



Department
of Health &
Social Care

Dental Patient Charges Uplift 2019/20

Equality Analysis

March 2019

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Introduction

The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality but doing so is an important part of complying with the general equality duty. It is up to each organisation to choose the most effective approach for them.

1. Intended outcomes

This equality analysis considers any changes that have taken place since the publication of the EA in 2018/19 and supports the publication of the National Health Service (Dental Charges) (Amendment) Regulations 2019

Dentistry is one of a small group of NHS services that can be charged for under the National Health Service Act 2006 (the 2006 Act). Patient charges were first applied in 1952.

Historically, patient charges have been uplifted annually by the rate of inflation. In 2015, a policy decision was taken to increase charges for the duration of the 2015 Spending Review period by 5% to address the financial pressures and to generate additional revenue. The proposed 5% uplift continues with the aim of finding an appropriate balance between the contribution the charges represent to the overall NHS budget and the cost to charge paying patients.

The proposed uplifts to dental charges will not affect the current exemption arrangements. Children, nursing and pregnant women and those with qualifying benefits will remain exempt from charges and will not be impacted by these changes.

For those patients that do not qualify for exemption, but need support to access NHS dental services, there is The NHS Low Income Scheme, which helps patients with their health costs. Qualifying patients receive full or partial help towards costs of their NHS dental treatment.

2. Who will be affected?

The decision to uplift dental patient charges by 5% will affect working and pension age adults who pay for their dental treatment and whose incomes are above the threshold for eligibility for help with health costs.

In 2017/18, of the total number of [NHS courses of dental treatment delivered](#), 53% were for paying adults. This means that the remaining 47% courses of treatment were delivered to patients who were fully or partly exempt from paying NHS dental charges. Therefore, the impact of this policy will only affect those of working age, with incomes above the thresholds for eligibility for help with health costs.

We will continue to ensure that those who are unable to pay, including children, nursing mothers, and those on certain benefits remain exempt from charges for those who cannot afford to pay for their NHS dental treatment full or partial help is available through the [NHS Low Income Scheme](#).

3. Evidence

Public Sector Equality Duties

In considering these policy changes, Ministers must comply with the equality legislation, including the public sector equality duty (PSED) under section 149 of the Equality Act 2010, their general duties under the 2006 Act, which are included in sections 1 to 1G, and the Family Test.

Under the PSED, Ministers must have due regard to the impact of decisions on those people with the protected characteristics, which are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In particular, they must have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

As part of this Equality Analysis we have considered each of the protected characteristics stated below, to ensure any new policy meets the above requirements.

Disability - attitudinal, physical and social barriers

Generally, those with a disability are not likely to need a greater volume of dental care than other groups, so should not be disproportionately adversely affected by this change on those grounds. However, dependent on the disability, individuals within this group may be exempt from paying dental charges. For example, those patients whose condition affects their ability to work may be in receipt of income-based Employment and Support allowance.

Alternatively, they may hold a valid NHS tax credit exemption certificate, through receiving working tax credit which includes a disability element. If the patient holds this, he/she will be exempt from patient charges.

Sex - men and women

We do not consider there to be any differential impact from the proposals for this group.

Sexual orientation - heterosexual, homosexual or bisexual

We do not consider there to be any differential impact from the proposals for this group.

Race - ethnic groups, nationalities, Roma gypsies, Irish travellers, language barriers

While the links between oral health and ethnicity are complicated and often confounded by socio-economic status, there is evidence to suggest that the prevalence of certain oral diseases is higher in some [ethnic groups](#).

It is possible that patients from ethnic minorities, particularly in more deprived areas, may need to access dental treatment more frequently, which could therefore cost more. However, the exemptions list does take low income into account.

Patient's Economic Status

The patient's economic status is considered when dealing with patient charges. If the patient is in receipt of one of the qualifying benefits or has a low income they will be exempt from the charge. Qualifying benefits Include:

- income support;
- income-based Jobseeker's Allowance;
- income-related Employment and Support Allowance;
- Pensions Credit Guarantee Credit;
- qualifying tax credits; or
- Universal credit, where the patient;
 - has no earnings or net earnings of £435 or less during the most recent assessment period;
 - or has no earnings or net earnings of £935 or less during the most recent assessment period and the Universal Credit award includes an element for a child and/or limited capability for work.

