<td>Total Operating Cost</td>
<td>130</td>
</tr>
</tbody>
</table>

43. Of these costs, £1m will be provided directly for non-regulatory functions, which include advising the Secretary of State for Health on the range and quality of regulated services. There may be other non-regulatory activities (such as advice or training to providers) which will be self-funding. Regulatory activity will thus cost about £129m a year. When full cost recovery is achieved, the total regulatory fee income should therefore raise £129m.

**The Regulatory Cost of each Service**

44. The regulatory cost (the average total cost of both registration and inspection) of each service may be established from the above pie chart according to its share of the required number of inspectors. Thus Homes for Adults would require 30% of inspector resources, and thus 30% of £129m, or £39m. The care home sector as a whole is 76% of the total work of the Commission and is expected to cost about £98m. This is about 1% of the total costs of care homes to providers.
45. The full average annual cost to register (where necessary) and inspect each establishment or agency per annum is expected to vary between just under £1,500 for boarding schools and Further Education with residential provision for students under 18, to over £7,000 for independent hospitals. The average anticipated costs for each service are set out in the chart below.

**Full Cost per Establishment or Agency**

<table>
<thead>
<tr>
<th>Service</th>
<th>Full Cost (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Care Homes – Elderly no nursing</td>
<td>0</td>
</tr>
<tr>
<td>Care Homes – Nursing</td>
<td>1,000</td>
</tr>
<tr>
<td>Homes for Adults</td>
<td>2,000</td>
</tr>
<tr>
<td>Domiciliary Care Agencies</td>
<td>3,000</td>
</tr>
<tr>
<td>Nurses Agencies</td>
<td>4,000</td>
</tr>
<tr>
<td>Children’s Homes &amp; Res. Family Centres</td>
<td>5,000</td>
</tr>
<tr>
<td>Residential Special Schools</td>
<td>6,000</td>
</tr>
<tr>
<td>Boarding Schools and FE</td>
<td>7,000</td>
</tr>
<tr>
<td>Fostering &amp; Adoption</td>
<td>8,000</td>
</tr>
<tr>
<td>Independent Hospitals with beds</td>
<td>7,000</td>
</tr>
<tr>
<td>Independent Health Care no beds</td>
<td>6,000</td>
</tr>
<tr>
<td>Hospices</td>
<td>5,000</td>
</tr>
</tbody>
</table>
Setting the Fees for the Commission

46. The Care Standards Act requires regulatory fees to be set by the Secretary of State for Health. At present only fees for nursing homes and residential care homes are set by Ministers. Fees for regulating children’s homes are set by Local Authorities (often modelled on care home fees). Boarding schools currently pay no fees at all for their welfare inspections.

Transparency

47. The Government announced its policy to set fees to recover the full regulatory or inspection costs during the debate on the Care Standards Bill and regularly thereafter. The implications of full cost recovery are set out under Option (iii) of the attached Regulatory Impact Assessment at page 30. Full cost recovery ensures that costs are transparent and are borne jointly by the providers of services and those paying for such services. This helps to ensure that regulation is both efficient and effective and that those who gain from better regulation face a fair cost. The market will be able to operate more efficiently as decisions to purchase care will be accurately informed by the real economic costs to society of so doing.

No Cross Subsidy

48. In estimating the fees for full cost recovery it is an important principle that fees in one service should not be set so high as to subsidise another service, for this would be equivalent to a new tax. Where subsidies remain temporarily they will thus come direct from central government.

Phasing in Full Cost Recovery

49. As the detailed development of the Commission has moved forward, the government has reviewed the position. It is now minded that full cost recovery should be phased in over a period of five years, subject to a review after two years, in order to enable the largest sector, care homes, to adjust to the new fee regime. This is in recognition that a steep increase in fees could cause a destabilising effect on the sector. Such a phased approach could also extend to children’s homes, hospices and mental health hospitals. However, service areas new to regulation, and the remaining existing areas of work such as independent health care and boarding schools would be expected to start at fee levels closer to full cost recovery and to achieve full cost recovery more rapidly. This is presented as Option (ii) of the Regulatory Impact Assessment at page 30.
50. This possible change in policy towards phasing in full cost recovery is concentrated on services where most of the funding comes from public authorities. This is in recognition that resources will need to be recycled where most funding for services comes from public sources. Appreciable fee income is necessary to pay for those services where public funding is not involved. *Your views are sought on the above proposals.*
Funding the Commission

Initial funding of the Commission

51. The operational costs of the NCSC will be met by a combination of:
   • fees paid by providers,
   • resources transferred from Health and Local Authorities when their responsibilities cease,
   • additional resources provided through the Spending Review 2000 and provisionally placed in the Local Authority Standard Spending Assessments from 2002 onwards in line with the Government’s policy of full cost recovery fees, and
   • central funding from the Department of Health in respect of other functions outwith the regulatory regime.

52. Even where full cost recovery will be phased in, the Government considers that there should be some increase in all fees. Option (ii) provides that income from fees should raise an additional £13m in a "typical" year. But, in its first year of operation the NCSC will have additional registrations of new services. The equivalent new income required in 2002/03 would thus be £15m in addition to current income of £25m. The total of £40m would be 31% of the estimated regulatory cost of £129m – the same proportion as now.

53. In the light of this alternative approach to full cost recovery, the additional Spending Review 2000 funding, previously placed within the Local Authority Standard Spending Assessment, will need to be passed to the Commission instead, along with the existing subsidy by Local Authorities and Health Authorities to cover all the costs of regulatory services. Without the transfer of both these provisions regulatory fees would have to be set at very much higher levels.

