

**Guidance on Provision of ‘Top-up’ Private Fertility Services for NHS
patients in NHS and Other Service Providers**

East of England CCGs Specialist Fertility Services Clinical Group

1. Introduction

The purpose of this policy is to provide guidance for providers of Specialist Fertility services for the East of England population and describes the principles and processes when NHS patients request additional fertility treatment or medicines which are not routinely funded by the NHS.

2. Purpose of this Policy

This policy is intended for use alongside the Department of Health (2009) Guidance on NHS patients who wish to pay for additional private care.

It provides guidance for Providers on how to proceed when an NHS patient chooses to pay for treatment which is not covered by the East of England CCG specialist fertility treatment policies. The 'Top-up' treatment can be provided within the NHS organisation, being clearly identified as such treatment or in another healthcare provider such as a private hospital or a home care provider.

3. Aims and Objectives of this Policy

- The Providers of Specialist Fertility Services should not withdraw NHS care simply because a patient chooses to buy additional private care.
- Any additional private care must be delivered separately from NHS care.
- The Providers of Specialist Fertility Services must never charge for NHS care and should never subsidise private care.
- The Providers of Specialist Fertility Services should continue to provide free of charge all care that the patient would have been entitled to had he or she not chosen to have additional private care.
- The fundamental principles of the NHS still apply, namely that the NHS provides a comprehensive service available to all, based on clinical need not an individual's ability to pay and that public funds are devoted solely to the benefit of the people that the NHS serves.
- Providers of Specialist Fertility Services should develop their own Provider-specific and clear policies, in line with these principles, to ensure effective implementation of this guidance in their organisations. This includes protocols for working with other NHS or private providers where the Provider has chosen not to provide additional private care.
- Reference should be made to the Fertility Services Commissioning Policy which provides more detail into the services which are currently commissioned by the CCG.

4. Examples

Example 1:

Patient A is eligible for IVF treatment on the NHS. She undergoes the full cycle of treatment but unfortunately it is unsuccessful. The NHS will freeze and store any unused embryos for up to one year.

At the end of one year, she chooses to have them stored for longer.

Any costs relating to the storage of the embryos past one year will have to be covered by Patient A. She will receive an invoice outlining the cost of storage and an administration fee. This payment will need to be made in advance.

Patient A is allowed to have additional private care because the NHS element of care and the private element of care can be delivered separately.

Example 2:

Patient B is eligible for a third cycle of IVF. She has been told about a new technique called endometrial scratching prior to implantation which has shown some improvement in implantation rates. Dr X advises her that this treatment is not available on the NHS.

Following a discussion, Patient B agrees that she would like to pay for endometrial scratching in addition to her NHS treatment. Dr X makes a note of the discussion in her NHS records to indicate that she has opted for this treatment.

Arrangements are made for Patient B to attend the hospital for the procedure 2 weeks prior to the cycle of IVF.

She is charged for the cost of the procedure, any drugs prescribed, any staff involved and any equipment used. She is also charged a small fee to cover administration costs and the cost of the pharmacy checking and dispensing any drugs.

She attends her IVF treatment as normal two weeks following the procedure.

The Provider informs the CCG that Patient B has opted for additional Top-up treatment.

Patient B is allowed to have additional private care because the NHS element of care and the private element of care can be delivered separately.

Example 3:

Patient C is eligible for IVF treatment on the NHS. She has read about EmbryoGlue[®]; a solution in which the embryo is soaked in immediately prior to transfer which she would like to have. Dr X advises her that it is unavailable on the NHS.

She would like to pay only for the EmbryoGlue[®] in addition to her NHS treatment. This is not allowed. She can either have the IVF on the NHS without the EmbryoGlue[®] or pay for an entirely private procedure and the EmbryoGlue[®].

Patient C is not allowed to have additional private care because the NHS element of care and the private element of care cannot be delivered separately.

5. Implementing the Guidance

The following must be taken into account when developing and implementing Provider-specific guidance.

5.1 Consider all funding options

5.1.1 All reasonable avenues for securing NHS funding have should have been explored.

5.1.2 If the medicine or treatment falls under the NICE technology appraisal guidelines or there is a local policy agreed with the CCG to fund the treatment, then it will be available on the NHS.

5.1.3 Funding may also be requested from the patient's CCG via the exceptional funding procedure.

5.1.4 Where funding has not been found from any of the above routes and the patient wishes proceed with the treatment, the patient will be liable for the Top-up treatment either in the NHS organisation or in another provider, in accordance with this policy.

5.2 The principle of separation – time and place

5.2.1 In order to ensure clarity of funding arrangements it must always be possible to distinguish the private care episode from any NHS treatment.

5.2.2 Where possible, the additional private care should be delivered at a different time and place to NHS care.

5.2.3 A different place could include another healthcare provider but can also be part of the NHS organisation (the Provider) which has been permanently or temporarily designated for private care.

5.2.4 Putting in place arrangements for separation does not necessarily mean running a separate clinic or ward. As is the case now, specialist equipment such as scanners maybe temporarily designated for private use as long as there is no detrimental effect to the NHS patients. It must always be possible to identify the costs of the NHS and additional private treatment separately.

