

2001 No. 3980

SOCIAL CARE, ENGLAND

CHILDREN AND YOUNG PERSONS, ENGLAND

PUBLIC HEALTH, ENGLAND

**The National Care Standards Commission (Fees and
Frequency of Inspections) Regulations 2001**

<i>Made</i> - - - -	<i>12th December 2001</i>
<i>Laid before Parliament</i>	<i>12th December 2001</i>
<i>Coming into force</i>	<i>1st January 2002</i>

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The Secretary of State, in exercise of the powers conferred upon him by sections 12(2), 15(3), 16(3), 31(7), 45(4), 51(1) and 118 (5) to (7) of the Care Standards Act 2000**(a)** and section 87D(2) of the Children Act 1989**(b)** and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

(a) 2000 c.14. The powers are exercisable by the appropriate Minister, who is defined in section 121(1), in relation to England, Scotland and Northern Ireland, as Secretary of State. *See:* section 121(1) for the definitions of “prescribed” and “regulations”.

(b) Section 87D was inserted into the Children Act 1989 (c.41) by section 108(2) of the Care Standards Act 2000 (c.14).

PART I—GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Care Standards Commission (Fees and Frequency of Inspections) Regulations 2001 and shall come into force on 1st January 2002.

(2) These Regulations extend to England only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Care Standards Act 2000;

“the 1957 Act” means the Nurses Agency Act 1957**(a)**;

“the 1984 Act” means the Registered Homes Act 1984**(b)**;

“the 1989 Act” means the Children Act 1989**(c)**;

“acute hospital” means a hospital of the type referred to in section 2(3)(a)(i) of the Act (not being a hospice) which has approved places;

“adult placement home” means a care home in respect of which the registered provider is an adult placement carer within the meaning of regulation 45 of the Care Homes Regulations 2001**(d)**;

“annual fee” means the amount prescribed for the purposes of section 16(3) or 51(1) of the Act, or section 87D(2) of the 1989 Act, as the case may be;

“approved place” means—

- (a) in relation to an establishment, boarding school, further education college or residential special school, a bed provided for the use of a service user at night; or
- (b) in relation to a residential family centre, overnight accommodation which is appropriate to a single family;

“boarding school” means a school (not being a residential special school or a school which is a children’s home or a care home) providing accommodation for any child, and “school” has the meaning given to it in section 105(1) of the 1989 Act;

“certificate” means a certificate of registration;

“existing provider” means—

- (a) a person who is registered under Part I of the 1984 Act in respect of a residential care home;
- (b) a person who is registered under Part II of the 1984 Act in respect of a nursing home or mental nursing home;
- (c) a person who carries on a home that is registered in a register kept for the purposes of section 60 of the 1989 Act;
- (d) a person who carries on a home that is registered under Part VIII of the 1989 Act; or
- (e) a nurses agency provider;

“existing undertaking” means—

- (a) a residential care home in respect of which a person is registered under Part I of the 1984 Act;
- (b) a nursing home or mental nursing home in respect of which a person is registered under Part II of the 1984 Act;
- (c) a home that is registered in a register kept for the purposes of section 60 of the 1989 Act;

(a) 5 & 6 Eliz. 2 c.16.

(b) 1984 c.23.

(c) 1989 c.41.

(d) S.I. 2001/3965.

(d) a home that is registered under Part VIII of the 1989 Act; or

(e) a licensed nurses agency;

“further education college” means a college as defined in section 87(10) of the 1989 Act which provides accommodation for any child^(a);

“hospice” means an establishment the whole or main purpose of which is to provide palliative care;

“licensed nurses agency” means an agency for the supply of nurses within the meaning of the 1957 Act which a person is authorised to carry on by a licence which has been granted to him by a local authority under section 2 of that Act;

“listed services” has the same meaning as in section 2(7) of the Act, as modified by regulation 3(4) of the Private and Voluntary Health Care (England) Regulations 2001^(b), but in these Regulations excludes treatment using prescribed techniques or prescribed technology;

“local authority fostering service” means the discharge by a local authority of relevant fostering functions within the meaning of section 43(3)(b) of the Act;

“mental health hospital” means a hospital of the type referred to in section 2(3)(b) of the Act;

“new provider” means a person who carries on—

(a) a residential family centre, nurses agency or domiciliary care agency, for the first time after 1st July 2002;

(b) any other description of establishment or agency, for the first time after 1st April 2002;