Passing on the regulatory cost from providers to purchasers

54. Government policy is in principle that the Commission should be self-financing. When it is self-financing it is assumed that proprietors will pass a large part of the consequent fee increases to those paying for the services. Most services are publicly funded so it has been assumed that funding authorities will need compensation so that their work sponsoring health and social care is not threatened.
55. As regulatory fees are increased towards full cost recovery resources initially removed from the Local Authority and Health Authority baselines, as set out above, will be returned to these authorities. We expect funding authorities to pay higher commissioning fees for social care as proprietors pass on increases in regulatory fees to the funding authorities. In this way the burden to providers from increases in regulatory fees will be minimised and the sponsorship of social care and independent health care will not be adversely affected.
Introduction

56. Paragraph 44 above establishes the full cost per establishment or agency. These costs are in line with research by the PSSRU on the full regulatory costs for care homes, children's homes and boarding schools in the present system (for example discussion papers 1496, 1497, 1643 and 1647). Details can be found through their web site:

http://www.ukc.ac.uk/pssru

Higher Costs where there is Greater Complexity

57. The PSSRU reports suggested that there was a case for higher fees where specialist input to inspection needs to be involved. This has been built into the regulatory framework where risks are higher and where there is a need for greater inspection resources because of complexity. Specialist input to inspection has been allowed for within independent health care and for boarding schools.

Fees based on Work Done

58. Another PSSRU suggestion was that regulatory fees could be based on the actual registration and inspection work carried out by the Commission for each provider. Thus if the NCSC had to make extra visits to a particular provider to ensure compliance then that provider should pay more in the following year. In this way providers that always complied with the minimum standards would not have to pay for extra work amongst less satisfactory providers. Similar adjustments might be possible if the NCSC were able to simplify their inspections by taking account of evidence from existing accreditation schemes. Your views are sought on this point.

Dual Registration

59. The Care Standards Act removes dual registration (of residential and nursing homes). Where there is dual registration, registration fees for the same home have to be paid both to Health Authorities and to Local Authorities. Also, to the extent that beds are dual registered, the annual fee for such dual registered beds currently has to be paid twice. With the removal of dual registration, currently dual registered homes will face lower fee increases than many other establishments.
Current Position – Care Homes, including “Nursing” Homes

60. Current fees are closest to full cost recovery for large residential homes and nursing homes. This is because there are economies of scale in inspecting large homes that are not reflected in the annual fee of £46 per bed. Conversely the annual fee of £34 for a small home is only a very small fraction of the cost of inspecting such a home.

61. Research by the PSSRU shows that the cost of inspecting homes does not vary greatly with the size of the home. In the current system a combination of a flat rate registration fee (currently £952 for most homes, but £261 for small homes) and the annual ”bed” fee takes some account of the fact that the combined costs of registration and inspection do not vary significantly with the size of home. The current fee structure leads to a considerable subsidy of small homes by larger ones.

A Proposed Annual Fee Structure that better reflects Costs

62. Under the NCSC it would thus be fairer if the annual fee structure reflected the actual costs of annual inspection to a lesser extent according to the size of the establishment being inspected than at present. This could be achieved if the annual fee structure had three elements:

- a flat element for all establishments (or agencies) including small homes,
- a higher rate per residential place (or other measure of size and scale in an agency) for medium size establishments,
- a lower marginal rate per residential place for larger establishments.

The flat element would represent the fixed costs that arise out of any inspection (eg compliance with the national minimum standards would need to checked no matter what the size of home). The lower marginal rate per place recognises that there are economies of scale in inspecting large establishments.

63. It is proposed that small homes (with less than four registered places) should only pay the flat element. All other establishments would pay the flat element plus a higher rate per residential place from the fourth place to the 29th place inclusive and then a lower rate for the 30th and subsequent place.

64. Your views are sought about this proposed fee structure for establishments with registered places, and whether the principle could also be extended to agencies (where there would need to be an alternative measure of size).
Registration Fees

Fees for the Registration of Providers and Managers

65. Under the Registered Homes Act 1984, current application fees for registration are £952 for residential care homes and nursing homes and £261 for small homes. Where a separate manager needs to be registered an additional £261 is payable.

66. The full cost of registering a provider under the NCSC is estimated to be about £3,000. The cost of registering a small home or manager is estimated to be one third of this figure.

67. It is proposed to increase the provider registration fees to £1,100 in 2002/03 for all establishments and agencies except for homes with less than 4 registered places (ie small homes) where it would be £300. Boarding schools and residential special schools that are not children’s homes are exempt from registration, as are local authority services for fostering and adoption.

68. It is proposed to adopt the same charging process as now in that a fee is paid on application for a new registration and an annual fee becomes payable one month after the registration has been granted. No refunds would be granted.

Managers

69. Where a manager (who is not the owner or provider) needs to be registered, it is proposed that the fee for 2002/03 be £300. As now, this will be payable in addition to the main registration fee. Currently nursing homes (including independent hospitals) are not required to register their managers separately but they will have to do so under the NCSC.

Transitional Arrangements

70. There will be transitional arrangements to take over existing arrangements and unregistered managers in nursing homes, nurses’ agencies, voluntary adoption agencies and voluntary children’s homes. In such circumstances, where existing arrangements have been taken over, we are proposing that an annual fee would become payable in April 2002. We are consulting on whether an additional fee should also be payable to register currently unregistered managers (see paragraph 38 of the Regulatory Impact Assessment) and currently unregistered local authority owned homes (see paragraph 39 of the Regulatory Impact Assessment).
Some services are already currently registered, licensed or inspected under a different system. Voluntary adoption agencies and voluntary children’s homes are currently approved by the Secretary of State for Health. Local authorities license nurses’ agencies. These agencies will be transferred into the new regulatory system through legislation without any need to register again.