Patients are exempt from dental charges if they are included in an award that has both Pension Credit Guarantee Credit and Pension Credit Savings Credit.

Age - age ranges, old and young

Currently, there are exemption arrangements in place for children and young people. The proposed policy would not impact on those who are currently exempt, and therefore the following groups would continue to be exempt from NHS dental charges:

- Those under 18;
- Those under 19, and in full-time education.

Children are recommended to have preventative dental check-ups more frequently than for adults. The maximum interval NICE recommends for children is 12 months compared to a maximum of 24 months for the healthiest adults. Children therefore are recommended to access dental services more frequently than adults. We need to ensure that such groups within society can access dental treatment as and when it is necessary, to help reduce inequalities in dental health. The maintenance of current exemption arrangements for this age group means that these patients are protected from any uplift in dental charges, and can continue to access their dental treatment, as and when it is needed, at no cost.

Conversely, older patients may require additional care to maintain existing restorations. This can lead to an increase in dental treatment and consequently, where a patient is not exempt, dental charges. However, patients are exempt from charges if they have been awarded Pension Credit Guarantee Credit which tops up weekly income if it's below £159.35 (for single people) or £243.25 (for couples). The qualifying age for state pension for men and now also women is 65. Therefore, those over these ages, who are on low income and receive Pension Credit Guarantee Credit, will not be impacted by this policy change. Those of state pension age who are not exempt but are still on a low income may also be eligible for help with health costs (please see Annex A)

The impact of this amendment would only impact those of working or pension age with incomes above the thresholds for exemption from charges or entitlement to help with health costs, for whom a proportionate increase to their charges is considered feasible. Those on specified income related benefits, and other protected groups, will remain exempt. Those not entitled to exemption but on low incomes may also be eligible to receive help with health costs (please see Annex A).

The proposal's impact is therefore likely to be restricted to adults (of any age) whose income is above the thresholds for exemption from or help with health costs. Help with health costs through the NHS Low Income scheme is targeted at those who are not on qualifying benefits but whose income is low. Such help depending on income levels can be full (so the patient pays no charges) or where the patient's income is higher, provide partial help with costs. Thresholds for this help are unchanged by this proposal. We consider, in relation to those whose income exceeds the level for full or partial help with costs, that this change is justifiable and proportionate.

Gender reassignment (including transgender) - transgender and transsexual people

We do not consider there to be any differential impact from the proposals for this group.

Religion or belief - people with different religions, beliefs or no belief

We do not consider there to be any differential impact from the proposals for this group.

Pregnancy and maternity - working arrangements, part time working, infant caring responsibilities

Women who are pregnant, or who have had a baby within the 12 months before treatment starts, are exempt from dental charges. The proposed policy change will not impact on this group as they will remain exempt.

Marriage and civil partnership - married couples, civil partnerships

We do not consider there to be any differential impact from the proposals for this group.

Secretary of State duties under sections 1 to 1G of the 2006 Act

In considering the Secretary of State's general duties under the 2006 Act, we believe the following duties are relevant to the proposals under consideration:

- Section 1(1) – the Secretary of State's duty to promote a comprehensive health service, which requires that the Secretary of State must continue the promotion in England of a comprehensive health service designed to secure improvement:
 - in the physical and mental health of the people of England; and
 - in the prevention, diagnosis and treatment of illness;
- Section 1B – the Secretary of State's duty to have regard to the NHS Constitution; and
- Section 1C – the Secretary of State's duty to reduce health inequalities.

Duty to promote a comprehensive health service (section 1(1) of the 2006 Act)

Regular attendance is a key part of prevention of future poor oral health as well as treatment needs. The Secretary of State's duty to promote a comprehensive health service in England will therefore not be impacted as those on low incomes, and other protected groups, will remain exempt from paying for their dental treatment. Those not entitled to exemption but on low incomes may also be eligible to receive help with health costs.

Duty to have regard to the NHS Constitution (section 1B of the 2006 Act)

The Secretary of State's duty to have regard to the NHS Constitution ensures that he must bear in mind the principles, values, rights and pledges in the Constitution when he is discharging his functions in relation to the health service.

Through this duty, the Secretary of State must ensure that any policy proposals meet the principles of the NHS Constitution in scope. These principles are high-level 'rules' made by regulations, that govern the way that the NHS operates, and define how it seeks to achieve its purpose. In discharging his function regarding dental uplift charge, the

Secretary of State must ensure that:

- The "NHS provides a comprehensive service to all"
- "Access to service is based on clinical need, not an individual's ability to pay. NHS services are free of charge, except in limited circumstances sanctioned by Parliament".

