S2 and Directive routes: guidance for commissioners
The revised guidance document provides detailed technical information about the two routes to accessing healthcare in the European Economic Area (EEA) and sets out key responsibilities for NHS commissioners and clinical commissioning groups.
S2 and Directive routes: guidance for commissioners

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Prepared by: NHS England Commissioning Strategy

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Equality statement

Promoting equality and addressing health inequalities are at the heart of NHS England’s values. Throughout the development of the policies and processes cited in this document, we have:

- Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it.
- Given regard to the need to reduce inequalities between patients in access to, and outcomes from healthcare services and to ensure services are provided in an integrated way where this might reduce health inequalities.
Introduction and background

1. The majority of European Union (EU) citizens receive healthcare in the Member State where they live, via the health system through which they are covered or insured. However, in some instances, it may benefit the patient to obtain healthcare in another European country – for example, where there may be better clinical expertise available, lower treatment costs, greater availability of certain highly specialised treatments or where waiting times are shorter.

2. There are currently two potential routes through which patients may have some, or all, of the cost of their healthcare in another European Economic Area (EEA) country covered:

   a) The route under Articles 20 and 27(3) of Regulation (EC) No. 883/2004 - these are reciprocal arrangements that stem from the EU-wide coordination of social security systems, by which individuals may apply for authorisation for planned treatment in another EEA country (“the S2 route”).


3. The funding arrangements for these two routes currently differ, with the Department of Health funding care under the S2 route, and the English NHS covering the costs of care under the Directive route.

4. Following centralisation of EU patient mobility functions from 1 April 2013, the S2 and Directive routes are now administered by NHS England on behalf of the Secretary of State.

5. A centralised team (the “European Team”) operates within NHS England’s Midlands and East region to manage all processes relating to applications for both routes for England.

6. This guidance relates to applications for funding of treatment within the EEA under the S2 route and under the Directive route. Arrangements across borders within the UK, use of the European Health Insurance Card (EHIC) and reciprocal arrangements with other non-EEA countries are not within the scope of this guidance.

7. This guidance supersedes the previous Department of Health guidance and extant NHS England guidance and will take effect from 1 May 2016.

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1 The provisions of Regulation (EC) No. 883/2004 apply to EEA countries and to Switzerland.
2 In this guidance the term “Directive route” describes the provisions of the Directive implemented by the National Health Service (Cross-Border Healthcare) Regulations 2013 with effect from 25 October 2013.
3 Cross Border Healthcare and Patient Mobility in Europe
4 European Cross Border Healthcare: Information for Commissioners
Roles and responsibilities

NHS Commissioners

8. The key responsibilities for CCGs / NHS Commissioners are as follows:

- Supporting the European Team with entitlement decisions
- Publicising commissioning policies and criteria
- Repaying NHS England for reimbursements made to patients

9. In some areas, clinical commissioning groups (CCGs) may use commissioning support units (CSUs) to provide services that support the processing of patient applications or reimbursements. The European Team will contact the responsible CCG in the first instance to identify the appropriate contact with whom to process the application. Further information on these arrangements is set out in more detail below.

General

10. Under the S2 route, a patient applies for authorisation for pre-planned treatment in another EEA country. If approved, NHS England provides the patient with an S2 as a guarantee of payment on behalf of the Secretary of State.

11. Under the Directive route, for most treatments the individual seeks the healthcare they require in another EEA country, pays for the treatment directly and then may apply for reimbursement of eligible costs from the NHS. However, some specified treatments require the patient to obtain authorisation before receiving treatment. NHS England is responsible for reimbursing patients under the Directive route in line with the legislation, and in turn, the responsible commissioner in each case is required to refund NHS England for the reimbursements it has made to individual patients. Reimbursements will generally not exceed NHS tariff levels for the equivalent treatment.

12. Whilst the European Team is responsible for administering the application process and determining the outcome of applications, NHS commissioners (NHS England, CCGs, and in some cases CSUs) are often involved in supporting the decision making process.

13. Good links between the European Team and NHS commissioners are also necessary to ensure that clear information is available to patients and that each have systems in place for determining and confirming entitlements to NHS care quickly for patients seeking treatment in another EEA country. In particular, there is a need to ensure that appropriate arrangements are in place to enable NHS England to confirm with the relevant NHS commissioner a patient’s entitlement where that patient is already outside the UK and requiring treatment in another EEA country.

