

Regulation of Care (Jersey) Law 2014

Proposed fees

SECTION 1: INTRODUCTION

Background

1. The Regulation of Care (Jersey) Law 2014 (the “2014 Law”) provides a framework for the regulation of health and social care in Jersey. It is envisaged that the 2014 Law will come into force in late 2018, once the States Assembly had debated associated Regulations¹ including:
 - the Regulation of Care (Regulated Activities) (Jersey) Regulations 201-
 - the Regulation of Care (Standards and Requirements) (Jersey) Regulations 201-
2. The 2014 Law provides for a number of different fees. These include:
 - a. fees associated with making an initial application for registration as a provider or a manager (Article 4)
 - b. an annual fee for continued registration (Article 9)
 - c. fees associated with applying for a variation on conditions of registration (Article 17) and;
 - d. miscellaneous fees including for replacement registration certificates (Article 8) and for provision of paper copies of Commission report (Article 38)
3. These fees will replace those currently paid by providers who are registered and regulated under the following Orders, which are to be repealed and replaced by the 2014 law:
 - a. Nursing and Mental Nursing Homes (General Provisions) (Jersey) Order 1995
 - b. Residential Homes (General Provisions) (Jersey) Order 1995
 - c. Nursing Agencies (General Provisions) (Jersey) Order 1978
4. The 2014 Law sets out that those fees may be prescribed by the Chief Minister or by Commission. It has been determined, however, that the Chief Minister will prescribe those fees via an Order which would come into force on;

¹ The associated Regulations are currently in draft form having previously been subject to consultation. Prior to them being debated by the Assembly, the updated version of the Regulations will be made available for comment.

- a. the same day the 2014 Law for new providers (i.e. care providers who are not already registered)
- b. 1 January 2019 for existing providers who are already registered and who have already paid their 2018 regulations and inspection fees.

Factors for consideration

5. A number of different factors have been taken into account when determining the proposed new fee structure. These include:
 - a. fee income as a proportion of the total Commission budget;
 - b. the levying of fees proportion to the size of the provider;
 - c. the costs of compliance.
6. Fee income as a proportion of total expenditure: The 2014 Law was agreed by the States on the understanding that the existing inspection team's budget would be grant-funded to the Care Commission, and that this would represent approximately 45% of the total cost of administering the Law (i.e. fees should generate approximately 55% of total Commission expenditure). 45% is part way between 34% funding provided to the Care Quality Commission (CQC) in England and the 65% provided to the Scottish Care Inspectorate.
7. The proposed fees set out below will generate approximately 50%, as opposed to 55% of total expenditure, albeit it is important to recognise that the total fee income is based on a range of assumptions which may not prove correct (for example, numbers of new providers entering the market on an annual basis, or the total number of full time equivalent staff employed by individual care providers). The other 50% of the Commission's budget will be provided via public funds, this being equivalent to the existing inspection team's budget.
8. Fees proportion to size of providers: The fees charged under current legislation² are 'flat' fees paid by all providers regardless of business size. If the flat fee structure was to be replicated under the new Law, smaller providers would be cross subsidising larger providers who will absorb a larger proportion of the Commission's resources.
9. Under the new fee structure all providers will pay an initial registration fee. The level of registration fee will depend on the type of regulated activity, with care homes attracting the highest level of fees and care at home services the lowest.

² The Residential Homes (Gen Prov) (Jersey) Order 1995; the Nursing and Mental Nursing Homes (Gen Prov) Order 1995; the Nursing Agencies (Jersey) Law 1978

This is because the pre-registration work for care providers with premises is more onerous than for those without premises.

10. The registration fee for managers will be the same across all types of regulated activities as the resources required in supporting the initial registration processes are broadly the same regardless of business size.
11. Individually employed carers³ will pay an annual registration fee only. This will be the same as the annual fee paid under professional registration schemes (see Section 3 below). The 2014 Law will see individually employed carers (i.e. a person directly employed by a care recipient to provide care services) registered for the first time.
12. Annual fees will, be based on business size, as the resources required in relation to annual inspections – plus the provision of ongoing monitoring and support during the year – vary relating to business size. The larger the business, the greater the resource requirement. All annual fees will be prorated for providers than register part way through a year.
13. Business size is measured in different ways.
 - a. Care home size is based on number of client places (i.e. beds).
 - b. Home care and adult day care is based on total number of care staff hours with a different fee being levied for different size providers.
14. Different provider sizes in relation to home care and adult day care include:
 - a. small providers: 112 care staff hours per week or less (equivalent to less than 3 full time equivalent staff)
 - b. medium providers: from 112.5 care staff hours per week up to 599.5 (equivalent to 3 or more, but less than 16 full time equivalent staff)
 - c. medium plus providers: from 560 to 2,249.5 care staff hours per week (equivalent to 16 or more, but less than 60 full time equivalent staff)
 - d. large providers: 600 care staff hours per week or more (equivalent to more than 60 full time equivalent staff).
15. It is important to note that, care staff hours are not the same as care hours provided. For example, one member of staff may in any one hour simultaneously be providing care to multiple clients.

