

Department of Health

Briefing for the Public Accounts Committee:

Update on the Comptroller and Auditor General Special Report 110 – Nursing Homes Support Scheme (Fair Deal)

December 2021

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1 Introduction

This briefing document provides an update on both the implementation of the Comptroller and Auditor General’s Special Report 110, Fair Deal, and further provides an update the recommendations made by the Public Accounts Committee following its examination of that Report in October 2020.

2 Comptroller & Auditor General Special Report on NHSS

The C&AG decided to undertake an examination of the Scheme in March 2017, with a view to developing a special report.

The Department demonstrated a high level of cooperation to the Office of the CA&G throughout the fieldwork period and also provided substantial amounts of information and data to support the review. The Department continued to engage with the Office of the C&AG in the period since the initial fieldwork was completed and provided significant feedback on the first draft of the report produced in June 2019. The Department worked closely at that time with the HSE in evaluating the recommendations that were aimed at the HSE.

The report was laid before the Houses of the Oireachtas on the 10th of August 2020 and was examined by the Public Accounts Committee in October of that year.

2.1 Summary C&AG Recommendations

The recommendations of the C&AG Report were in the following areas:

Chapter 2: Charges for nursing home care
<p>2.1: The Department of Health, in conjunction with the HSE, should consider reviewing the cost components of long term residential care to ensure that all relevant costs are identified and included. Periodic reviews should be completed (say every three to five years) to ensure charges are relevant. For DoH (in conjunction with the HSE)</p>
<p>2.2: The HSE should ensure that information relating to the cost of care based charge rate for public nursing homes is published routinely, and that the information is accurate. For HSE</p>
<p>2.3: The NTPF should develop internal guidelines and procedures for its staff for the conduct of negotiations with the private or voluntary nursing homes. For NTPF</p>
<p>2.4: Given that protracted negotiations by their nature can give rise to additional costs for both parties , the NTPF should consider capturing management information on those cases that fail to reach agreement at the end of the negotiation process. In particular, this should include capturing the specific factors that gave rise to the delays in reaching an agreement. Such information could be used by the NTPF to better inform future negotiations and minimise the number of negotiations failing to reach agreement in a timely way. For NTPF</p>
Chapter 3: Demand for nursing home care
<p>3.1: It is recommended that the HSE completes a review of the cost effectiveness of the continued use of transitional care funding to support Scheme applicants. For HSE</p>

3.2: It is recommended that the HSE identify and review the costs associated with providing transitional care to Scheme applicants in public nursing homes. This would assist with effective budget management of costs associated with the delivery of long term residential care.

For HSE

Chapter 4: State support for nursing home costs

4.1: It is recommended that HSE standardise the process by which three year reviews, use of third party information, and five year look-back validations are performed.

For HSE

4.2: It is recommended that the HSE develop a list of specified documentary evidence similar to that used in the assessments of medical cards applications, required to support a scheme application.

For HSE

4.3: The HSE should consider exploring an arrangement with the Probate Office for the sharing of information on estate values.

For HSE

4.4: It is recommended that the HSE follow up and review outstanding schedules of assets.

For HSE

Chapter 5: State lending for nursing home residents

5.1: The HSE should notify Revenue and the accountable person of the amount of the loan to be recouped in a timely fashion following the relevant event.

For HSE

5.2: Revenue should formalise instalment arrangements for repaying loans in order to monitor the repayments and ensure the loan is repaid before the 12-year deadline for recoupment.

For Revenue

The majority of the recommendations in the report are for action by the HSE, as the operator of the Scheme. The Department is satisfied that the HSE has accepted these recommendations. One recommendation relates to the Office of the Revenue Commissioners and two to the National Treatment Purchase Fund (NTPF).

The report contains a single recommendation for the Department, which commits the Department - in conjunction with the HSE – to undertake a review of the cost components of the Scheme. Initial engagement on this work has commenced and with a view to addressing the recommendation in 2022.

The Department has engaged with the NTPF and the HSE on the implementation of their recommendations and an update is provided below. The majority of the recommendations have been implemented or are at an advanced stage of implementation, with the Department continuing to monitor progress with the remaining recommendations.

2.2 Detailed C&AG Recommendations

Chapter	Recommendation	Response
Chapter 2: Charges for nursing home care	<p>2.1: The Department of Health, in conjunction with the HSE, should consider reviewing the cost components of long term residential care to ensure that all relevant costs are identified and included. Periodic reviews should be completed (say every three to five years) to ensure charges are relevant. For DoH (in conjunction with the HSE)</p>	<p>DOH: Agreed. Officials within the Department of Health will engage with their counterparts in the HSE to explore the development of an appropriate process for reviewing the cost components. The Department will begin engagement with the HSE regarding this work in due course.</p> <p>HSE: Agreed. The HSE will support the Department in the review of the components of the cost of care as set down by legislation, and any revision of same.</p> <p>Update 2021: The Department is continuing with its work programme of improvements to the NHSS; this element is scheduled for 2022.</p>
	<p>2.2: The HSE should ensure that information relating to the cost of care based charge rate for public nursing homes is published routinely, and that the information is accurate. For HSE</p>	<p>HSE: Agreed. The HSE will publish the cost of care of public nursing homes annually. The 2020 cost of care rates are published.</p> <p>Update 2021: The VFM has recommended a different approach to the publication of cost of care, which is expected to be put in place in early 2022 and will further enhance the transparency of costs.</p>

