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Dear Convener

**UK HEALTHCARE (INTERNATIONAL ARRANGEMENTS) BILL:  
ANTICIPATED LEGISLATIVE CONSENT MEMORANDUM**

Thank you for your letter of 27 November inviting me to provide oral evidence to the Committee on the Legislative Consent Memorandum in respect of the UK Government Healthcare (International Arrangements) Bill at 10.00 am on Tuesday 11 December. I will be pleased to attend.

The annex responds to the questions asked. I hope the Committee finds this helpful and I will be happy to provide additional detail if required.

Yours sincerely,

**Paul Gray**

**UK HEALTHCARE (INTERNATIONAL ARRANGEMENTS) BILL:  
ANTICIPATED LEGISLATIVE CONSENT MEMORANDUM****RESPONSES TO THE COMMITTEES QUESTIONS****1. How are costs reimbursed by the DWP/Department of Health to NHS boards (or NHS Scotland) for treating non-UK European Economic Area (EEA) individuals through the EHIC Incentive Scheme?**

The background to the introduction of the EHIC Incentive Scheme is relevant and is as follows. Under EU co-ordination of social security arrangements (which includes health), the UK has a statutory duty to refund other Member States within the European Economic Area (EEA) and Switzerland for healthcare they have provided to UK citizens during short-term visits to other EEA countries. In turn, the legislation entitles the UK, as Member State, to recover treatment costs for healthcare received by visitors to the UK from other EEA States (and Switzerland).

To facilitate recovery of these costs, healthcare providers throughout the UK are expected to collect and report information on EEA patients receiving treatment using the EHIC. While reporting EHIC activity enabled the UK Government to cover costs of care, prior to 2014 NHS healthcare providers did not see a direct financial benefit from collecting this data and as a result reporting was inconsistent across the UK.

The EHIC incentive scheme was introduced by the Department of Health on 1 October 2014 to compensate NHS bodies across the UK for the administrative cost of collating demographic and cost data of treating EEA patients who present with an EHIC card. Since this date, 25% of the cost of reported EHIC activity has been paid back to participating NHS Boards and Trusts (the 25% level was seen as affordable and sufficient to motivate a higher number of Boards and Trusts to participate).

The scheme is designed to encourage NHS healthcare providers throughout the UK to report EHIC activity when non UK EEA nationals present their EHIC while in the UK to enable them to receive necessary NHS treatment at no charge. Reporting EHIC activity to DWP allows the UK government to reclaim the cost of such treatment from the patient's EEA country of affiliation, through the long-standing reciprocal healthcare arrangements.

Quarterly returns are processed by DWP and participating healthcare providers, including NHS Boards in Scotland, receive 25% of the cost of EHIC activity reported, paid into a nominated account.

**2. How much has NHS Scotland/boards received since the EHIC Incentive Scheme was set up in 2014?**

NHS Boards have received around £1.25 million in total under the EHIC Incentive Scheme - 25% of just over £5 million of reported EHIC activity from 2014/15 to date (figures provided by DWP).

### **3. How are the costs to Boards/NHS Scotland calculated?**

It is for NHS Boards to calculate the actual cost to the NHS in providing treatment under the EHIC scheme, using average reference costs when appropriate.

### **4. How does the DWP/Department of Health collect the 'charges' for treating Scottish individuals who are resident in, studying in, or visiting an EEA country?**

Reciprocal healthcare cost recovery applies at EEA state level. It is funded by the UK Government on a UK-wide basis. The DWP is invoiced by EEA countries that provide state healthcare for UK nationals, including Scots, under the various reciprocal healthcare schemes (and vice versa). The UK Government pays out around £630 million per annum to other EEA countries for reciprocal healthcare they have provided for UK nationals. It collects about £50 million for the NHS healthcare provided for non-UK EEA nationals in the UK. The large difference in the figures is accounted for by the fact that far larger numbers of UK nationals retire to live in Southern Europe than the other way round.