³ All home care staff who are individually employed, as opposed to employed by an agency or other body, will be required to have an enhanced DBS check when first registered. The Care Commission will request that check on behalf of individual home care provider and will invoice each provider for each check undertaken. Checks currently £50 per person and there is likely to be requirement for the check to be repeated every two to three years. Please note, the cost of the checks is not a matter for the Minister or the States of Jersey.

16. In determining which band (e.g.: small, medium, large etc.) that a home care or day care provider falls into, consideration will be given to natural fluctuations in staffing levels. For example, a provider at the upper of the medium band may, for a limited period of time, provide additional care hours without being pushed into a higher band if there is a rational for temporary provision of additional hours.
17. The maximum full time equivalent hours provided by a home care service and the maximum number of service users for whom an agency can provide care will be a condition of the registration.
18. Costs of compliance: In addition to paying fees, providers are also required to meet costs that arise from compliance with care standards. Given that a significant proportion of providers are already regulated, they will already meet standards, or will have an existing development programme/improvement plan in place and will, therefore, be able to meet standards with little or no extra cost.
19. Where high levels of investment are required in order to ensure compliance, this will usually indicate that care standards are poor and must be addressed in order to protect the wellbeing of clients.

GST exemptions

20. Under the Goods and Services Tax (Jersey) Law 2007 (the “2007 Law”) there are a number of GST exemptions in relation to goods and services supplied by registered care professionals or by registered persons to patients and residents in a nursing or residential care home. There is, however, currently no provision exempting goods or services provided by private domiciliary care agencies.
21. At the point at which the 2014 Law comes into force, the 2007 Law will be amended so that all services regulated under the 2014 Law will be GST exemption. This will include home care providers.

SECTION 2: PROPOSED NEW FEES

Proposed fees to be charged under the Regulation of Care (Jersey) Law 2014

22. The proposed fees to be introduced under the 2014 Law are set out in paragraphs 25 to 28 below. These fees will come into effect at the point at which the 2014 law comes into force for new providers and on 1 January 2019 for providers who are currently registered.
23. Providers that will be regulated for the first time under the new law, will be required to pay both an initial application fee and a registration annual fee. For example, a 5 bedded residential children's homes, run by the Health and Social Services Department with one manager will need to pay, at the point at which the 2014 law comes into force:
 - a. £160 x 5 beds annual fee, and
 - b. £1,500 initial provider application fee, and
 - c. £260 x 1 managers initial application fee.
24. Providers who are currently regulated under existing laws will be required to pay the annual fees due under the new law. Providers and managers who are already registered will not need to pay application fees.

25. Proposed care home fees

Fee	Proposed amount	Notes	2018 fee under existing laws (flat fee as opposed to per bed basis)
Provider initial application	£1,500	Per new application in respect of each premises	£727.75
Manager initial application	£260	Per new manager	£256.25
Annual fee	£160	Per bed	£370.02 or £740.04 if residential home and nursing home.

26. Proposed home care fees (domically care)

Fee	Proposed amount	Notes	2018 fee under existing laws
Provider initial application	£750	Per new application	Domically care agencies do not currently pay fees. Nursing agencies pay £727.75 for initial application; £370.02 for annual renewal and £205 to transfer their registration to a different premises.
Manager initial application	£260	Per new manager	
Annual fee: Small provider	£600	Total care staff hours provided per week ⁴ = 112 hours or less ⁵	
Annual fee: Medium provider	£1,100	Total care staff hours provided per week = 112.5 hours per week or over, up to 599.5 hours per week ⁶	
Annual fee: Medium plus provider	£2,200	Total care staff hours provided per week = 600 hours per week or over, up to 2,249.5 hours per week ⁷	
Annual fee: Large provider	£4,200	Total care staff hours provided per week = 2,250 hours per week or over ⁸ .	

⁴ This refers to the total number of staff hours, not the number of hours of care provided. For example, 1 x member of staff may be providing care simultaneously to 3 clients. This equals 1 x care staff hours but 3 care hours.

⁵ 112 hours is equivalent to just less than 3 staff members each working 37.5 hours per week

⁶ Over 112.5 hours to up to 599.5 hours is equivalent to 3 or more but less than 16 staff members each working 37.5 hours per week

⁷ Over 600 hours per week up to 2,249.5 hours is equivalent to 16 or more but less than 61 staff members each working 37.5 hours per week.