Limited circumstances are where charges are expressly provided for in legislation, as they are for NHS primary dental services. (Section 176 of the 2006 Act allows for the Secretary

of State to make regulations imposing charges for dental services. Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges for relevant dental services). We are maintaining current exemptions to dental charges, to allow patients to obtain treatment as and when they need it. By maintaining current exemptions and providing continued help with health costs for those on low incomes, we are protecting the poorest and most vulnerable groups for whom cost can be the greatest disincentive to seeking dental care.

It is important that the NHS provides a comprehensive service that is available to all. However, it is also important that the NHS receives the funding it needs to function efficiently and effectively. We believe that it is right that those who can contribute do so, whilst continuing to provide support where possible, for those in the greatest need. That is why we propose a proportionate increase of 5% for dental charges which we consider is fair and reasonable. Given the maintenance of current exemptions over this period, we consider that the changes should not restrict the ability of people to access NHS dental services as and when they need it.

Duty to reduce inequalities (section 1C of the 2006 Act)

When exercising his functions in relation to the NHS, the Secretary of State must have regard to the need to reduce inequalities between the people of England with respect to the benefits that they can obtain from the NHS.

It is important to emphasise that this duty is separate from the PSED and is about a need to reduce inequalities that may or may not be based on protected characteristics. Socio-economic impacts need therefore to be considered in terms of other socio-economic factors such as income, social deprivation and rural isolation.

Areas of greater socio-economic deprivation are more likely to have a greater proportion of people on low incomes who may struggle to afford the above inflation uplift to dental charges. However, support is available to those on low incomes through relevant benefit entitlements and the NHS Low Income Scheme. Furthermore, those from areas of greater socio-economic deprivation are more likely to suffer from poor oral health and therefore may have a greater than average need for dental treatment.

We have already touched upon socio-economic conditions earlier in this Equality Analysis. As outlined above, under current provision there are exemptions in place for those who may not be able to afford dental treatment, due to low income.

Child Poverty

The Child Poverty Act 2010 requires government to eradicate child poverty by 2020-21, as set out by four different income measures of child poverty. In considering these proposals any impact on those who fall into this group should be taken into account.

All children up to the age of 18 are exempt from paying dental charges. This would include any children who fall into the 'child poverty' group. Therefore, we would not expect these proposals to have a detrimental impact on this group. All those under 19 years old and in full-time education are also exempt from dental charges under current provision.

Additionally, adults in families in receipt of child tax credit with an income of £15,276 or less are also exempt from NHS dental charges.

Family Test

The Department recognises that whilst children will be exempt from any uplift in charges, working parents may be impacted by the change, as well as adults that are planning to become parents. The proposed uplift in NHS dental charges will only create additional cost to the family where they are not exempt from charges or eligible for help with health costs and will relate only to the adults in the family. For adults planning to start a family, current exemptions are available for women who are pregnant, or who have had a baby within the 12 months before treatment starts. The proposed uplift is therefore unlikely to have an impact on key transitions, such as becoming parents.

The Departments in its consideration of the Family Test has not identified any other impacts in relation to the other components of the family test.

4. Summary of analysis

The Department recognises that the proposed 5% uplift to dental charges, will affect adults of working or pension age who are not classed as exempt from dental charges and are not considered to be on low enough incomes to come below various thresholds set for income-based help with dental charges. We recognise that raising NHS dental charges has the potential to have a greater impact on patients from lower incomes than more affluent patients.

However, we are of the view that the proposed uplift is proportionate and continues with the aim of finding an appropriate balance between the contribution the charges represent to the overall NHS budget and the cost to charge paying patients. We are maintaining exemptions and providing help with health costs for those with the greatest need. We want all patients to be able to access dental treatment, as and when it is needed.

The Department has considered the impact of the proposed uplift in relation to our Public Sector Equality Duty. The PSED is not limited to eliminating discrimination, harassment and victimisation, but also includes positive obligations to promote equality of opportunity and to foster good relations between those who are likely to suffer discrimination and those who are not. We have not identified any specific equalities issues in relation to the PSED. We have also considered the impact of the Secretary of State's duties (sections 1 to 1G) under the 2006 Act and have not identified any specific areas in respect of these duties. We do not believe the proposal will impact on the Family Test.