“nurses agency provider” means a person who—

(a) carries on an agency for the supply of nurses within the meaning of the 1957 Act; and

(b) is the holder of a licence which has been granted to him by a local authority under section 2 of that Act and which authorises him to carry on that agency from premises specified in the licence;

“prescribed techniques or prescribed technology” means the techniques or technology set out in regulation 3(1)(a) to (f) of the Private and Voluntary Health Care (England) Regulations 2001;

“previously exempt provider” means a provider who carries on an establishment or agency other than—

(a) a residential care home, nursing home or mental nursing home in respect of which a person is required to be registered under Part I or II of the 1984 Act;

(b) a home that is required to be registered in a register kept for the purposes of section 60 of the 1989 Act or under Part VIII of that Act;

(c) an agency for the supply of nurses within the meaning of the 1957 Act which the person is authorised to carry on from those premises under a licence granted to him under section 2 of that Act;

“registered” means registered under Part II of the Act;

“registration fee” means a fee of the amount prescribed for the purposes of section 12(2) of the Act;

“registered manager” in relation to an establishment or agency means a person who is registered under Part II of the Act as the manager of the establishment or agency;

“registered person” means any person who is the registered proprietor or registered manager in respect of an establishment or agency;

“registered provider” in relation to an establishment or agency means a person who is registered under Part II of the Act as the person carrying on the establishment or agency;

^(a) Section 87(10) of the 1989 Act was amended by section 105 of the Act.

^(b) S.I. 2001/3968.

“registration” means registration under Part II of the Act;

“residential special school” means—

- (a) a special school in accordance with sections 337 and 347(1) of the Education Act 1996(a); or
- (b) an independent school not falling within (a) which has as its sole or main purpose the provision of places, with the consent of the Secretary of State, for pupils with special educational needs or who are in public care,

and which provides accommodation for any child;

“service user” means—

- (a) any person who is to be provided with accommodation or services in an establishment, or by an agency, but excludes registered persons or persons employed or intended to be employed in an establishment or by an agency, and their relatives; or
- (b) a child accommodated in a boarding school, further education college or residential special school;

“small establishment” means an establishment (other than an adult placement home), which has less than four approved places;

“small agency” means a domiciliary care agency or nurses agency where no more than two members of staff, including registered persons but excluding someone employed solely as a receptionist, are employed at any one time;

“variation fee” means a fee of the amount prescribed for the purposes of section 15(3) of the Act.

(2) In these Regulations, unless the context otherwise requires, references to an establishment or agency are to be construed as references—

- (a) in the case of an application for registration, to the establishment or agency in respect of which the application is made; and
- (b) in the case of a registered person, to the establishment or agency in respect of which he is registered.

(3) In these Regulations, a reference—

- (a) to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations bearing that number;
- (b) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number; and
- (c) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

PART II—FEES

Registration fees

3.—(1) Subject to paragraphs (2) to (4), the registration fee shall be—

- (a) in the case of an application for registration by a person who is seeking to be registered as a person who carries on an establishment or an agency, £1,100; and
- (b) in the case of an application for registration by a person who is seeking to be registered as a person who manages an establishment or an agency, £300.

(a) 1996 c.56.

(2) In the case of an application for registration in respect of an establishment which is a small establishment or adult placement home or an agency which is a small agency—

- (a) by a person mentioned in paragraph (1)(a), the registration fee shall be £300; and
- (b) by a person mentioned in paragraph (1)(b), no registration fee shall be payable.

(3) Where an application for registration is made by any person who manages an existing undertaking other than a residential care home in respect of which a person is registered under Part I of the 1984 Act—

- (a) in the case of a licensed nurses agency, before 1st July 2002; or
- (b) in the case of any other existing undertaking, before 31st March 2002,

no registration fee shall be payable.

(4) Where, pursuant to paragraph 5 of Schedule 1 to the Care Standards Act 2000 (Commencement No. 9 (England) and Transitional and Savings Provisions) Order 2001^(a), an existing provider is treated as having applied for, and been granted, registration in respect of an existing undertaking for the purposes of Part II of the Act, no registration fee shall be payable.

Variation fees

4.—(1) Subject to paragraphs (2) to (4), the variation fee shall be—

- (a) in the case of an application under section 15(1)(a) of the Act by the registered provider, £550; and
- (b) in the case of such an application by the registered manager, £300.

