

2004 No. 662

SOCIAL CARE, ENGLAND
CHILDREN AND YOUNG PERSONS, ENGLAND

**The Commission for Social Care Inspection (Fees and
Frequency of Inspections) Regulations 2004**

Made - - - - - 10th March 2004

Laid before Parliament 10th March 2004

Coming into force - - - 1st April 2004

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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:

PART I—GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Commission for Social Care Inspection (Fees and Frequency of Inspections) Regulations 2004 and shall come into force on 1st April 2004.

(2) These Regulations apply in relation to England only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Care Standards Act 2000;

“the 1957 Act” means the Nurses Agencies Act 1957^(c);

“the 1984 Act” means the Registered Homes Act 1984^(d);

“the 1989 Act” means the Children Act 1989^(e);

“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^(f);

“approved place” means—

(a) in relation to an establishment, boarding school, residential 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 immediately before 1st April 2002—

(i) was registered under Part 1 of the 1984 Act in respect of a residential care home;

(ii) was registered under Part 2 of the 1984 Act in respect of a nursing home or mental nursing home;

(iii) carried on a home that was registered in a register kept for the purposes of section 60 of the 1989 Act;

(iv) carried on a home that was registered under Part 8 of the 1989 Act; or

(b) a nurses agency provider;

“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;

“new provider” means a person who—

(a) carries on a residential family centre, nurses agency or domiciliary care agency, and first carried on that establishment or agency after 1st April 2003; or

(b) carries on any other description of establishment or agency, and first carried on that establishment or agency after 1st April 2002;

(a) 2000 c. 14. Sections 31(7), 45(4) and 51(1) of the Care Standards Act 2000 have all been amended by the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), section 147 and Schedule 9 (“the 2003 Act”). The powers are exercisable by the appropriate Minister, who is defined in section 121(1), in relation to England, Scotland or Northern Ireland, as the Secretary of State. *See*: section 121(1) for the definitions of “prescribed” and “regulations”. The functions of the National Care Standards Commission under Part 2 are transferred either to the Commission for Healthcare Audit and Inspection or to the Commission for Social Care Inspection in accordance with section 102 of the 2003 Act with effect from 1st April 2004.

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

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

(d) 1984 c. 23.

(e) 1989 c. 41.

(f) S.I. 2001/3965; relevant amending instrument is S.I. 2003/1845.

“nurses agency provider” means a person—

- (a) who, immediately before 1st April 2003, carried on an agency for the supply of nurses within the meaning of the 1957 Act; and
- (b) was the holder of—
 - (i) a valid licence which had been granted to him by a local authority under section 2 of that Act and which authorised him to carry on that agency from premises specified in the licence; or
 - (ii) a licence which would have ceased to be valid on 31st December 2002 by virtue of section 2(6) of the 1957 Act, but which continued to be treated as valid by virtue of article 4 of the Care Standards Act 2000 (Commencement and Transitional Provisions) (Amendment No.2) (England) Order 2002(a) (“the relevant order”);

“previously exempt provider” means a provider—

- (a) who, immediately before 1st April 2002, carried on an establishment other than—
 - (i) a residential care home, nursing home or mental nursing home in respect of which a person was required to be registered under Part 1 or 2 of the 1984 Act;
 - (ii) a home that was required to be registered in a register kept for the purposes of section 60 of the 1989 Act or under Part 8 of that Act; or
- (b) who, immediately before 1st April 2003, carried on an agency other than an agency for the supply of nurses within the meaning of the 1957 Act which the person was authorised to carry on from those premises under a licence granted to him under section 2 of that Act;

“registered manager” in relation to an establishment or agency means a person who is registered under Part 2 of the Act as the manager of the establishment or agency;

“registered person” means any person who is the registered provider 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 2 of the Act as the person carrying on the establishment or agency;

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

“residential special school” means—

- (a) a special school in accordance with sections 337 and 347(1) of the Education Act 1996(c); 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, residential college or residential special school;

“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;

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

(a) S.I. 2002/3210.

(b) Section 87(10) of the 1989 Act was amended by section 105 of the Care Standards Act 2000.