Domiciliary care agencies will be registered for the first time. It is proposed that in the first year of operation domiciliary care agencies will pay only the registration fee, to be followed one year later by the annual fee. A similar approach is proposed for independent health care agencies and other establishments or agencies facing regulation for the first time, including homes run by local authorities.

**Phasing in Full Cost Recovery**

It is proposed to phase in full cost registration fees over a five-year period, subject to a review after about two years.

*Your views are sought on these proposals for registration fees.*

**Fees for Variations**

Under the Registered Homes Act 1984 no fee is payable for a variation in registration but significant changes require a complete re-registration. Under the Care Standards Act most changes (except those involving a change in ownership, manager, or in the category of establishment or agency) can be accommodated as a variation in registration.

Some variations are minor, where the work can be completed without visiting. In such circumstances it is proposed to introduce a new charge for all establishments and agencies of £50 for a change in any certificate (either for the owner or the manager).

However, where a variation in registration is sought that does require a visit to the site but does not go so far as requiring a new registration a higher fee of £550 is proposed for the owner, again as a charge to all establishments and agencies.

Over time the Commission may obtain better evidence about the costs of these variations and the proposed fees may then be modified to reflect actual costs.

*Your views are sought about these proposals for proposed new charges for variations in registration.*
Annual Fees

Care Homes, and Hospices

80. It is proposed to move to the structure in paragraph 62 over time. In line with phasing in full cost recovery for the care home market it is proposed that the flat element should be £150 in 2002/03 and the bed fee £50 for each residential place for the fourth and subsequent place. Of course this is effectively the same as a simple place fee of £50 (compared to the present £46 for most homes).

81. It is noted that the flat element needs to be at least three times the higher rate per residential place. This is to reflect the fact that the cost of inspection does not change markedly with size of establishment. It is also to avoid perverse incentives (that are in the current system) that could encourage larger establishments on the same site to split up into clusters of smaller ones just to reduce fees.

82. Local Authorities would be expected to pay the same for their own homes as independent care homes.

Phasing in Full Cost Recovery for these Services

83. For the care home market annual higher rate residential place fees would need to be raised each year by £10 for five years, subject to a review after two years. Thus in 2003/04 the higher rate place fee would rise to £60 for places between the 4th and 29th inclusive. Where there were 30 or more places the lower rate place fee would remain at £50 a place for the 30th and subsequent place. Other fees such as registration fees would need to be raised by at least 10 per cent per annum. These estimates would need to be reviewed after about two years once the actual costs of the NCSC have been established.

84. In order to reflect the above annual fee structure the flat element would also rise in line with the higher rate residential place fee, times three. In order to reflect economies of scale the lower marginal rate residential place fee for larger homes could be kept at £50.

85. Where the above regulatory framework proposes greater inspection time (such as for homes for younger adults and children’s homes), it is suggested that the flat rate element might be increased at a faster rate than for care homes for the elderly. The converse would be true where the above framework implies a lower intensity of regulation, such as hospices.

86. Your views are sought about these proposals for care homes, and hospices.
Children’s Homes

87. Children’s homes involve greater risks and thus greater time has been allocated for inspection. In recognition of the extra work involved it is proposed that the flat rate element for children’s homes (including fees for the first time for voluntary children’s homes) be set at £500 with bed fees of £50 for each residential place for the fourth and subsequent place (as for care homes). A small children’s home would thus be expected to pay £500. Currently local authorities set their own fees for children’s homes and these are typically higher than for care homes.

Boarding Schools and Further Education Colleges

88. Fees need to be set for the first time for boarding schools. Further education colleges, where there is residential provision for students under 18, will be brought into the regulatory regime. Some boarding schools are very large and economies of scale will be expected. The above fee structure would be applied both to boarding schools and Further Education as for care homes with inspections only once every three years (with a follow up in intermediate years). The annual full cost recovery fee will be much lower than for care homes. It is proposed to set an annual licence fee in 2002/03 with the following elements:

• flat rate of £250,
• a higher rate per pupil of £15 (for each boarding pupil or resident student between the fourth and the 29th),
• a lower rate per pupil of £7.50 (for the 30th and subsequent pupil).

89. The definition of boarding pupil or resident student under 18 for this purpose needs careful consideration. We are trying to measure the number of pupils or students who sleep on the premises. Your views are sought on this point.

90. The above would not achieve full cost recovery. It would be necessary to increase the flat rate element to £400. This could be phased in over a few years.

Residential Special Schools

91. The regulatory framework at page 7 proposes more intensive inspection frequencies for residential special schools recognising the higher risks involved. For residential special schools the proposed fees would be:

• flat rate of £500,
• a higher rate per pupil of £40 (for each registered pupil between the fourth and the 29th),
• a lower rate per pupil of £20 (for the 30th and subsequent pupil).

92. Your views are sought about these proposals for boarding schools, Further Education where there are residential students and residential special schools.
Independent Health care with registered overnight Beds

93. It is proposed that independent acute hospitals should pay annual fees using the same fee structure as care homes and boarding schools. It is proposed to set an annual licence fee in 2002/03 with the following elements:
   • a flat rate of £2,500
   • a higher rate per registered bed of £100 (for each registered bed between the fourth and the 29th),
   • a lower rate per registered bed of £50 (for the 30th and subsequent bed).

94. The above would not achieve full cost recovery. It would be necessary to increase the flat rate element to £4,000 to achieve this. This could be phased in over a few further years.