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5 As determined through the principles outlined in Who Pays? Determining responsibility for payments to providers August 2013

14. In the majority of cases, the European Team will not need to provide detailed information about the patient when liaising with the responsible commissioner. Rather, it should be possible to determine entitlement by understanding the patient’s diagnosis, the treatment received (or requested) and any relevant commissioning policy that applies. The European Team will only share patient identifiable information in exceptional circumstances and where consent has been given.

The S2 route

15. The S2 route (“S2” refers to the number of the necessary (EU) administrative form) allows citizens, in certain limited circumstances, to have their planned treatment in another EEA country at the expense of their home state. However, in contrast to the provisions of the Directive route, the S2 route is a more narrow entitlement in that only state-provided treatment is covered under S2 arrangements, and treatment will be provided under the same conditions and payment as for a resident of the country of treatment.

16. The key principles of the S2 route are that:
   - The treatment required by the patient is one that would normally be provided to them under the NHS in the circumstances of their particular case.
   - If all other applicable criteria are met (see paragraph 23 below), an application must be approved where the treatment required cannot be provided to the patient under the NHS without “undue delay” (see paragraphs 71 – 72 below for further detail).
   - The patient is required to apply for authorisation before treatment takes place.
   - The treatment is available under the treating country’s state health scheme.

17. Costs for the state-provided element of the treatment are dealt with directly between EEA countries (with the S2 acting as a form of payment guarantee).

18. The governing EU regulations confirm that the S2 route is tied to domestic entitlements. European law respects the responsibility of EEA countries to decide, and prioritise, as a matter of their own internal organisation of their health systems, the services that are offered to their populations - as long as this is done in an objective and transparent manner. At a local level, this means that a commissioner is entitled to refuse authorisation for a treatment that it does not fund.

19. Applications made on the basis that the required treatment cannot be provided without undue delay must be supported by a written statement from an EEA clinician, specifying what they consider to be a medically justifiable time period within which the patient should be treated, based on the patient's circumstances and supported by objective reasons. The European Team will then contact the NHS commissioner to confirm the time to treatment on the NHS and whether that fits within the medically justifiable period specified by the EEA clinician’s letter.
20. If approved, treatment is provided under the same conditions and payment as for a resident of the country of treatment. This means that the patient may be required to make a contribution (called a co-payment) towards the cost of their treatment if that is normally required by the treating state, although this may be reimbursable on return home. The Department for Work and Pensions Overseas Healthcare Team (DWP OHT) is responsible for co-payment reimbursements (see paragraph 75 for the DWP OHT contact details).

21. The S2 route does not cover emergency treatment. Please see paragraphs 43 - 47 for further detail regarding the EHIC and emergency treatment under the Directive route.

Applying for funding under the S2 route

22. To receive funding under the S2 route, a patient must apply for – and be granted – prior authorisation in advance of receiving treatment.

23. The following criteria must be met in order to receive funding under the S2 route:
   - The patient is ordinarily resident in England\(^7\) and entitled to treatment under the NHS.
   - The requested treatment would normally be provided under the NHS to an individual in the patient's circumstances.
   - An EEA clinician has carried out a full clinical assessment to demonstrate that the treatment is appropriate to the patient's condition, and has provided a written statement specifying what they consider to be a medically justifiable time period within which the patient should be treated, based on the patient's circumstances and supported by objective reasons.
   - The treatment is available under the other EEA country's state health scheme.
   - Taking into consideration the information provided by the EEA clinician, NHS England has determined that the same or equivalent treatment cannot be provided to the patient under the NHS within a time period that is medically justifiable.
   - The requested treatment is not experimental treatment or part of a drug trial.

24. An application should include evidence demonstrating that the above criteria are satisfied, as well as full details of the type of treatment and the proposed provider (including admission and discharge dates and estimated costs), and the patient's National Insurance or NHS number as appropriate.

25. NHS England must approve any S2 application that satisfies the above criteria, and request that the DWP OHT issue the patient with an S2 form. The patient will need to take this form to the healthcare provider in the other EEA country in which the patient will be receiving treatment.

26. NHS England is not obliged to approve an S2 application that does not satisfy the above criteria; however, in exceptional circumstances it has discretion to do so.