(c) 1996 c. 56. Section 337 was substituted by the School Standards and Framework Act 1998, section 140(1) and Schedule 30, paragraph 80.

(2) In these Regulations—

- (a) “agency” does not include a voluntary adoption agency^(a) or an independent medical agency^(b); and
- (b) “establishment” does not include an independent hospital or an independent clinic^(c).

PART II—FEES

Registration fees

3.—(1) For the purposes of section 12(2) of the Act, and, subject to paragraph (2), the fee to accompany—

- (a) an application by a person seeking to be registered under Part 2 of the Act as a person who carries on an establishment or agency, other than an establishment or agency referred to in sub-paragraph (b), shall be £1,584; and
- (b) an application by a person seeking to be registered under Part 2 of the Act as a person who carries on a residential family centre, nurses agency or domiciliary care agency, shall be £1,320.

(2) Where the establishment is a small establishment or an adult placement home or the agency is a small agency the fee shall be—

- (a) in the case of an application referred to in paragraph (1)(a), £432; and
- (b) in the case of an application referred to in paragraph (1)(b), £360.

(3) For the purposes of section 12(2) of the Act, the fee to accompany an application by a person seeking to be registered under Part 2 of the Act as a person who manages an establishment or agency other than a small establishment or an adult placement home or a small agency—

- (a) in respect of an establishment or agency other than an establishment or agency referred to in sub-paragraph (b), shall be £432;
- (b) in respect of a residential family centre, nurses agency or domiciliary care agency, shall be £360.

Variation fees

4.—(1) For the purposes of section 15(3) of the Act, the fee to accompany an application by the registered provider under section 15(1)(a) of the Act (“the variation fee”) shall, subject to paragraphs (2) and (3), be—

- (a) in respect of an establishment or agency other than an establishment or agency referred to in sub-paragraph (b), £792;
- (b) in respect of a residential family centre, nurses agency or domiciliary care agency, £660.

(2) Where the establishment is a small establishment or an adult placement home or the agency is a small agency the fee shall be—

- (a) in the case of an application referred to in paragraph (1)(a), £432;
- (b) in the case of an application referred to in paragraph (1)(b), £360.

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

- (a) in the case of an application referred to in paragraph (1)(a), £72; and
- (b) in the case of an application referred to in paragraph (1)(b), £60.

(a) For fees and frequency of inspections in respect of voluntary adoption agencies, *see* the National Care Standards Commission (Fees and Frequency of Inspections) (Adoption Agencies) Regulations 2003 (S.I. 2003/368).

(b) For fees and frequency of inspections in respect of independent medical agencies, *see* the Commission for Healthcare Audit and Inspection (Fees and Frequency of Inspections) Regulations 2004 (S.I. 2004/661).

(c) For fees and frequency of inspections in respect of independent hospitals and independent clinics, *see* the Commission for Healthcare Audit and Inspection (Fees and Frequency of Inspections) Regulations 2004 (S.I. 2004/661).

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

Annual fees

5.—(1) Subject to paragraphs (2) to (4), the registered provider, in respect of an establishment or agency, a relevant person^(b) in respect of a boarding school, residential college or residential special school or a local authority in respect of a local authority fostering service, specified in column (1) of the Table below shall pay an annual fee and—

- (a) the amount of the annual fee 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 each column; and
- (b) shall be payable for the year beginning 1st April 2004 and subsequent years in accordance with column (5).

(a) See section 148 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) for the definition of the CSCI and section 102 of that Act for the transfer of functions from the National Care Standards Commission to the CSCI.

(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)</i> <i>Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2)</i> <i>Flat rate payable in all cases</i>	<i>Column (3)</i> <i>Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4)</i> <i>Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5)</i> <i>Annual fee due on</i>
(a) Care home	£216	£72	£72	(a) in the case of an existing provider, 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 1st April 2004 and thereafter on the anniversary of that date; and (c) in the case of a new provider— (i) if the certificate was issued before 1st April 2004 each year on the anniversary of the date of issue; (ii) otherwise, on the date on which the certificate is issued, and thereafter on the anniversary of that date.
(b) Children's home	£720	£72	£72	(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 was not previously payable under the 1989 Act, on 1st April in each year;

(a) An annual fee is payable in respect of a children's home registered under Part 8 of the 1989 Act. However, an annual fee was not payable in respect of a voluntary home i.e. a home which was registered in a register kept for the purposes of section 60 of the 1989 Act.