95. Your views are sought about these proposals for independent health care where there are registered beds.

Independent Health care with no registered overnight Beds

96. Currently clinics without any registered beds pay a flat rate annual fee of £215. It is proposed to increase this to £1,000 in 2002/03. Full cost recovery would be about £2,000 and this could be phased in over a five-year period.

97. Where large independent health organisations have multiple outlets as clinics each local clinic or agency would be expected to pay the fee, as now. New areas of independent health care would be expected to pay the same.

98. Your views sought as to whether such a fee could be varied with the size of the clinic or agency, with larger units paying more and smaller ones less. If so how could size be reliably measured for this purpose?

Annual Fees for Other Services

99. Annual fees must also be set for the remainder of the services to be regulated. These include:
   • independent fostering agencies,
   • voluntary adoption agencies,
   • Local Authority fostering and adoption services,
   • nurses’ agencies (which currently pay a small fee),
   • domiciliary care agencies,
   • and residential family centres.
100. Full cost annual fees for these areas would vary according to the amount of inspection work required. Areas with a proposed less intense inspection regime, such as voluntary adoption agencies would have lower annual fees and areas where a higher intensity of inspection is proposed would pay more (e.g. independent fostering agencies).

101. Where Local Authorities are inspected, because they are carrying out similar work to the independent agencies, they will pay the same annual fee as the independent providers. But these Local Authority services would not be registered, nor attract a registration fee. The DH Social Services Inspectorate and the Audit Commission inspect Local Authorities as commissioners of services.

102. The proposed annual fees for 2002/03 are set out below with full cost fees in brackets:
   - independent fostering agencies and Local Authority fostering services £1,000 (£3,300),
   - voluntary adoption agencies and Local Authority adoption services £500 (£1,400),
   - nurses’ agencies £500 (£2,250),
   - domiciliary care agencies £750 (£2,800),
   - residential family centres with a similar structure to children’s homes with a flat rate of £400 and place fees of £50 for the fourth and subsequent place (but a “place” would be a whole family).

103. It is expected that proprietors would pass on a large part of these fees to those paying for, or funding the services. It is also assumed that funding authorities would be compensated for this so that their sponsorship of health and social care will not be adversely affected. The full cost fees could be phased in over a five-year period, subject to a review after about two years.

104. Your views are sought for these proposals for the new areas of work.

Summary of our Proposals for the Annual Fee

105. Our proposals for the annual fees for the year 2002/03 are set out in the table at paragraph 46 of the Regulatory Impact Assessment, which also proposes how these fees would be increased to achieve full cost recovery.

Summary of Questions in this Consultation Paper

1. Are the proposed annual frequencies of inspections appropriate and is the balance right between the various service sectors? (paragraph 23)
2. Overall what are your views about the regulatory framework, which directly leads to the cost of inspection and thus to the full cost recovery fee levels? (paragraph 34)
3. What are your views on the proposal to phase in full cost recovery? (paragraph 50)
4. Should fees be based on work done? (paragraph 58)
5. What are your views about this proposed fee structure for establishments with registered places? Should the principle also be extended to agencies (where there would need to be an alternative measure of size)? (paragraph 64)
6. What are your views on these proposals for registration fees? (paragraph 74)
7. What do you think about proposals for proposed new charges for variations in registration? (paragraph 79)
8. What are your views on proposals for annual fees for care homes, and hospices? (paragraph 86)
9. Is the definition of boarding pupil or resident student (i.e. those who sleep on the premises) appropriate? (paragraph 89)
10. Your views are sought about the proposed scale of fees for boarding schools, further education where there are residential students and residential special schools. (paragraph 92)
11. What do you think about the proposed fees for independent health care where there are registered beds? (paragraph 95)
12. Could such a fee be varied with the size of the clinic or agency, with larger units paying more and smaller one less? If so how could size be reliably measured for this purpose? (paragraph 98)
13. What are your views about the proposed fees for the new areas of work? (paragraph 104)
14. Overall, what do you think about the proposals contained in this consultation paper?
Title of regulatory proposal

1. National Care Standards Commission – Proposals for Frequencies of Inspection and Regulatory Fees.

Introduction

2. This regulatory impact assessment is provided to assist public consultation about proposals to set minimum frequencies for inspection and regulatory fees for the work of the National Care Standards Commission (NCSC). It should be noted that there are other regulatory impact assessments dealing with the costs and benefits of each of the sets of national minimum standards.

3. From April 2002 the NCSC will be required to inspect establishments and agencies according to the proposed annual frequencies. Establishments and agencies within the scope of the Care Standards Act 2000 will be required to pay fees for registration, variations of registration, and annual fees as prescribed by the Secretary of State. These requirements are set out in primary legislation within the Act. Following this consultation, regulations will be made to determine the frequencies of inspection and to prescribe the fees.

Purpose of the Intended Proposals

4. The minimum frequencies of inspection take account of the risks to social care and health users, the nature of the establishment or agency involved and the existence of other forms of regulation or inspection beyond that proposed for the NCSC. Details are set out in the Frequencies of Inspection and Regulatory Fees consultation paper in the table on page 7.

5. The proposed fee income is to assist with the funding of the NCSC with the intention of achieving full cost recovery after five years, subject to a review after two years. It is also to make the costs of regulation transparent and borne by those who stand to benefit from more consistent minimum standards so that pressures will apply to the regulatory process to ensure that it continues to be effective and efficient. Details are set out in the consultation paper starting at page 17.
The Aim of the NCSC

6. The NCSC will implement Government policy as set out in the Care Standards Act, introducing a single consistent regulatory system operated by the NCSC, and also ensure that:
   • people wishing to run establishments and agencies within the remit of the Act are fit to do so and that their services provide care at a reasonable standard below which they will not be allowed to operate,
   • establishments and agencies can meet their intended aims and objectives as set out in their statement of purpose,
   • premises and facilities are fit for purpose and that the conduct of establishments and agencies meets the regulations and national standards set for each individual service area.