What is the overall impact?

As previously mentioned, the Department has identified that raising NHS dental charges has the potential to have the biggest impact on adults of working and pension age and whose income is above the thresholds set for benefit related exemptions and the NHS Low Income Scheme. However, we are of the view that the proposed uplift is proportionate, and it is right that those who can contribute do so. We are maintaining exemptions and providing help with health costs for those with the greatest need.

Addressing the impact on equalities

The DHSC and NHSE will continue to monitor the impact of the increased dental patient charges. Any change in demand for NHS dental services by charge paying patients will continue to be reviewed as an indicator that charges may be acting as a deterrent. Dental Patient charges are reviewed annually.

Annex A - Help with Health Costs

Receiving income support

Patients may be able to get income support if they meet all the eligibility criteria. The actual amount patients can receive depends on their circumstances, but if they qualify and have no income they will receive at least £57.90 a week. If patients are awarded income support, they will be exempt from paying dental charges.

Receiving income-related Employment and Support Allowance

Claimants whose illness or disability affects their ability to work and who have £16,000 or less in savings, may be able to claim income-related Employment and Support Allowance (ESA). A claimant may be able to work and earn and still receive income-related ESA, within certain limitations.

Patients are exempt from dental charges if they are or included in an award that has both contribution-based ESA and income-related ESA.

Receiving income-based Jobseeker's Allowance

Patients who are unemployed and job-seeking may receive income-based Jobseeker's Allowance (JSA). If the patient does receive this, they are exempt from dental charges. To get income-based JSA:

- the patient must work less than 16 hours per week on average;
- their partner (if they have one) must work less than 24 hours per week on average; and
- the patient and their partner (if they have one) have £16,000 or less in savings between them.

Patients are exempt from dental charges if they are or included in an award that has both contribution-based JSA and income-related JSA.

Receiving tax credits

Patients who are getting the following [qualifying tax credits](#) are exempt from NHS dental charges:

- Working Tax Credit and Child Tax Credit;

- Working Tax Credit on its own which includes a disability element or severe disability element; or
- Child Tax Credit on its own.

In each case, the family income for tax credits must be £15,276 or less. Adults in qualifying families will be sent an NHS Tax Credit Exemption certificate, which is usually valid for up to 7 months, and can be used to support a claim for exemption from NHS dental charges.

Universal Credit

[Universal Credit](#) is a single system of means tested support for people of working-age in and out of work. UC will replace some existing means-tested benefits, including income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, Working Tax Credit, Child Tax Credit and Housing Benefit. The amount of Universal Credit claimants get will depend on their circumstances and income.

A person is entitled to exemption from NHS dental charges if:

- They have an award of Universal Credit and had no earnings or net earnings of £435 or less during the most recent assessment period*; or
- They have an award of Universal Credit which includes an element for a child and/or limited capability for work and had no earnings or net earnings of £935 or less during the most recent assessment period*.

(*the most recent assessment period will be the one that ended either before treatment began or when the patient was asked to pay.)

Exemptions will not change as a result of these proposals, and therefore we expect a similar percentage of exemptions as we saw in 2017/18 (47%).

The NHS Low Income Scheme

[The NHS Low Income Scheme](#) provides income related help with health costs. The scheme is based broadly on Income Support rules and is available to anyone not already exempt via receipt of one of the qualifying benefits or tax credits listed above. Depending on their circumstances a claimant may qualify for full help (i.e. complete remission of an NHS charge) or partial help, where they may have to contribute an amount towards, for example, an NHS dental charge. In relation to uplifting dental charges, patients who sit just above the thresholds outlined above will be impacted the most. The partial help provided in the NHS Low Income Scheme may mitigate the impact for those with income just above the criteria for full help. The scheme is designed so that patients can claim for a certificate before they need any treatment and are able to budget accordingly. Alternatively, if they

have already paid dental charges, they can apply for a refund at the same time they apply for a certificate.

The current exemption entitlements, in addition to this scheme, should assist in ensuring that NHS dental treatment will remain available to the groups referred to above as and when it is required.

For the record

Name of person who carried out this assessment: Viran Pabari

Date assessment completed: 27 February 2019

Name of responsible Deputy Director: Ed Scully

Date assessment was signed: 04 March 2019