<i>Column (1)</i> <i>Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2)</i> <i>Flat rate payable in all cases</i>	<i>Column (3)</i> <i>Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4)</i> <i>Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5)</i> <i>Annual fee due on</i>
				(c) in the case of a previously exempt provider, on 1st April 2004 and thereafter on the anniversary of that date; and (d) in the case of a new provider— (i) if the certificate was issued before 1st April 2004 each year on the anniversary of the date of issue; (ii) otherwise, on the date on which the certificate is issued, and thereafter on the anniversary of that date.
(c) Fostering agency	£1,440			(a) if the certificate was issued— (i) before 1st April 2003, on 1st April 2004 and thereafter on the anniversary of that date; or (ii) on or after 1st April 2003 and before 1st April 2004, each year on the anniversary of the date of issue; or (b) otherwise on the date on which the certificate is issued and thereafter on the anniversary of that date.
(d) Residential family centre)	£480	£60	£60	(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;

<i>Column (1)</i> <i>Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2)</i> <i>Flat rate payable in all cases</i>	<i>Column (3)</i> <i>Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4)</i> <i>Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5)</i> <i>Annual fee due on</i>
				(b) in the case of a previously exempt provider, on 1st April 2004 and thereafter on the anniversary of that date; and (c) in the case of a new provider, on the date on which the certificate is issued, and thereafter on the anniversary of that date.
(e) Domiciliary care agency	£900			(a) if the certificate was issued— (i) before 1st April 2003, on 1st April 2004 and thereafter on the anniversary of that date; or (ii) on or after 1st April 2003 and before 1st April 2004, each year on the anniversary of the date of issue; or (b) otherwise, on the date on which the certificate is issued and thereafter on the anniversary of that date.
(f) Nurses agency	£600			(a) in the case of an existing provider— (i) where the licence under the 1957 Act was granted to the provider by the local authority between 1st January 2002 and 31st March 2002,

<i>Column (1)</i> <i>Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2)</i> <i>Flat rate payable in all cases</i>	<i>Column (3)</i> <i>Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4)</i> <i>Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5)</i> <i>Annual fee due on</i>
				<p>on the anniversary first occurring after 1st April 2004 of the date on which the certificate was issued, and thereafter on the anniversary of that date;</p> <p>(ii) where the licence under the 1957 Act was granted to the provider by the local authority on or after 1st April 2002 but before 1st April 2003, on the anniversary first occurring on or after 1st April 2004 of the date on which the licence was granted, and thereafter on the anniversary of that date;</p> <p>(iii) whose licence under the 1957 Act continued to be treated as valid after 31st December 2002 by virtue of article 4(1)(a) of the relevant order, on the anniversary first occurring on or after 1st April 2004 of the date on which the fee payable in relation to the making of an application for a licence under the 1957 Act was last paid, and thereafter on the anniversary of that date;</p>

<i>Column (1)</i> <i>Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2)</i> <i>Flat rate payable in all cases</i>	<i>Column (3)</i> <i>Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4)</i> <i>Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5)</i> <i>Annual fee due on</i>
				<p>(iv) whose licence under the 1957 Act continued to be treated as valid after 31st December 2002 by virtue of article 4(1)(b) of the relevant order—</p> <p>(aa) where the licence was granted to the provider by the local authority on or after 1st January 2001 but before 1st April 2001, on the anniversary first occurring on or after 1st April 2004 of the date on which the certificate was issued, and thereafter on the anniversary of that date;</p> <p>(bb) where the licence was granted to the provider by the local authority on or after 1st April 2001 but before 1st January 2002, on the anniversary first occurring on or after 1st April 2004 of the date on which the fee payable in relation to the making of an application for a licence under the 1957 Act was last paid, and thereafter on the anniversary of that date; and</p> <p>(b) in the case of a new provider, on the date on which the certificate is issued, and thereafter on the anniversary of that date.</p>