7. Regulation of social care is long established and has previously been applied to many services through the Registered Homes Act 1984 and the Children Act 1989. However, some services will be required to pay fees the first time.

8. The new regulatory process will remedy serious gaps, anomalies and unfairness in the present regulatory arrangements, which have grown piecemeal since 1948 and earlier. Currently some independent health care services, domiciliary care agencies and residential family centres are not regulated and nurses’ agencies are only partially regulated.

9. The process for setting the frequency and the time allocated for inspection through the regulatory framework takes account of the risks and dangers to users of services. The proposed fees and fee structure will ensure that there is a level playing field between all types of provider. For the first time Local Authority provided services for adults and children will be required to seek and pay for registration (although Local Authorities should already be recharging themselves annual fees for inspection under the present system).

10. One exception to this will be Local Authority foster care and adoption services. They will not be required to register but will be subject to the same conduct regulations and minimum national standards applying to other providers and will be inspected by and pay fees to the NCSC. This is because the DH Social Services Inspectorate already inspects Local Authorities.

11. The other exception is the boarding arrangements for boarding schools and further education colleges, which again will not need to be registered but will be subject to national minimum standards and annual fees. This is because the schools and colleges are already inspected by OFSTED.
## Number of Establishments and Agencies Covered

### Proposed Frequencies of Inspections and Numbers

<table>
<thead>
<tr>
<th>Services</th>
<th>Proposed Inspection Frequency</th>
<th>Registered Places</th>
<th>Registration Applies</th>
<th>New to Fees</th>
<th>Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Services for Adults</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Care homes (including nursing homes)</td>
<td>2 per year</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>29,100</td>
</tr>
<tr>
<td>Domiciliary care agencies</td>
<td>1 per year</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>3,650</td>
</tr>
<tr>
<td>Nursing agencies</td>
<td>1 per year</td>
<td>No</td>
<td>Yes</td>
<td>New System</td>
<td>800</td>
</tr>
<tr>
<td><strong>Services for Children</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children’s homes</td>
<td>2</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>1,600</td>
</tr>
<tr>
<td>Residential family centres</td>
<td>1</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>74</td>
</tr>
<tr>
<td>Residential special schools</td>
<td>1 per year</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>330</td>
</tr>
<tr>
<td>Boarding schools and FE colleges</td>
<td>1 in 3 years</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>740</td>
</tr>
<tr>
<td>Independent fostering agencies and Local Authorities</td>
<td>1 per year</td>
<td>No</td>
<td>Yes but not LAs</td>
<td>Yes</td>
<td>275</td>
</tr>
<tr>
<td>Voluntary adoption agencies and Local Authorities</td>
<td>1 in 3 years</td>
<td>No</td>
<td>Yes but not LAs</td>
<td>Yes</td>
<td>200</td>
</tr>
<tr>
<td><strong>Independent Health Care</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acute and mental health hospitals</td>
<td>1 per year</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>280</td>
</tr>
<tr>
<td>Other hospitals and establishments without registered beds</td>
<td>1 per year</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
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</tr>
<tr>
<td>Private doctors</td>
<td>1 per year</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>230</td>
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<tr>
<td>Establishments using prescribed techniques/technologies</td>
<td>1 per year</td>
<td>No</td>
<td>Yes</td>
<td>Some</td>
<td>1380</td>
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<tr>
<td>Hospices</td>
<td>1 per year</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>120</td>
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<tr>
<td><strong>Establishments and Agencies</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>38,800</td>
</tr>
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</table>
12. The table above shows:
   • the proposed frequencies of inspection,
   • whether annual fees will be based on registered places or not,
   • whether registration fees apply,
   • those services that will be paying fees for the first time,
   • and the estimated number of establishments and agencies.

13. *We seek your views on the proposed frequencies of inspection.*

**Objectives**

14. The proposed frequencies of inspection aim to minimise risks to service users. Of course, where problems are identified through complaints or otherwise, or where providers are not meeting the national minimum standards, the NCSC will be involved in more frequent contacts with these providers, either through our proposed "follow up" inspections or through direct contact about specific problems. The direct costs and benefits of meeting the minimum standards are dealt with separately in the regulatory impact assessments associated with each of those sets of standards.

15. The preferred policy objective of setting fees for the NCSC in 2002/03 is to raise £40m through fee income to help fund the NCSC, with a longer-term objective of improved regulatory effectiveness and efficiency through full cost recovery in five years, subject to a review after two years. It is noted that the present system raises £25m through fees and that the NCSC will be regulating an additional 33% establishments and agencies.

16. The new burden of regulatory fees for 2002/03 would be £15m (£13m typically ignoring transitional effects). It is also noted that these fee proposals for 2002/03 would fund 31% of the full cost – the same overall as the present system.

**Risk Assessment**

17. The proposed new system of regulation through the NCSC seeks improvements over the current system administered by Local and Health Authorities. The new system will introduce consistent arrangements and a common application of standards across all providers wherever they are based.

18. Allowing the current diverse arrangements to continue for a range of services supporting vulnerable adults and children would not add to the protection of these people. Through the NCSC, the aim is to reduce the number of incidences of abuse of children and adults in children’s homes and care homes.
Options identified

19. There are three main options:
   • **Option (i)** – Do nothing and retain the present system.
   • **Option (ii)** – Introduce a new system of registration applied consistently across the country with prescribed inspection frequencies and a fee structure set to raise an additional £15m in 2002/03, phasing in full cost recovery over five years, subject to a review after two years.
   • **Option (iii)** – Introduce a new system of registration applied consistently across the country with prescribed inspection frequencies and a fee structure set to raise an additional £104m to achieve full cost recovery in 2002/03.