\(^7\) The UK is the authorising and issuing country for S2s for some people living in the EEA and insured by the UK (with a registered UK S1). However, people living in the EEA on a UK S1 are not in scope of this guidance document.
The S2 route process

1. Patient submits completed application form to NHS England European Team
2. NHS England European Team assesses the application and has 20 working days to inform applicant of the decision
   NB: The clock is stopped when additional information is needed from the applicant
3. The application must meet the following criteria:
   - Patient must be ordinarily resident in England and entitled to NHS care
   - Patient would be eligible for the same treatment under the NHS in their circumstances
   - Application must be received and approved in advance of treatment (NHS England can apply discretion in exceptional circumstances)
   - The patient cannot be given the treatment on the NHS within a time limit which is medically justifiable (NHS England can apply discretion in exceptional circumstances)
4. European Team contacts the responsible commissioner to confirm the patient is entitled to the treatment under the NHS
5. The application must be supported by the following:
   - Written statement from an EEA confirming the treatment is appropriate to the patient’s condition and specifying what they consider to be a medically justifiable time period within which the patient should be treated, based on the patient’s circumstances and supported by objective reasons
   - Confirmation that the treatment is available in the EEA country’s state healthcare system

The S2 route is for planned treatment and includes Switzerland. The treatment may not be experimental or part of a drug trial.

APPLICATION APPROVED
- Applicant informed of decision
- Applicant informed that the S2 form will be issued by DWP
- NHS England notifies DWP to issue S2

APPLICATION REJECTED
- Applicant informed of decision
- Applicant informed of process to request a review of or appeal of the decision
- Where applicable, applicant informed of other NHS funding routes (e.g., IFR / EU Directive / DWP (for maternity S2))
The Directive route

27. Under the Directive route, patients who choose to obtain a healthcare service in another EEA country can seek reimbursement of costs, provided the healthcare service is the same as, or equivalent to, a service that would have been provided to the patient within the NHS in the circumstances of their case. This includes treatment provided in both the state and private sector in the EEA country, and unplanned care.

28. The right to claim a reimbursement of costs is generally limited to the cost to the NHS of the same or equivalent treatment had the patient obtained that treatment from the NHS - or the actual amount paid by the patient, where this is lower than the cost of the equivalent NHS treatment.

29. Under the Directive route, the principle of reimbursement of costs assumes that patients will pay the overseas provider up front for their treatment and then claim reimbursement. The patient will also bear the financial risk of any additional costs which may arise.

30. Except where legislation requires the seeking of prior authorisation, a patient may obtain healthcare in another EEA country under the Directive route without prior authorisation from NHS England. Further detail about the prior authorisation process is set out in paragraphs 40 - 42.

Applying for reimbursement under the Directive route

31. Under the Directive route, patients pay the healthcare provider directly for their treatment. In cases where the treatment is not subject to the condition of prior authorisation, providing it is the same as, or equivalent to, one which they would usually be entitled to receive on the NHS in the circumstances of their case, the patient may subsequently request reimbursement from NHS England for some or all of the costs of this treatment.

32. The following criteria must be met before receiving reimbursement under the Directive route:
   - The patient is ordinarily resident in England and entitled to treatment under the NHS.
   - The proposed healthcare provider is a person/body, based in an EEA country other than the United Kingdom, which lawfully provides the treatment in question.
   - The treatment is necessary to treat or diagnose a medical condition.
   - The treatment is the same as or equivalent to one that would be made available to the patient under the NHS.
   - For treatments that do not require pre-authorisation, proof of payment and original receipts are provided to confirm payment for the treatments received.
   - The patient has provided a letter from an EEA clinician that describes the condition and diagnosis and confirms, based on a full clinical assessment, the medical need for the treatment(s). The letter must clearly state why the treatment received will be, or was, needed.
33. Applications for specialised treatments made on the basis that the required treatment cannot be provided without undue delay must be supported by a written statement from an EEA clinician, specifying what they consider to be a medically justifiable time period within which the patient should be treated, based on the patient’s circumstances and supported by objective reasons. Taking into consideration the information provided by the EEA clinician, NHS England will determine whether the same or equivalent treatment can be provided to the patient under the NHS within a time period that is medically justifiable.

34. If these criteria are satisfied then patients will be granted reimbursement of costs incurred (although please note the additional considerations where prior authorisation is required (paragraph 41 below)).