⁸ 2,250 hours per week is equivalent to 61 or more staff members each working 37.5 hours per week

27. Proposed adult day care centre fees

Fee	Proposed amount	Notes	2018 fee under existing laws
Provider initial application	£1,100	Per new application in respect of each premises	N/A
Manager initial application	£260	Per new manager	N/A
Annual fee: small	£600	Total care staff hours provided per week = 112 hours a week or less	N/A
Annual fee: Medium	£1,100	Total care staff hours provided per week = over 112.5 hours a week, up to 599.5 hours per week	N/A
Annual fee: Medium plus	£2,200	Total care staff hours provided per week = 600 hours per week up to 2,287 hours per week	N/A
Annual fee: Large	£4,200	Total care staff hours provided per week = 2,287.5 or more hours per week	N/A

28. Miscellaneous fees

Fee	Proposed amount	Notes	2018 fee under existing laws
Replacement registration certificates	£10	Per certificate	N/A
Paper copies of report	To be determined on ad hoc basis depending on size of report		N/A
Variation to registration	£30	Per variation	N/A
Late payment surcharge	10% of fees due up to 6 months. 20% of fees due over 6 months.	Purpose of the surcharge is to cover costs incurred by the Commission and encourage payment on time.	N/A

Annual Registration fees as a proportion of care fee charges

29. In developing the proposed fees, consideration was given to the level of the proposed fees as a proportion of care fees. The proposed annual fee of £150 per bed for a care home provider would be equivalent to a weekly per service user cost of £2.90 and, as set out in the tables below, it represents a relatively small proportion of care home fees.

30. Registration fee as a percentage of care home fees

Care Home level under Long Term Care scheme (LTC)	Weekly LTC fee and co-payment paid by care recipient ⁹	Annual LTC fee and co-payment paid by care recipient	£150 registration fee as % of care fee
Level 1	£695.15	£36,147.80	0.4%
Level 2	£890.47	£46,304.44	0.3%
Level 3	£1,141.49	£59,357.48	0.25%
Level 4	£1,351.14	£70,259.28	0.21%

⁹ This is the minimum charge, care homes usually charge higher fees for service users paying privately

31. Registration fee as a percentage of home care fees

Home Care under Long Term Care scheme (LTC)	Weekly income from LTC hourly rate ¹⁰ (£18.34 per hour of client care)	Annual income from LTC hourly rate	Annual registration fee as % of annual income
<u>Small</u> Total care staff hours provided per week = 112 hours or less ¹¹	Up to £2,054	£106,812	0.56%
<u>Medium</u> Total care staff hours provided per week = over 112.5 hours per week up to 599.5 hours per week ¹²	Over £2,063 up to £10,995	£107,289 £571,731	0.93% 0.17%
<u>Medium plus</u> Total care staff hours provided per week = 600 hours per week up to 2,287 hours per week ¹³	£11,004 up to £41,944	£572,208 £2,181,066	0.35% 0.09%
<u>Large</u> Total care staff hours provided per week = 2,287.5 or more hours per week ¹⁴	£41,953	£2,181,543	0.18%

Comparison with other jurisdictions

32. The report accompanying the draft law, as debated and agreed by the States Assembly in July 2014¹⁵, set out that the new fee structure would be comparable to

¹⁰ This is the minimum fee paid by LTC benefit, home care providers usually charge a higher fee for service users paying privately

¹¹ 112 hours is equivalent to just less than 3 staff members each working 37.5 hours per week

¹² Over 112.5 hours to up to 599.5 hours is equivalent to 3 or more but less than 16 staff members each working 37.5 hours per week

¹³ Over 600 hours per week up to 2,249.5 hours is equivalent to 16 or more but less than 61 staff members each working 37.5 hours per week.

¹⁴ 2,250 hours per week is equivalent to 61 or more staff members each working 37.5 hours per week

¹⁵ P95/2014 Draft Regulation of Care (Jersey) Law 201-

that of other jurisdictions. Such comparisons are difficult however, given that the fee structures in England & Wales, Scotland and Northern Ireland vary considerably. That said, the proposed Jersey fee structure, is intended to help ensure that Jersey providers will pay in the region of that paid by providers based in mainland UK. Jersey fees will, however, be higher than those charged by the Regulation and Quality Improvement Authority in Northern Ireland, due to the higher levels of public subsidy in Northern Ireland.

33. Overview of fees in other jurisdictions compared to Jersey:

	Scotland	England	Northern Ireland	Jersey
	Care Inspectorate	Care Quality Commission (CQC)	Regulation and Quality Improvement Authority (RQIA)	Care Commission (proposed fee)
Care Home				
Provider Application	£3,849	£0	£261 – 952	£1,500
Manager Application	£0	£0	£261	£260
Annual Fee	£157 per bed	Less than 4 bed = £321 (i.e. up to £321 per place) 81 to 90 bed = £14,415 (i.e. up to £178 per bed)	£34 - £46 per bed	£150
Variation to registration	£0	£0	£25 (minor) £50 (small home) £100 (large home)	£0
Home Care				
Provider Application	Small = £1,261 ¹⁶ Medium = £2,050 Large = £4,510	£0	£952 ¹⁷ (proposed)	£750
Manager Application	£0	£0	£261 (proposed)	£260

¹⁶ Care home providers: Small = employing no more than 3 full time equivalent staff. Medium = employing between 4 -15 full time equivalent staff. Large = employing more than 15 whole time equivalent staff.