We are also inviting views on the more specific options in the consultation paper (see page 17 onwards).

Benefits

Option (i)

20. The current system of regulation is not comprehensive or consistent across services and is applied in a variable way by different Local Authorities. Developments in community care service provision mean that many services provided directly to people in their homes are not regulated at all and there are insufficient checks on whether people working in these services are suitable.

21. The Burgner report "The Regulation and Inspection of Social Services" (DH/WO 1996) noted that there is agreement that the present system is inconsistent in its application, there is a lack of even-handedness between the public sector and other providers and an apparent arbitrariness in determining costs and fee levels.

Options (ii) and (iii)

22. The new system of regulation applied consistently across the country will provide a platform for building quality across care services. Providers and care users will be reassured that all relevant establishments or agencies will operate to the same national minimum standards and regulations.

23. The proposed regulatory framework including the prescribed minimum frequencies of inspection will operate across the whole country. This will remove the current inconsistency where 150 Local Authority and 80 Health Authority registration and inspection units apply requirements for registration with standards and inspection methodologies on an individual and variable basis. This sometimes leads providers to complain that they are subject to different requirements in different locations of the country for the same service.

24. Applying these requirements consistently will also benefit users who will be reassured that the same processes are in place across the country to ensure the protection of vulnerable people.
Quantifying and valuing the benefits

25. The major beneficiaries of the new regulatory system under Options (ii) and (iii) will be service users and carers.

26. The regulations and standards will provide a consistent framework for assessing the fitness of individuals and organisations who wish to provide care and health services for vulnerable adults and children. They will also ensure that the premises and facilities for the intended service are fit for purpose from the outset. And there will be consistent checking for criminal records across all staff who work directly with children and vulnerable adults.

27. When in place, service users will be able to feel confident that those providing the services they need are competent to do so and that they employ staff in the services with appropriate experience and qualifications to care for them. Service users will also be given greater opportunities to voice their views (see pages 5-9). The regulations will reduce further the scope for unsuitable people to run services for the vulnerable. The regulatory framework and inspection methodology will ensure that all providers of a particular service are subject to the same inspection process.

Issues of equity and fairness

28. A key objective for introducing a new regulatory system is that it will apply throughout all sectors (with exception that boarding schools, FE colleges and Local Authority adoption and fostering services will not have to be registered). This includes Local Authorities, independent and voluntary sector providers, and care services run by NHS Trusts, separate from their clinical services.

29. At present boarding schools, independent adoption agencies, voluntary children’s homes and homes run directly by local authorities do not have to pay any fees (although authorities are instructed to charge themselves for their own homes).

30. Where fees are not paid and where fees are below full cost recovery it is course the taxpayer who meets the difference. Option (iii) and Option (ii) in due course will transfer this burden to providers and through their service charges to the users of these services who are those who stand most to gain from better regulation.

31. Most providers have been subject to some form of regulation for a long period of time and therefore, the greatest change in cost will probably fall on those services new to regulation. There will be additional requirements that apply to all providers under the new regulations and standards. Nevertheless, regulations and standards will specify the timescales within which they must be complied with.
Compliance Costs

Option (i)

32. Although there may not be substantial additional costs in perpetuating the current system there would be the issue of the continuing and increasing cost of Local Authorities subsidising the cost of regulating care services. There might also be higher costs placed on providers and purchasers disproportionately across the country because some authorities, through local policies, may seek to raise quality and tighten procedures on an individual basis. Currently also fees for children’s homes are set locally. Dual registered nursing homes would continue to have to be registered twice.

Options (ii) and (iii)

33. A mixture of Local Authority, private and voluntary provision will be affected by the new requirements. The extent to which providers are affected will depend upon whether they are currently regulated under existing legislation or are new to registration and inspection altogether.

34. Fees will also depend on the proposed frequency of inspection and the regulatory framework. In addition to the fees, providers may be affected by their time and cost involved with registering and being inspected. *We would welcome views from providers as to how they think this will affect them in contrast to the present arrangements.*

35. Local Authorities and Health Authorities as the major purchasers of care services will absorb the majority of any increased regulatory costs. We expect most of this cost to be passed on by providers through increased fees to service users. It is proposed that Local Authorities and Health Authorities will be compensated for these additional costs. This will enable funders of services to maintain their ability to purchase care services unaffected by changes to the cost of regulation. Under **Option (ii)** Authorities would be compensated as regulatory fees increased, but initially the additional resources placed in the Local Authority Standard Spending Assessments would be needed by the Department of Health to fund the NCSC. Under **Option (iii)** the existing subsidy and additional resources would be left with authorities.
Registration and Variations

Options (ii) and (iii) Registration – Transition to the new system

36. *Existing Providers* – Will not be required to apply for registration again but will be given a category of registration under Part II of the Care Standards Act prior to April 2002. For those already completely registered under the present system, the Commission will either confirm their registration status following the first inspection or additional conditions of registration will be imposed so that the provider complies with the new conduct regulations and standards for the service category of their registration. We do not expect there to be any additional registration costs to existing providers from the new regulations covering registration other than the cost of registering managers, where this is necessary, and requests to vary the conditions of registration.

37. Transitional arrangements will be also applied to providers of services that are currently regulated or inspected but not registered under the Registered Homes Act 1984 or the Children Act 1989. It is proposed that these services (boarding schools, residential special schools, licensed nurses’ agencies, voluntary adoption agencies and voluntary children’s homes) will pay an annual fee in 2002/03 but no provider registration fee in 2002/03. Boarding schools and residential special schools will be permanently exempt from registration.