35. In requesting reimbursement for the cost of their treatment, patients must complete an application form and provide NHS England with supporting clinical evidence and, where applicable, itemised receipts and proof of payment for the treatment or service they have purchased.

36. If the patient’s receipts and supporting documentation are in a different language, these will need to be translated. National Contact Points\(^8\) can play a key role in helping to facilitate this with their counterparts in other EEA countries. Where this applies, it is the responsibility of the patient to provide the translation, which should be stamped or signed and dated by the person completing the translation. There is no requirement for the translation to be provided by an official translator.

37. If the treatment for which reimbursement is being requested would normally attract a patient charge under the NHS, NHS England will deduct this from the amount due unless the patient can prove they are exempt from these charges. Any additional costs will be borne by the patient.

38. Once reimbursement has been issued to the patient, NHS England will recover the costs from the responsible commissioner.

39. Reimbursements for the Directive route are calculated using the following information:
   - Reimbursements for procedures are calculated using the NHS tariff (Healthcare Resource Groups), applying a national average Market Forces Factor (MFF), where appropriate.
   - For dentistry, reimbursements are calculated using the relevant number of Units of Dental Activity (UDA) and a national average UDA price. The relevant patient co-payment for the band of treatment received is deducted from this value.
   - The reimbursement value for GP consultations will be capped in line with the estimated cost of providing this service, as provided in the Personal Social Services research Unit (PSSRU) Unit Costs of Health and Social Care document\(^9\).

\(^8\) http://ec.europa.eu/research/participants/portal/desktop/en/support/national_contact_points.html
\(^9\) http://www.pssru.ac.uk/project-pages/unit-costs/2013/
- Where possible, reimbursements for prescriptions are calculated using the drug tariff, with the patient charge deducted (if applicable).

**Prior authorisation**

40. For certain specialised treatments, patients are required to obtain prior authorisation from NHS England before receiving treatment in another EEA country under the Directive route. Specialised treatments are provided in relatively few hospitals, accessed by comparatively small numbers of patients and are usually higher in cost than other NHS treatments.

41. NHS England will grant prior authorisation for these specialised treatments if the reimbursement criteria set out in paragraph 32 above are met, save for where any of the circumstances a) to d) set out below apply. If any of these four circumstances apply, prior authorisation will not be automatic, but rather may be granted at the discretion of the NHS England European Team:

a) Where the patient will, according to a clinical evaluation, be exposed with reasonable certainty to a patient-safety risk that cannot be regarded as acceptable, taking into account the potential benefit for the patient of the sought cross-border healthcare, for example, from poor quality care or unproven procedures.

b) Where the general public will be exposed with reasonable certainty to a substantial safety hazard as a result of the cross-border healthcare in question. This might include where a patient who had a highly contagious disease wanted to go to another state for treatment or where a patient with mental health problems and a history of violence requested authorisation.

c) Where this healthcare is to be provided by a healthcare provider that raises serious and specific concerns relating to the respect of standards and guidelines on quality of care and patient safety, including provisions on supervision, whether these standards and guidelines are laid down by laws and regulations or through accreditation systems established by the EEA country of treatment. This would require evidence from the appropriate regulator or authority.

d) Where this healthcare can be provided on its territory without undue delay (see paragraphs 33 and 71 - 72 for further detail).

42. Finally, NHS England may, at its discretion, in exceptional circumstances fund treatment in another EEA country where the criteria set out at paragraph 32 are satisfied, but the treatment is not the same as or equivalent to one that would be made available to the patient under the NHS. Such funding will only be reimbursed if prior authorisation has been received from NHS England.

**Emergency treatment**

43. In addition to planned care, the Directive route covers emergency treatment in both the state and private sector (including ambulance costs where medically necessary). If a patient has accessed emergency or medically necessary
treatment in either sector, they may seek reimbursement (up to NHS costs) via the Directive route.

44. However, for emergency cases in the state sector, patients should also be covered by their EHIC. The EHIC should therefore be the first resort for emergency or immediately necessary treatment in the state sector. Where a patient requires treatment and does not have an EHIC, they should make an application to the DWP OHT for a ‘Provisional Replacement Certificate’ (PRC) which provides them with temporary cover. The DWP OHT is responsible for this.