¹⁷ Consultation on Proposed amendment to the Regulation and Improvement Authority (Fees and Frequency of Inspection) Regulations (Northern Ireland) 2005 October 2016

Annual Fee	Small = £676 Medium = £1,476 Large = £2,255	1 office location = £2192 (1 location) 25 or more office locations =£97,476 (up to £3,899 per location)	£215 (proposed)	Small = £600 Medium = £1,000 Medium plus = £2,000 Large = £4,000
Variation	£0	£0	£25, £100 (proposed)	£0
Adult Day Care				
Provider Application	Small = £1711 ¹⁸ Other = £3422	£0 not currently regulated	£952 (proposed)	£1,000
Manager Application	£0	£0 not currently regulated	£261 (proposed)	£260
Annual Fee	Small = £856 Other = £1,711	£0 not currently regulated	£215 (proposed)	Small = £600 Medium = £1,000 Large = £2,000
Variation	£0		£25 (minor) £100	£0

¹⁸ Day care providers: Small = employing no more than 3 full time equivalent staff. Other = employing more than 3 full time equivalent staff

Comparison of Care Costs in UK

When comparing inspection and regulation fees to be paid by care providers in Jersey and the UK, it is also helpful to consider the fees charged by care providers in Jersey and the UK.

Nursing home care fees vary between different regions of the UK¹⁹, for example:

- in the North East of England care home fees are approximately £666 per week and around £949 in Greater London;
- in the North East of England a provider's annual registration fee is equivalent between 0.51% to 0.92% of the provider's annual income per client or, in Greater London, it is equivalent to 0.36% to 0.65% of annual income per client.

This compares to 0.21% of the annual income per client paid under level 4 of Jersey's long term care scheme. The proposed annual registration fee for care home providers in Jersey is, therefore, smaller than the UK's as % of income²⁰.

SECTION 3: PROFESSIONAL REGISTRATIONS

34. At the point at which the 2014 Law comes into force, the Care Commission will also become responsible for the registration, regulation and inspection functions provided for under the following legislation²¹:
 - a. Piercing and Tattooing (Jersey) Law 2002.
 - b. Medical Practitioners (Registration)(Jersey) Law 1960
 - c. Health care (Registration) (Jersey) Law 1995
 - d. Dentistry (Jersey) Law 2015.
35. As it stands at the moment, the fees charged under each of those pieces of legislation varies in an inconsistent manner, for example, medication practitioners are only charged an initial application fee, whereas piercing and tattooing practitioners are charged an annual fee.

¹⁹ <https://www.which.co.uk/elderly-care/financing-care/financing-a-care-home/381597-care-home-fees>

²⁰ Due to the lack of consistent data about home care fees in the UK it is not possible to develop a comparison of Jersey registration fees and UK registrations fees as a % of home care income.

²¹ The Commission will also be responsible for the inspection of Yellow Fever vaccination clinics. The annual fee associated with inspection, whilst not currently provided for in law, will also form part of that review.

36. These fees, which are set out below, will remain the same in 2019 as they were in 2018, except for the standard annual increase which is an anticipated 2.5%. It is intended, however, that they will be reviewed at some point during 2019 with a view to ensuring consistency and fairness across the board.

Laser clinics	
Annual registration fee (per clinic)	£370.02

Dentistry	
Annual registration/re-registration fee (per dental care professionals)	£55

Yellow Fever clinics	
Annual registration/re-registration fee per premises	£192.87

Piercing and tattooing	
Annual registration/re-registration of premises	£100
Annual registration/re-registration of practitioners	£55

Medical practitioners registration law	
Initial application fee	£150
Annual re-registration fee	£0

Health care registration law	
Initial application fee	£0
Annual re-registration fee	£0

The purpose of this document is to inform key stakeholders, including care providers, care users and their representatives, about the proposed fee structure and the suggested amount of those fees.

Stakeholders can make comments or ask questions in writing or via phone or attend a stakeholder information meeting

Telephone: 01534 445798
Email: c.blackwood@gov.je
Write to: 23 Hill Street
St Helier, JE2 4UA

Stakeholder information meeting

Date: Wednesday 18 July 2018
Time: 18.30 to 20.00
Location: Halliwell Theatre
Peter Crill House
Gloucester Street
St Helier

If you wish to attend the meeting please email m.bates@gov.je in order to reserve a place.

Closing date for comments 21 August 2018