HSC CIRCULAR ECCPD 1/24
Circular Providing Clarification Guidance On
Roles And Responsibilities – Accessing Private Healthcare

Department of Health
An Roinn Sláinte
Männystrie O Poustie
www.health-ni.gov.uk

From: Tomas Adell, Director, Elective Care and Cancer Policy

To: Providers of Healthcare in Northern Ireland, including:
HSC Trusts
Independent Sector
Primary Care

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CIRCULAR PROVIDING CLARIFICATION – PATIENTS ACCESSING PRIVATE HEALTHCARE – SECONDARY CARE SERVICES

1. The purpose of this circular is to provide clarification on the treatment of individuals availing of private healthcare and the interface with secondary care services. The following policies remain extant:

    - *2003 A Code of Conduct for Private Practice – Recommended Standards of Practice for HPSS Consultants* (the 2003 Code of Conduct)
    - *Management of Private Practice in Health Service Hospitals in Northern Ireland: A Handbook* (November 2007) (the 2007 Handbook)
    - *Guidance on HSC patients who wish to pay for additional private care (April 2011)* (the 2011 Guidance)

2. The scope of this circular relates to both private healthcare and commissioned Health and Social Care (HSC) services, irrespective of whether it is provided inside or outside of Northern Ireland. It relates to elective services within secondary care and does not include primary care or prescribing within primary care, which is referenced in Circular HSS(MD) 26/2022 - *Responsibility For Prescribing Between Primary, Secondary And Tertiary Care Services For The Supply Of Medicines And Other Pharmaceutical Products*. Letters issued in 2022 and 2023 by the Department in relation to this issue represent extant policy and are not superseded.

3. While this circular seeks to provide clarity on HSC responsibilities in relation to treating patients who plan to access or have accessed private elective care services, it recognises that there may be circumstances where healthcare professionals will be required to exercise discretion based on their clinical judgment in determining an appropriate clinical treatment plan.

4. The Department of Health has an overall duty to promote an integrated system of HSC designed to improve the physical and mental health of people in

Northern Ireland and prevent, diagnose and treat illness; however, it is also accountable to the public and is committed to providing the best value for taxpayers' money and making the most effective use of resources.

Principles

5. The overarching principle is that patients are entitled to move between private and HSC care and vice versa. The extant policy set out the detailed policy and processes that underpin these principles. There are, however, a number of points of clarification that this circular seeks to highlight.

6. The 2011 Guidance was part of an agreement between central and devolved government and concludes that:

    - the HSC provides a comprehensive service, available to all; and
    - access to HSC services is based on clinical need, not an individual's ability to pay.

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7. In line with the 2011 Guidance, as overriding rules, it is essential that:

    - the HSC should never subsidise private care with public money; and
    - patients should never be charged for their HSC healthcare or be allowed to pay towards an HSC service (except where specific legislation is in place to allow this).

8. To avoid these risks, there should be as clear a separation as possible between private and HSC care.

Guidance

9. To help protect the essential principles of the HSC, the following specific safeguards should also be applied when making decisions:

    - As with any other patient who changes between publicly funded and private status, patients who pay for private care in these circumstances should not be put at any advantage or disadvantage in relation to the publicly funded care they receive. They are entitled to HSC services on the same basis of clinical need as any other patient.
    - The patient should bear the full costs of any private services. HSC resources should never be used to subsidise the use of private care.
    - The arrangements put in place to deliver additional private care should be designed to ensure as clear a separation as possible of funding, legal status, liability and accountability between publicly funded care and any private care that a patient receives.

10. Individuals may pay for *additional* private healthcare while continuing to receive other care from the HSC. To ensure that there is no risk of the HSC subsidising private healthcare, it should always be clear whether an individual procedure or treatment is HSC or privately funded.

11. Departing from this should only be considered where there are overriding concerns of patient safety as the HSC will always provide emergency care where required.

12. Complaints associated with a change in status between HSC and private healthcare should be investigated as quickly as possible through the Trust's complaints procedure.

Access to HSC Services

13. It is recognised that excessive waiting lists are unacceptable and work is underway to address this. However, it is understood that some individuals may choose to seek private treatment. In choosing to procure healthcare privately, a patient is effectively stepping outside of the HSC system.

Some key points of clarification

14. A private patient may see a clinician in the private sector for a consultation and can legitimately move to the HSC waiting list for diagnostics and/or treatment as these are separate waiting lists where there are clearly defined, separate steps in the process. For example, a patient can pay for a private ENT consultation and then move to the HSC for ENT treatment. The patient will be placed on the waiting list according to their clinical need for treatment. This is in line with Paragraph 28 of the 2007 Handbook which states **that a patient seen privately who then becomes a Health Service patient joins the waiting list at the same point as if his consultation had taken place as a Health Service patient**.