45. Where a patient does not have a valid EHIC/PRC, and the treatment has been provided in the state sector, the patient may still be entitled to reimbursement under the rules that govern the EHIC and should again make an application to the DWP OHT in the first instance.

46. The European team may however receive applications under the Directive route for emergency treatment(s) completed in the state sector. Whilst the Directive route covers emergency treatment in both the state and private sector, in such cases, the European Team liaises closely with DWP OHT team to confirm the most appropriate route for reimbursement (EHIC or Directive).

47. Applications for reimbursement of emergency treatment in the private sector should be made under the Directive route.

National Contact Point

48. One of the requirements of the EU Directive on cross border healthcare is for EU member states to set up ‘National Contact Points’ (NCPs). The primary role of the NCP in England is the provision of information to prospective European patients coming to England for treatment ('incoming patients') and English residents seeking funding for healthcare in the EEA ('outgoing patients'). The NCP is required to provide this information in easily accessible formats, electronically and for people with disabilities. The NCP must also liaise with NCPs from other member states, as necessary.

49. NHS England is responsible for providing the NCP for England and is doing so through its customer contact centre and a dedicated area on NHS Choices.

50. The objectives of the NCP are discrete from the operational functions of the European Team. Specifically, the NCP is required to provide information in the following areas:

<table>
<thead>
<tr>
<th>For incoming patients</th>
<th>For outgoing patients</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quality and safety standards in England</td>
<td>Contact details of other NCPs</td>
</tr>
<tr>
<td>Regulation of healthcare professionals</td>
<td>Rights, entitlements, reimbursement principles and appeals processes</td>
</tr>
<tr>
<td>Hospital accessibility</td>
<td>The different rights and rules governing the S2 and Directive routes</td>
</tr>
<tr>
<td>Rights of providers to provide services /</td>
<td>Ensure the above is accessible to</td>
</tr>
<tr>
<td>For incoming patients</td>
<td>For outgoing patients</td>
</tr>
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</tr>
<tr>
<td>any restrictions on its practice</td>
<td>people with disabilities and electronically</td>
</tr>
<tr>
<td>Rights and complaints procedures for patients accessing NHS services</td>
<td></td>
</tr>
</tbody>
</table>

51. NHS England provides a centrally coordinated NCP which can be contacted as follows:

NHS England  
PO Box 16738  
Redditch  
B97 9PT  
Telephone: 0300 311 22 33  
Web: [www.nhs.uk/nationalcontactpoint](http://www.nhs.uk/nationalcontactpoint)  
Email: england.contactus@nhs.net
The Directive route process

1. Applicant submits completed application form to NHS England European Team

2. NHS England European Team assesses the application and has 20 working days to inform applicant of the decision

   NB: The clock is stopped when additional information is needed from the applicant

3. The application must meet the following criteria:
   - Patient must be ordinarily resident in England and entitled to NHS care
   - Patient would be eligible for the same or equivalent treatment under the NHS in their circumstances and the treatment is necessary to diagnose or treat a medical condition
   - Proposed healthcare provider is a person/body which lawfully provides the treatment in question
   - Application must be received and approved in advance of specialised treatments (applications for non-specialised treatments can be submitted before or after treatment)

4. European Team contacts the responsible commissioner to confirm the patient is entitled to the treatment under the NHS

5. The application must be supported by the following:
   - Evidence of medical need for the treatment from an EEA clinician
   - Written statement from an EEA confirming the treatment is appropriate to the patient's condition and specifying what they consider to be a medically justifiable time period within which the patient should be treated, based on the patient’s circumstances and supported by objective reasons (for specialised treatments only)
   - Original proof of payment documentation (post treatment) for treatments that do not require prior authorisation

The Directive covers treatment for planned or emergency care in either a primary or secondary healthcare setting which can be provided in either the EEA country’s state or private healthcare systems.

APPLICATION APPROVED
- Applicant informed of decision
- NHS costs determined and reimbursement calculated
- Statement of Reimbursement issued followed by cheque payment
- For approved applications prior to treatment, applicant notified of process to follow and documentation to provide, post treatment.