(2) In the case of an application under section 15(1)(a) in respect of an establishment which is a small establishment or adult placement home or an agency which is a small agency—

- (a) in the case of an application by a person mentioned in paragraph (1)(a), the variation fee shall be £300;
- (b) in the case of an application by a person mentioned in paragraph (1)(b), no variation fee shall be payable.

(3) In a case where the variation of a condition is a minor variation, the variation fee shall be £50.

(4) For the purposes of paragraph (3) a “minor variation” is a variation which, in the opinion of the Commission, if the application for the variation of the condition were granted, would involve no material alteration in the register kept by the Commission in accordance with regulations made under section 11(4) of the Act.

Annual fees

5.—(1) Subject to paragraphs (2) to (5), the annual fee which shall be payable by the registered provider in respect of an establishment or agency, by the relevant person^(b) in respect of a boarding school, a further education college or residential special school, or by a local authority in respect of a local authority fostering service, specified in column (1) of the Table below—

- (a) shall be—
 - (i) in a case where no amount is specified in column (3) or (4), the amount specified in column (2);
 - (ii) in any other case, the sum of the amount specified in column (2) and the amounts specified in column (3), and (if applicable) column (4), multiplied by the number of approved places specified in respect of that column; and
- (b) shall first be payable in accordance with column (5) (“the first date”), and thereafter shall be payable on the anniversary of the first date.

^(a) S.I. 2001/3852.

^(b) Relevant person is defined in section 87(11) of the 1989 Act, as inserted by section 105 of the Care Standards Act 2000.

<i>Column (1) Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2) Flat rate payable in all cases</i>	<i>Column (3) Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4) Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5) First annual fee due on:</i>
(a) Care home	£150	£50	£50	(a) in the case of an existing provider, on the anniversary of the date on which the annual fee was payable under the 1984 Act or the 1989 Act; (b) in the case of a previously exempt provider, on 1 April 2003; and (c) in the case of a new provider, on the date on which the certificate is issued.
(b) Children's home	£500	£50	£50	(a) in the case of an existing provider, on the anniversary of the date on which the annual fee was payable under the 1984 Act or the 1989 Act (a) ; (b) in the case of an existing provider, where an annual fee has not previously been payable under the 1989 Act, 1 April 2002;

(a) An annual fee is payable in respect of a children's home registered under Part VIII of the 1989 Act. However, an annual fee is not payable in respect of a voluntary home i.e. a home which is registered in a register kept for the purposes of section 60 of the 1989 Act.

<i>Column (1) Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2) Flat rate payable in all cases</i>	<i>Column (3) Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4) Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5) First annual fee due on:</i>
				(c) in the case of a previously exempt provider, on 1 April 2003; and (d) in the case of a new provider, on the date on which the certificate is issued.
(c) Fostering agency	£1,000			On 1 April 2003, or on the date on which the certificate is issued, whichever is the later.
(d) Hospice	£150	£50	£50	(a) in the case of an existing provider, on the anniversary of the date on which the annual fee was payable under the 1984 Act; (b) in the case of a previously exempt provider, on 1 April 2003; and (c) in the case of a new provider, on the date on which the certificate is issued.
(e) Acute hospital or mental health hospital	£2,500	£100	£50	(a) in the case of an existing provider, on the anniversary of the date on which the annual fee was payable under the 1984 Act;

<i>Column (1) Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2) Flat rate payable in all cases</i>	<i>Column (3) Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4) Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5) First annual fee due on:</i>
				(b) in the case of a previously exempt provider, on 1 April 2003; and (c) in the case of a new provider, on the date on which the certificate is issued.
(f) Hospital using prescribed techniques or prescribed technology	£750	£100	£50	(a) in the case of an existing provider, on the anniversary of the date on which the annual fee was payable under the 1984 Act; (b) in the case of a previously exempt provider, on 1 April 2003; and (c) in the case of a new provider, on the date on which the certificate is issued.
(g) Hospital providing listed services	£1,000	£100	£50	(a) in the case of an existing provider, on the anniversary of the date on which the annual fee was payable under the 1984 Act; (b) in the case of a previously exempt provider, on 1 April 2003; and

<i>Column (1) Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2) Flat rate payable in all cases</i>	<i>Column (3) Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4) Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5) First annual fee due on:</i>
				(c) in the case of a new provider, on the date on which the certificate is issued.
(h) Independent clinic or independent medical agency	£1,000			(a) in the case of a previously exempt provider, on 1 April 2003; and (b) in the case of a new provider, on the date on which the certificate is issued.
(i) Residential family centre	£400	£50	£50	(a) in the case of an existing provider, on the anniversary of the date on which the annual fee was payable under the 1984 Act or the 1989 Act; (b) in the case of a previously exempt provider, on 1 April 2003; and (c) in the case of a new provider, on the date on which the certificate is issued.
(j) Domiciliary care agency	£750			On 1 April 2003, or on the date on which the certificate is issued, whichever is the later.