### **5. How do NHS boards identify (non-UK) EEA citizens using NHS services in its board area (on behalf of the DWP)?**

NHS Boards have a legal duty to identify and assess whether all overseas visitors, including non UK EEA nationals, are eligible to receive secondary healthcare at no cost or if charges apply, under Section 2(1) of the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989, as amended. Non UK EEA nationals with a valid EHIC card are entitled to free NHS healthcare if they fall ill or have an accidents whilst in the UK. It is for NHS Boards to ensure that they have appropriate practices and procedures in place to meet their statutory obligations. This should include procedures for checking if individuals have a valid EHIC card.

### **6. How much does it cost NHS Scotland to provide treatment for (non-UK) EEA individuals? (what information/data is provided to the DWP/DoH through NHS Scotland?)**

From 2014/15 to date the cost to NHS Boards participating in the EHIC incentive scheme when providing treatment for non-UK EEA nationals is just over £5 million - the total sum that NHS Boards have reported to DWP over the period.

However, six NHS Boards do not participate in the scheme. Taking this into account, £10 million is a reasonable estimate for NHS Scotland as a whole over the period - or around £2 million per annum.

The 6 Boards who do not participate are; NHS Dumfries and Galloway, Fife, Forth Valley, Greater Glasgow and Clyde, Lanarkshire and Western Isles. The reasons they have given for not participating include administrative costs outweighing potential income from the scheme.

As matters concerning European cross-border health schemes, including EHIC, are managed by the Department of Health on behalf of the devolved administrations, the Scottish Government is not responsible for delivery of the scheme and therefore can only encourage participation rather than mandating it. However, since the introduction of the incentive scheme the Scottish Government has discussed the financial benefits of participation across the NHS a number of times with the Directors of Finance and the Corporate Finance Network, which is attended by Deputy and Assistant Directors of Finance within Boards. Presentations

to these groups have been provided by Counter Fraud Services and by other participating NHS Boards following successful pilots (particularly by NHS Lothian who piloted the scheme originally).

Participating NHS Boards provide DWP with details of the patient's country of origin; their EHIC reference number; the treatment they received; how much it cost; and when it was completed, through a secure portal. The portal is compatible with NHS Scotland's secure data arrangements, using NHS Net.

**7. How many (non-UK) EEA individuals using NHS services of NHS boards in Scotland were reported to DWP in the last five years?**

Under the EHIC incentive scheme, 4841 individuals from other EEA countries have been reported to DWP through the secure incentive scheme portal from 2014/15 to date.

**8. What costs to the NHS boards were reported to the DWP that were incurred by (non-UK) EEA individuals in the last five years?**

I refer to the answer I have given to question six. Boards participating in the EHIC incentive scheme have reported just over £5 million to DWP from 2014/15 to date.

**9. What means do the NHS boards use to identify and recover costs for non-EEA citizens who are not eligible for NHS treatment?**

NHS Boards have a legal duty to identify and assess whether all overseas visitors, including non-UK EEA nationals, are eligible to receive secondary healthcare at no cost or if charges apply, under Section 2(1) of the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989, as amended. It is for NHS Boards to ensure that they have appropriate practices and procedures in place to meet this legal requirement.

**10. How many non-EEA citizens, not eligible for NHS treatment were treated in Scotland in the last five financial years?**

Anyone that requires NHS treatment while in Scotland will receive it, based on medical priority. But when charges apply, NHS Boards have a legal duty to recover the cost of treatment whenever possible under the Overseas Visitors Charging Regulations.

The Scottish Government does not collate the information you are requesting centrally but I understand that you have also written to NHS Boards, who will be best placed to provide this information.

**11. In the last five financial years, how much did treatment cost for these (non- EEA) individuals and how much was recovered?**

The latest information available covers the three-year period between April 2014 and March 2017. During that period NHS Scotland invoiced non-EEA nationals for a total of £4 million with regard to the provision of NHS healthcare they were not entitled to receive at no charge. At that time, £2.75 million had been recovered and £1.25 million was outstanding.

However, it should be noted that all NHS Boards have procedures in place to pursue and recover treatment costs and that a number of patients will have been waiting for their insurance company to settle or will have had repayment plans in place.