APPLICATION REJECTED
- Applicant informed of decision
- Applicant informed of process to request a review of or appeal of the decision
- Where applicable, applicant informed of other NHS funding routes (eg IFR / S2 / FHIC)
Key differences between the Directive route and the S2 route

<table>
<thead>
<tr>
<th>Coverage</th>
<th>S2 route</th>
<th>Directive route</th>
</tr>
</thead>
<tbody>
<tr>
<td>EEA</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Switzerland</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Requires prior authorisation</td>
<td>Yes</td>
<td>Specified treatments only</td>
</tr>
<tr>
<td>Planned healthcare</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Unplanned (emergency) healthcare</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Treatment in state-run / contracted facilities</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Treatment in private / non-contracted facilities</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Undue delay¹⁰</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Requires payment in full up front</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Scope restricted to home entitlements only</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Retrospective reimbursement (depending on circumstances)</td>
<td>No¹¹</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Determining entitlements

52. When a patient makes an application for prior authorisation of treatment under the Directive route, NHS England will in the first instance determine whether or not the patient meets the requirements of the S2 route. If they do, and satisfy the criteria for approval under the S2 route, they will be granted authorisation via that route, unless the patient specifically requests to use the Directive route – for example, to access the private or independent sector abroad. This will ensure that appropriate consideration of patients’ rights occurs under both sets of legislation and that the relevant case law is applied effectively.

53. The European Team considers each application carefully. Reimbursement, or the issuing of an S2, will not usually be retrospectively authorised where a patient should have applied for prior authorisation, but failed to do so, unless in exceptional circumstances. This will be determined on a case-by-case basis.

54. Retrospective authorisation and reimbursement will be given in cases where the initial decision to refuse authorisation or reimbursement is overruled on review or appeal.

55. It is therefore recommended that patients wishing to access treatment in another EEA country contact the European Team in advance of travelling to determine

¹⁰ Applications under either the S2 or Directive routes made on the basis of undue delay may still be rejected if the other qualifying criteria are not met or, in the case of applications under the Directive route, on other grounds as set out under section 6BB(5) of the NHS Act 2006.

¹¹ Retrospective reimbursement is available where authorisation for treatment under S2 is refused and that refusal is subsequently overturned.
whether prior authorisation is required, and the levels of cost coverage which apply. Otherwise, patients may discover after treatment that they have obtained a service that they are not entitled to under the NHS and their costs will therefore not be covered.

Information for patients

56. The Department of Health (DH) has published NHS (Cross-Border Healthcare) Regulations 2013 which place a legal requirement on both NHS England and local CCGs to make information available on any general policies and criteria that may apply to the provision of a particular service.

57. This document contains the information required from NHS England by the NHS (Cross-Border Healthcare) Regulations 2013.

The application process

58. The broad process for making and determining applications (under both Directive and S2 routes) is as follows:
Patient applies for funding, sending a completed application form with evidence of clinical need and proof of payment (for retrospective claims) to the European Cross Border Health Team (European Team) within NHS England.

The European Team assesses the application. Where appropriate, the European Team may also liaise with the responsible commissioner to clarify the patient’s entitlement to the specific treatment or to verify applications made on the basis of undue delay.

The European Team informs the patient of the outcome of their application.

If the application has been successful, the European Team authorises the issuing of a reimbursement or an S2 form.

If the application has been made via the Directive route, the European Team issues any reimbursement due directly to the patient and claims the money back from the responsible commissioner.
59. NHS England publishes information for each of the routes on how to make an application for funding and how to apply for prior authorisation. This information includes:

- The services for which prior authorisation is a condition of reimbursement under the Directive route.
- Where and how patients should apply for prior authorisation.
- What information the application must contain.
- What factors NHS England will take into account in arriving at the decision.
- The time limits within which NHS England is required to decide applications.

60. Following a successful application under the Directive route, NHS England must provide the applicant with a clear statement of the amount of reimbursement.

61. Where authorisation, reimbursement or full reimbursement has been refused, NHS England must inform patients in writing, setting out the information considered in reaching the decision and the reasons for the decision, and detailing the right to request a review or appeal of the decision, including details of the review or appeal processes.

62. Part 2 of the National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013\(^\text{12}\) requires NHS England to determine applications within 20 working days. If further information is required NHS England must request additional information from the applicant within 10 working days (in these cases the application is suspended until the information is received).