15. As stated in the 2007 Handbook (at paragraph 14.2), **'the provision of services for private patients should not prejudice the interest of HSC patients or disrupt HSC services'**. In areas where the clinical continuity of treatment is vital, a patient should ensure, pre-operatively, that they have a full package of care in place. For example, where a patient is privately procuring hip replacement surgery, the patient should ensure physiotherapy is included within the full package of care, as it is a critical component in the continuity of clinical treatment. In addition, this protects the principle of planning of HSC services, its pathways and of treating patients in chronological order according to their clinical need.

16. It is therefore important for the individual to ensure that all pre- and post-treatment costs are included in the overall package of care procured from the private healthcare provider. In any such instances, primary and secondary care services in Northern Ireland are not obligated to provide any related pre- or post-treatment support. In line with normal practice, patients will continue to be able to access emergency care where necessary.

17. There may be exceptional and unforeseen circumstances where a private patient for clinical reasons needs to change their status during the course of their treatment. Paragraph 23 of the 2007 Handbook states: **whereby a patient may enter hospital for a minor privately-funded operation and may be**

found to be suffering from a different, more serious complaint. This process must be managed in line with extant policy and clinical guidance and the patient remains liable for charges for the period during which they were a private patient.

18. It must be noted that HSC patients who are sent to independent/private service providers under a waiting list initiative or other HSC funded provisions are still considered to be HSC patients. Such patients should not be treated as private patients.

19. In relation to the area of Allied Health Professionals, which is not part of wider surgical care, for example, Physiotherapy, Occupational Therapy and Speech & Language Therapy, patients often move seamlessly between private and HSC and as long as the principles of separation and chronological order are maintained, there is no issue with this, except where this forms part of a wider package of care where clinical continuity of treatment is vital, such as wider surgical care, for example time-critical physiotherapy after hip replacement surgery.

Healthcare which is not commissioned

20. If a patient procures private healthcare which is not commissioned (funded and provided) in Northern Ireland, they should not expect any associated care to be provided by HSC, other than emergency care. For example, if a patient procures bariatric surgery privately, they should ensure that all required pre- and post-operative care, such as pre- and post-operative blood tests, is included by the private provider as part of the package of care as this is not a commissioned service by the HSC and therefore, there is no clinical pathway in place.

21. In the event of a patient advising a healthcare professional of plans to privately arrange surgery, they should be advised that pre- and post-operative care, such as, for example, blood tests and stitch removal, should be provided within the package of care sold by the independent sector provider. HSC providers are not obligated to provide pre- and post-operative care in these circumstances.

22. In instances where any ongoing treatment or medication is recommended, but is not provided, by the independent sector provider as part of the private service, then the individual should be prepared to meet the associated costs.

Prescribing

23. The Department of Health has developed best practice guidance on the responsibility of primary and secondary / tertiary care providers for the prescribing and supply of medicines, which is available on the Department's website (Circular HSS(MD) 26/2022 – https://www.health-ni.gov.uk/sites/default/files/publications/health/doh-hss-md-26-2022.pdf)

24. The general principles in this guidance continue to apply in respect of the interface between private and HSC providers irrespective of setting i.e. clinical responsibility for prescribing should sit with those professionals who are in the best position and appropriately skilled to deliver care which meets the needs of the patient, and that ultimate responsibility for prescribing lies with the prescriber who signs the prescription. It is therefore the responsibility of individual prescribers to prescribe within their own level of competences and scope of practice.

25. Recommendations from specialists for ongoing prescribing in the HSC setting should adhere to the principles of the Northern Ireland Formulary. However, a recommendation from a private specialist for a medicine that is available on the HSC does not automatically entitle the patient to HSC prescriptions for that medicine.

26. For further information in relation to prescribing please refer to:

- DoH Circular HSS(MD) 26/2066 – *Responsibility For Prescribing Between Primary, Secondary And Tertiary Care Services For The Supply Of Medicines And Other Pharmaceutical Products;*
- General Medical Council's (GMC) *Good Medical Practice* (https://www.gmc-uk.org/professional-standards/good-medical-practice-2024/get-to-know-good-medical-practice-2024); and
- Royal Pharmaceutical Society's *Prescribing Competency Framework* (https://www.rpharms.com/resources/frameworks/prescribers-competency-framework)

Next Steps

27. Healthcare providers are asked to note this circular providing advice on extant policy and to share as appropriate within their organisations.

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