38. However, there are approximately 5,000 managers in existing nursing homes, independent hospitals, children’s homes and nurses’ agencies, who are currently exempt from registration under existing legislation but will be required to register under the Care Standards Act. They also could be subject to transitional rules waiving the fee, or alternatively be required to pay the manager registration fee.

39. There are also 2,800 Local Authority owned homes that are currently inspected. Local Authorities charge themselves annual fees but the homes are not currently formally registered. These existing homes could also be subject to transitional rules waiving the registration fee. However, new Local Authority homes would be expected to pay the same fees as any other home.

40. *We seek your views about whether it would be fair for existing nursing homes to pay the appropriate manager registration fee and for existing Local Authority owned homes to pay registration fees, in both cases in addition to annual fees in 2002/03.***

Options (ii) and (iii) Registration and Variation Fees

41. *Registrations of Services new to Regulation* – In the first year of operation we anticipate that the NCSC will be required to register the providers of approximately 4,200 previously unregulated establishments and agencies.

42. Currently the fee for initial registration is £952 and the fee for registration of a manager is £261. Small homes pay just £261.
43. Under Option (ii) the registration fee is £1,100, manager £300 and homes with less than 4 registered places ("small" homes) £300. It is proposed this would increase to option (iii) levels over five years, subject to a review after two years. Under Option (iii) the full cost would be £3,000, manager £1,000, and “small” homes £1,000.

44. For practical reasons, in the first year of operation we are not expecting services new to regulation to be inspected according to the prescribed frequencies, nor to pay an annual fee until 1 April 2003. The one-off registration fees for new services are estimated to total £5.3m in the financial year 2002/03 only under Option (ii) and £15.6m under Option (iii).

45. In addition, it is proposed that new fees be introduced where variations in the registration certificate are required. These would be £50 where this can be achieved solely by administrative action, or £550 where an inspector needs to review the registration requirements normally involving a site visit.

Summary of Proposals for Registration and Variation Fees

<table>
<thead>
<tr>
<th></th>
<th>Now Option (i)</th>
<th>Proposal Option (ii)</th>
<th>Full Cost Target Option (iii)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Provider Registration</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>For all services except residential special schools, boarding schools, FE colleges, Local Authority fostering and adoption services.</td>
<td>£952</td>
<td>£1,100</td>
<td>£3,000</td>
</tr>
<tr>
<td>Small homes</td>
<td>£261</td>
<td>£300</td>
<td>£1,000</td>
</tr>
<tr>
<td><strong>Registration of Manager</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As above where provider is not also the manager</td>
<td>£261</td>
<td>£300</td>
<td>£1,000</td>
</tr>
<tr>
<td><strong>Minor Variations</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As above for both providers and managers for a change in the certificate but no site visit.</td>
<td>not applicable</td>
<td>£50</td>
<td>£100</td>
</tr>
<tr>
<td><strong>Other Variations</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As above where site visit required for provider registration.</td>
<td>£952</td>
<td>£550</td>
<td>£1,500</td>
</tr>
<tr>
<td>Small homes would pay the same as the proposed registration fee above (£300)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Annual Fees

46. The proposed annual fee structure (“flat element/higher and lower place rates”) is discussed at page 18 onwards and the proposed fees are summarised below.

Proposed Annual Fees for the NCSC

<table>
<thead>
<tr>
<th>Service</th>
<th>Flat Element Option (ii)</th>
<th>Higher Place Rate Option (ii)</th>
<th>Lower Place Rate Option (ii)</th>
<th>Year on Year or Target Option (iii)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Now for Care Homes, Nursing Homes and Hospitals.</td>
<td>£34 small</td>
<td>£46</td>
<td>£46</td>
<td></td>
</tr>
<tr>
<td></td>
<td>£138 other</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Small Care Homes and Adult Placements</td>
<td>£150</td>
<td></td>
<td></td>
<td>+£30 in the flat element each yr for 5 yrs to £300</td>
</tr>
<tr>
<td>Other Care Homes, Nursing Homes, Homes for Adults and Hospices</td>
<td>£150</td>
<td>£50</td>
<td>£50</td>
<td>Flat element + £30/yr. Higher place rate + £10 a year to £100</td>
</tr>
<tr>
<td>Children’s Homes</td>
<td>£500</td>
<td>£50</td>
<td>£50</td>
<td>as above</td>
</tr>
<tr>
<td>Residential Family Centres</td>
<td>£400</td>
<td>£50</td>
<td>£50</td>
<td>as above</td>
</tr>
<tr>
<td>Boarding Schools and FE residential colleges</td>
<td>£250</td>
<td>£15</td>
<td>£7.50</td>
<td>Flat element target £400</td>
</tr>
<tr>
<td>Residential Special Schools</td>
<td>£500</td>
<td>£40</td>
<td>£20</td>
<td>Flat element target £1,300</td>
</tr>
<tr>
<td>Acute Hospitals and Mental Health Hospitals</td>
<td>£2,500</td>
<td>£100</td>
<td>£50</td>
<td>Flat element target £4,000</td>
</tr>
<tr>
<td>Now for Clinics with no registered Beds.</td>
<td>£215</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Independent health care with no registered places</td>
<td>£1,000</td>
<td></td>
<td></td>
<td>Target £1,800</td>
</tr>
<tr>
<td>Independent Fostering Agencies</td>
<td>£1,000</td>
<td></td>
<td></td>
<td>Target £3,300</td>
</tr>
<tr>
<td>Voluntary Adoption Agencies</td>
<td>£500</td>
<td></td>
<td></td>
<td>Target £1,400</td>
</tr>
<tr>
<td>Nurses’ Agencies</td>
<td>£500</td>
<td></td>
<td></td>
<td>Target £2,250</td>
</tr>
<tr>
<td>Domiciliary Care Agencies</td>
<td>£750</td>
<td></td>
<td></td>
<td>Target £2,800</td>
</tr>
</tbody>
</table>