<i>Column (1)</i> <i>Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2)</i> <i>Flat rate payable in all cases</i>	<i>Column (3)</i> <i>Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4)</i> <i>Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5)</i> <i>Annual fee due on</i>
(g) Boarding school and residential college	£360	£21.60	£10.80	(a) in the case of a school or college which was providing accommodation for any child on 1st January 2002, on 1st September in each year; (b) in the case of a school or college established after 1st January 2002 and before 1st April 2004, on the anniversary of the date on which it was established; (c) otherwise, on the date of the establishment of the school or college, and thereafter on the anniversary of that date.
(h) Residential special school	£576	£57.60	£28.80	(a) in the case of a school which was providing accommodation for any child on 1st January 2002, on 1st September in each year; (b) in the case of a school established after 1st January 2002 and before 1st April 2004, on the anniversary of the date on which it was established; (c) otherwise, on the date of the establishment of the school, and thereafter on the anniversary of that date.

<i>Column (1)</i> <i>Establishment, agency, school or college, local authority fostering service</i>	<i>Column (2)</i> <i>Flat rate payable in all cases</i>	<i>Column (3)</i> <i>Rate payable for each approved place from the 4th to the 29th place inclusive</i>	<i>Column (4)</i> <i>Rate payable for the 30th and each subsequent approved place</i>	<i>Column (5)</i> <i>Annual fee due on</i>
(i) Local authority fostering service	£1,440			in the case of a local authority which was discharging relevant fostering functions on 1st January 2002, on 1st April in each year, and in all other cases, on the first occasion on which such functions are first discharged, and thereafter on the anniversary of that date.

(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 £144.

(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 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).

PART III—FREQUENCY OF INSPECTIONS

Frequency of inspections

6.—(1) Subject to paragraphs (2) to (5), the CSCI shall arrange for premises which are used as an establishment, or for the purposes of an agency, to be inspected—

- (a) in the case of a care home or children’s home, a minimum of twice in every 12 month period; and
- (b) in any other case, a minimum of once in every 12 month period.

(2) Subject to paragraph (4), the CSCI shall arrange for premises which are used for the purposes of a local authority fostering service to be inspected once in every 12 month period.

(3) In the case of an establishment or agency, carried on by a person other than an existing provider, 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.

(4) In the case of an establishment or agency, carried on by a person other than an existing provider or a home mentioned in paragraph (3), 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.

(5) Any inspection referred to in paragraphs (1) or (2) may be unannounced.

(6) 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.

Revocation

7. The National Care Standards Commission (Fees and Frequency of Inspections) Regulations 2003^(a) are hereby revoked.

Signed by the authority of the Secretary of State for Health

10th March 2004

Stephen Ladyman
Parliamentary Under Secretary of State,
Department of Health

^(a) S.I. 2003/753.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations partly replace, with amendments, the National Care Standards Commission (Fees and Frequency of Inspections) Regulations 2003 (“the 2003 Regulations”) and prescribe the fees that are to be paid to the Commission for Social Care Inspection (“the CSCI”) by establishments and agencies (other than voluntary adoption agencies, independent hospitals, independent clinics and independent medical agencies) under Part 2 of the Care Standards Act 2000 (“the Act”).

The National Care Standards Commission is abolished with effect from 1st April 2004 and its functions in relation to the regulation of certain establishments and agencies have been transferred to the CSCI pursuant to section 102 of the Health and Social Care (Community Health and Standards) Act 2003 as from that date.

The fees are payable—

- (a) on an application for registration in respect of an establishment or agency (regulation 3); and
- (b) on an application for the variation or removal of any condition for the time being in force in relation to the registration (regulation 4).

In addition, regulation 5 prescribes the annual fee that is to be paid in respect of 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 boarding schools, residential special schools and residential 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 and of premises used for the purposes of a local authority fostering service.

The 2003 Regulations are revoked by regulation 7.

A Regulatory Impact Assessment has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Regulatory Impact Assessment can be obtained from the Department of Health’s website www.doh.gov.uk/regulatoryimpact/index.htm In addition, a copy can be obtained from Room 628, Wellington House, 133–155 Waterloo Road, London, SE1 8UG.

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