<i>Column (1) Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2) Flat rate payable in all cases</i>	<i>Column (3) Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4) Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5) First annual fee due on:</i>
(k) Nurses agency	£500			(a) in the case of an existing provider, on the anniversary first occurring after 1 July 2002 of the date on which the annual fee was payable under the 1957 Act; and (b) in the case of a new provider, on the date on which the certificate is issued.
(l) Boarding school and further education college	£250	£15	£7.50	In the case of a school or college which is providing accommodation for any child on the date on which these Regulations come into force, on 1 September 2002 and, in all other cases, on the establishment of the school or college.

<i>Column (1) Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2) Flat rate payable in all cases</i>	<i>Column (3) Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4) Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5) First annual fee due on:</i>
(m) Residential special school	£400	£40	£20	In the case of a school which is providing accommodation for any child on the date on which these Regulations come into force, on 1 September 2002 and, in all other cases, on the establishment of the school.
(n) Local authority fostering service	£1,000			In the case of a local authority which is discharging relevant fostering functions on the date on which these Regulations come into force, on 1 April 2002, and in all other cases, on the date on which such functions are first discharged.

(2) In the case of a care home which is an adult placement home, or a care home which is a small establishment, the annual fee shall be limited to the sum of £100.

(3) In the case of an establishment which is a small establishment, other than a care home which is a small establishment, the annual fee shall be limited to the flat rate specified in column (2).

(4) In the case of an agency which is a small agency, the annual fee payable shall be 50 per cent. of the flat rate specified in column (2).

(5) Where an independent hospital falls into more than one of the categories listed in paragraphs (1)(d), (e), (f) or (g) of the Table above, the category that applies to it for the purposes of this regulation shall be the category with the highest flat rate fee payable as set out in column (2) of paragraphs (1)(d), (e), (f) or (g).

PART III—FREQUENCY OF INSPECTIONS

Frequency of inspections

6.—(1) Subject to paragraphs (2) to (5), as from 1st April 2002, the Commission shall carry out inspections of premises which are used as an establishment, or for the purposes of an agency, or for the purposes of a local authority fostering service, at the following intervals—

- (a) in the case of a care home, a minimum of two inspections in every 12 month period;
- (b) in the case of a children’s home, a minimum of two inspections in every 12 month period;
- (c) in the case of a fostering agency or a local authority fostering service, a minimum of one inspection in every 12 month period;
- (d) in the case of any independent hospital, a minimum of one inspection in every 12 month period;
- (e) in the case of an independent clinic, a minimum of one inspection in every 12 month period;
- (f) in the case of an independent medical agency, a minimum of one inspection in every 12 month period;
- (g) in the case of a residential family centre, a minimum of one inspection in every 12 month period; and
- (h) in the case of a nurses agency or a domiciliary care agency, a minimum of one inspection in every 12 month period.

(2) In the case of an establishment or agency (other than an existing undertaking) which is a care home or a children’s home 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 shall be required in that period.

(3) In the case of an establishment or agency (other than an existing undertaking 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.

(4) Any inspection referred to in paragraph (1) may be unannounced.

(5) In this regulation “12 month period” means a period commencing on 1st April in any year and ending on 31st March in the following year, except that for the purposes of paragraph (1)(g) and (h) in the year ending 31st March 2003, the 12 month period shall be treated as commencing on 1st July 2002.

12th December 2001

Jacqui Smith
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the fees that are to be paid by establishments and agencies under Part II of the Care Standards Act 2000 (“the Act”)—

- (1) on an application for registration (regulation 3); and
- (2) on an application for the variation or removal of any condition in force in relation to a registration (regulation 4).

In addition, regulation 5 prescribes the annual fee that is to be paid by certain establishments and agencies under section 16(3) of the Act, the annual fee that is to be paid by a local authority fostering service under section 51(1) of the Act, and the annual fee that is to be paid by schools, residential special schools and further education colleges under section 87D of the Children Act 1989.

Regulation 6 prescribes the frequency of inspections of premises used for the purposes of certain establishments and agencies pursuant to section 31(7) of the Act, and of premises used for the purposes of a local authority fostering service pursuant to section 45(4) of the Act.

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