47. Where place fees apply, the first three places would be covered by the flat element, the higher place rate would apply to places from the fourth to the 29th inclusive, and the lower rate fee would apply to the 30th and subsequent places. Thus, the fee for a care home with 20 places would be:

£150 (covering the first three places)
+ £850 (for 17 places at £50)
= £1,000
The fee for a residential special school with 50 registered places would be:

£500 (covering the first three places)
+ £1,040 (for 26 places at £40)
+ £420 (for 21 places at £20)
= £1,960

**Total Compliance Costs**

**Options (ii) and (iii) – Typical New Burden Costs Registration and Variations**

48. In the current system registrations are 7% of the total number of homes. The proposed registration fees for provider and manager (where not the owner) described above are estimated to raise £1.9m under Option (ii) and £5.4m under Option (iii) in a typical year compared to £1.4m now, once the services new to regulation have been registered for the first time. The registration new burden would thus be £0.5m under Option (ii) and £4.0m under Option (iii).

49. Currently about 18% of registered homes require a variation in the registration requirement each year. This new fee is expected to produce an income of £1.2m under Option (ii). Under Option (iii) the variation fees would need to be increased to raise £3.6m.

**Options (ii) and (iii) – Typical New Burden Costs Annual Fees**

50. In a typical year Option (ii) should generate £11.0m of additional income over the present system and Option (iii) £95.4m.

**Summary of Compliance Costs**

51. For a typical year, total compliance costs are summarised in the table below.

<table>
<thead>
<tr>
<th>Type of Fee</th>
<th>Option (ii)</th>
<th>Option (iii)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration</td>
<td>£0.5m</td>
<td>£4.0m</td>
</tr>
<tr>
<td>Variations</td>
<td>£1.2m</td>
<td>£3.6m</td>
</tr>
<tr>
<td>Annual Fee</td>
<td>£11.0m</td>
<td>£95.4m</td>
</tr>
<tr>
<td>Total</td>
<td>£12.7m</td>
<td>£103.0m</td>
</tr>
</tbody>
</table>

52. In 2002/03 there will be additional registration costs offset by waiving some annual fees. The total compliance cost in 2002/03 is thus expected to be £15m under Option (ii).
In Perspective

53. It is noted that the total turnover of these health and social care establishments and agencies is well over £10 billion. So the total new burden of Option (ii) is about 0.1% of turnover and of Option (iii) about 1% of turnover.

54. At the margins care homes; children’s homes and hospitals would face an increment of annual fee of £50 per bed and educational establishments of £7.50 per pupil per year under either option. This is less than £1 per week per resident or £0.14 per week per pupil.

55. *We would welcome your views about the total cost compliance of these proposals and how at least £12.7m could be achieved through any alternative fee structure.*

Impact on Small Businesses

56. A significant proportion (perhaps up to a quarter) of all establishments and agencies may be regarded as small businesses. Both the proposed regulatory framework frequencies of annual inspection and the proposed fee structure take account of the need to avoid applying the same framework and fee structure to small businesses (defined here as establishments with less than four registered places) as to larger businesses.

57. It is less easy to see how small agencies could be defined in an unambiguous way. Research evidence from the Personal Social Services Research Unit at Kent University noted that regulatory costs do not vary markedly with size, yet ability to pay clearly does.

58. We propose to carry out some litmus tests during the consultation period to check the effect of these proposals on businesses both large and small.

59. *We would welcome your views about whether these proposals strike the right balance between protecting small businesses and reflecting the costs of regulation. Should all small businesses be treated in the same way, even if income per place may be much higher in some sectors (eg children’s homes) than others (eg adult placement schemes)? Is it desirable and possible to distinguish small agencies?*

Summary

60. **Option (i)** is not a practical option because of the Care Standards Act. The National Care Standards Commission now exists. It is necessary to set standards, inspection frequencies and fund the new areas of regulation. Although it is technically possible not to commence parts of the Act the impact of this would be to retain differences and exemptions to regulation that would be contradictory to Government policy.

61. The Government’s policy is to phase in full cost recovery by concentrating on services where most of the funding comes from public authorities. Thus **Option (ii)** is preferred over **Option (iii)**.
Consultation

62. Following this consultation, regulations will be made to prescribe the frequencies of inspection and the regulatory fees.

Summary of RIA Questions

1. We seek your views on the proposed frequencies of inspection. (paragraph 13)

2. In addition to the fees, providers may be affected by their time and cost involved with registering and being inspected. We would welcome evidence from providers as to how they think this will affect them in contrast to the present arrangements. (paragraph 34)

3. We seek your views about whether it would be fair for existing nursing homes to pay the appropriate manager registration fee and for existing Local Authority owned homes to pay registration fees, in both cases in addition to annual fees in 2002/03. (paragraph 40)

4. We would welcome evidence from you about the total cost compliance of these proposals and your news on how at least £12.7m could be achieved through any alternative fee structure. (paragraph 55)

5. We would welcome your views about whether these proposals strike the right balance between protecting small businesses and reflecting the costs of regulation. Should all small businesses be treated in the same way, even if income per place may be much higher in some sectors (eg children's homes) than others (eg adult placement schemes)? Is it desirable and possible to distinguish small agencies? (paragraph 59)

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