63. In Scotland, Wales and Northern Ireland, applications for planned healthcare should be sent to the patient’s local health board. Applications from English residents should be sent to:

**European Cross-Border Healthcare Team**

NHS England  
Fosse House, 6 Smith Way  
Grove Park  
Enderby  
Leicester, LE19 1SX  
Email: england.europeanhealthcare@nhs.net

**Considerations for patients**

64. There are a range of other issues that patients will need to be aware of when seeking treatment in another European country – for example, variations in standards of care, styles of treatment or aftercare, and language barriers.

65. In seeking healthcare in another EEA country, patients are stepping outside of NHS jurisdiction – consequently, it is the law of the country of treatment that will apply and it is therefore the patient’s responsibility to be clear on who in the EEA

\(^{12}\) S.I. 2013/26.
country of treatment is accountable for assuring their safety throughout the course of their treatment.

66. NHS clinicians and commissioners cannot be held liable for any failures in treatments organised by the patient and undertaken in another EEA country. Their role is strictly limited to helping facilitate this if that is the patient’s expressed wish.

67. NHS England does not refund travel or accommodation costs for healthcare funded via the S2 or Directive routes.

68. The process of prior authorisation accords patients clarity on a range of matters relating to their care. This includes whether the treatment is one the NHS offers in the patient’s circumstances, which elements of the care pathway will be funded and recourse to redress should a problem arise with the treatment they receive. It also helps ensure patients are aware of all of the possible treatment options available to them within the NHS. However, patients cannot be prevented from seeking treatment in Europe simply because equivalent or alternative services may be available at home.

69. Patients also need to be aware that there is no duty of care attached to prior authorisation, neither does it imply clinical approval of a patient’s planned healthcare in another EEA country, or acceptance of any responsibility for that treatment.

70. These general principles highlight the need for commissioners and/or clinical staff to remind patients wishing to seek medical treatment in another country to ensure that they have fully considered all aspects of the necessary arrangements including when they will be fit to travel home, whether they need to make any special travel arrangements or have comprehensive medical insurance in place for their trip. The cost of insurance and other incidental costs is not reimbursable by NHS England.

Undue delay

71. The concept of “undue delay” is a complex matter which needs careful consideration. Undue delay essentially means that the NHS is unable to provide treatment that is the same or equivalent to the treatment requested in a medically justified time period, based on a full clinical assessment of the individual patient’s condition; taking into account the patient’s state of health at the time of the decision and the probable course of the patient’s medical condition. Such an assessment would need to be kept under review while the patient is waiting for treatment.

72. Whether the waiting time is medically justifiable must be based on an objective medical assessment of the individual patient’s condition, including the patient’s medical history; the extent of the patient’s pain, disability, discomfort or other suffering attributable to the medical condition; whether that pain, disability or discomfort makes it impossible or extremely difficult for the patient to carry out ordinary daily tasks; and the extent to which the treatment would be likely to
alleviate or enable alleviation of the pain, disability, discomfort or suffering. All applicants under the S2 route, and applicants for specialised treatments requiring pre-authorisation under the Directive route, should provide written evidence from an EEA clinician as to what constitutes a medically justifiable time period within which they should have treatment, based on the above, as part of their application.

Maternity care

73. To apply for an S2 covering maternity care only, the applicant should write to the Overseas Healthcare Team in Newcastle at the address below, explaining why they want care outside the UK and enclosing the following information:
- a maternity certificate (MATB1) or a letter from a UK GP or midwife showing the expected date of delivery
- NHS number or National Insurance number
- date of birth, full UK address and dates of travel
- whether the applicant intends returning to the UK after giving birth and whether the applicant has already left the UK for the other country

74. The Overseas Healthcare Team contact details are as follows:

**Overseas Healthcare Team (Newcastle)**
Room M0135, Durham House
Washington
Tyne & Wear
NE38 7SF
Telephone: 0191 218 1999

Additional information & enquiries

75. For patient enquiries arising from this information document, please contact the National Contact Point for England:

**NHS England**
PO Box 16738
Redditch
B97 9PT
Telephone: 0300 311 22 33
Web: [www.nhs.uk/nationalcontactpoint](http://www.nhs.uk/nationalcontactpoint)
Email: [england.contactus@nhs.net](mailto:england.contactus@nhs.net)

76. Enquiries on the detail of the governing European legislation may be made to the Department of Health Cross-border Healthcare mailbox: [eucross-borderhealthcare@dh.gsi.gov.uk](mailto:eucross-borderhealthcare@dh.gsi.gov.uk)