5.2.5 If it is not possible to deliver private care at a different time and place, for example in the case of overriding concerns for patient safety, the decision to treat in normal NHS facilities and time should be agreed as per Service Provider Policy prior to treatment. A written record must always be kept of all such decisions and approvals. If the decision is made to continue treating in the NHS facilities, the patient will have to pay for the full cost of the treatment as a private patient unless the costs can be separately identified.

5.3 Recording attendances

5.3.1 Accurate clinical records must be kept in accordance with GMC guidelines for Good Clinical Practice.

5.3.2 In fertility services, records of all Top-up treatments and outcome measures must be kept and submitted to the CCG monthly in addition to all other contractual information requirements.

5.4 Charging for the treatment

5.4.1 Providers of Specialist Fertility Services should have a policy in place to invoice the patient appropriately when a Top-up treatment has been agreed prior to the treatment commencing.

5.4.2 All predictable outpatient appointments and inpatient stays relating to additional private care including any medicines, scans or tests required should be invoiced separately. This may include an administration charge. The NHS must never subsidise private care.

5.5 What to tell patients who opt for Top-up treatment

5.5.1 Once a patient has opted to Top-up their NHS care with additional privately funded Top-up care at the Specialist Fertility Service Provider, it should be made clear to them that they will be liable for the full 'predictable' costs related to the treatment, including the preparation, administration and recording of that treatment before the treatment commences.

5.5.2 There should be procedures in place to confirm that they are aware that they will be liable to the Specialist Fertility Service Provider for these costs and accept to pay them when invoiced and before treatment commences.

5.5.3 Patients will not be liable for any unpredictable costs. This will include any unscheduled admissions, even if they are due to complications relating to the additional private care provided. Patients should note that any unpredictable costs incurred by another private healthcare provider may be charged by that provider.

5.5.4 Specialist Fertility Service Providers should produce a guidance sheet summarising their Policy on Top-up treatments to give to patients who opt for Top-up treatment.

5.6 Clinical accountability

5.6.1 Effective communication with patients and their representatives about treatment options should be maintained at all times. Section 5 of the DH guidance refers to the clinician's responsibilities and covers any potential conflict of interest between their NHS and private work. Reference to existing GMC guidance is made and all treating clinicians are expected to adhere to this.

5.6.2 Treatment which is currently unfunded by the NHS may be raised either by the patient or by the treating clinician. Clinicians should comply at all times with existing GMC guidance which states 'You must give patients the information they want or need about any treatments that you believe have a greater potential benefit for the patient than those you or your organisation can offer'.

5.6.3 Clinicians should not make any assumptions about the patient's ability or willingness to pay when considering what information to provide on available treatment and medicines.

5.6.4 GMC guidance is also referred to in terms of providing the patient or their representatives with the full information about the potential benefits and risks of treatment before being asked for

consent to treatment. The treating clinician should not agree to request additional private care that they do not consider to be in the best interests of the patient.

5.6.5 The treating clinician requesting or prescribing the Top-up treatment is clinically accountable for that treatment.

5.6.6 Clinicians are advised, as good practice, to keep a brief record of all discussions with patients about care not routinely funded by the NHS in the patient's NHS medical notes.

5.7 Transferring care to another provider

5.7.1 A patient may be referred to a different Specialist Fertility Service Provider to receive additional private treatment.

5.7.2 In such cases, accountability will remain with the responsible clinician. The referring Provider must ensure that the treating organisation is aware that the patient is paying for their additional private treatment and has appropriate mechanisms in place to adhere to this policy for the element of care they are delivering.

5.8 Legal accountability

5.8.1 Specialist Fertility Service Providers are advised to refer to Section 9 of the DH Guidance regarding indemnity arrangements for privately funded Top-up treatments in an NHS organisation and develop their own policies in line with this.

6. Charges for Privately Funded Treatments

6.1 This section covers the principles to follow when private Top-up treatment is being provided by a Specialist Fertility Service Provider. These are charges for NHS patients, who are having additional private Top-up treatment.

6.2 The patient should meet all additional, predictable costs associated with the private Top-up treatment.

6.3 Patients will never receive a charge just for the cost of medicines or equipment on their own; there will always be a charge for arranging the treatment.

6.4 Where the same diagnostic, monitoring or other procedure is needed for both the NHS and Top-up treatment, the Specialist Fertility Service Provider should provide this for free as part of the patient's NHS entitlement and share the results with the 'private team'. The patients should not be unnecessarily subjected to two sets of tests.

6.5 In the event of a complication, the Specialist Fertility Service Provider should never refuse to treat simply because the cause of the complication is not clear.

6.6 The Specialist Fertility Service Provider will seek payment for the predictable costs before treatment commences.

7. References

Department of Health (2009) Guidance on patients who wish to pay for additional private care

Royal United Hospital Bath NHS Trust (2012) Top-up policy: for NHS patients who wish to pay for additional private care

East Cheshire NHS Trust (2009) Policy on Provision of 'Top-up' Treatments for NHS patients