Chapter	Recommendation	Response
	<p>2.3: The NTPF should develop internal guidelines and procedures for its staff for the conduct of negotiations with the private or voluntary nursing homes. For NTPF</p>	<p>NTPF: Agreed. Additional internal guidelines are currently being developed to assist the contract managers in their engagement process with nursing homes.</p> <p>Update 2021: The NTPF has confirmed that it has compiled its negotiation documents as per the recommendation.</p>
	<p>2.4: Given that protracted negotiations by their nature can give rise to additional costs for both parties, the NTPF should consider capturing management information on those cases that fail to reach agreement at the end of the negotiation process. In particular, this should include capturing the specific factors that gave rise to the delays in reaching an agreement. Such information could be used by the NTPF to better inform future negotiations and minimise the number of negotiations failing to reach agreement in a timely way. For NTPF</p>	<p>NTPF: Agreed.</p> <p>Update 2021: The NTPF has confirmed that it has set up a tracker for all negotiations that enter the review process.</p>

Chapter	Recommendation	Response
Chapter 3: Demand for nursing home care	3.1: It is recommended that the HSE completes a review of the cost effectiveness of the continued use of transitional care funding to support Scheme applicants. For HSE	HSE: Agreed. The HSE accepts that it will complete a review of transitional care for the Scheme applicants but it will be broader than just cost effectiveness alone and will also take account of impact on acute services and the broader service implications. This has been very positive in transitioning older people to residential settings with a positive impact on reducing delayed transfers of care. Update 2021: The HSE has confirmed that the necessity for Transitional Care funding is reviewed on an ongoing basis. It is viewed as being necessary to facilitate the transfer of clients from Acute hospitals in a timely manner, supporting efforts to reduced delayed transfer of care to a minimum.
	3.2: It is recommended that the HSE identify and review the costs associated with providing transitional care to Scheme applicants in public nursing homes. This would assist with effective budget management of costs associated with the delivery of long term residential care. For HSE	HSE: Agreed. The HSE will review all the number and value of transitional cases supported in public long stay beds while they are in the process of applying and waiting for funding from the Scheme to further inform ongoing budget management. Update 2021: The HSE has confirmed that this small cohort is kept under ongoing review.

Chapter	Recommendation	Response
<p>Chapter 4: State support for nursing home costs</p>	<p>4.1: It is recommended that HSE standardise the process by which three year reviews, use of third party information, and five year look-back validations are performed. For HSE</p>	<p>HSE: Agreed. The HSE has updated instruction and training to staff when undertaking such reviews. A monthly national data quality monitoring review is now in place to identify potential variances.</p> <p>The HSE is in on-going discussion with other public bodies to establish links to relevant data where possible to assist in confirming client application details. This matter is being discussed with the Department of Health to review the possible requirement for legislation to facilitate such a systematic and ongoing data transfer. Applicants are obliged to declare the transfer of relevant assets under the Scheme. The review of Schedules of Assets returns identifies cases where such information was not provided on application forms.</p> <p>Update 2021: The HSE has confirmed that updated guidelines and training issues as above. Quality monitoring in place. Discussions have taken place with Revenue to explore use of data. However, legislative change appears necessary to enable this.</p>

Chapter	Recommendation	Response
	<p>4.2: It is recommended that the HSE develop a list of specified documentary evidence similar to that used in the assessments of medical cards applications, required to support a scheme application.</p> <p>For HSE</p>	<p>HSE: Agreed. Such clarification has been updated on the HSE website to assist clients in completing applications. Relevant staff have also been briefed on the list of documents suitable to support an application. This information will be included in the next update to the Scheme application form.</p> <p>Update 2021: The HSE has confirmed that this information is now included within the NHSS Application Form.</p>
	<p>4.3: The HSE should consider exploring an arrangement with the Probate Office for the sharing of information on estate values.</p> <p>For HSE</p>	<p>HSE: Agreed. The HSE is in discussion with Probate and other possible information sources.</p> <p>Update 2021: The HSE has confirmed that exploratory discussions have taken place. As with recommendation 4.1, it appears new legislation will be necessary to allow exchange of relevant information.</p>

Chapter	Recommendation	Response
	<p>4.4: It is recommended that the HSE follow up and review outstanding schedules of assets. For HSE</p>	<p>HSE: Agreed. The on-going review of Schedules of Assets continues to generate recoupment of funds. The workload of this office will continue to be monitored to ensure that appropriate staffing is available to continue to undertake the work in a timely manner.</p> <p>Update 2021: The HSE has confirmed that additional staff have been approved for this office and the recruitment process for same is now being finalised. There was an impact on workload from Covid 19 and the Ransomware attack on the work of this office. Plans are in place to manage any backlog created.</p>
<p>Chapter 5: State lending for nursing home residents</p>	<p>5.1: The HSE should notify Revenue and the accountable person of the amount of the loan to be recouped in a timely fashion following the relevant event. For HSE</p>	<p>HSE: Agreed. The HSE notifies Revenue and the accountable person of the amount of the loan to be recouped in a timely fashion. However, the HSE is only in a position to verify the redemption figure in the month following the relevant event due to payment timing issues. The HSE will discuss the wording of the current Guidelines on this issue with the Department of Health with a view to taking account of this timing issue.</p> <p>Update 2021: Guidelines are due to be amended to reflect changes introduced through the Nursing Homes Support Scheme (Amendment) Act 2021</p>

Chapter	Recommendation	Response
	<p>5.2. Revenue should formalise instalment arrangements for repaying loans in order to monitor the repayments and ensure the loan is repaid before the 12-year deadline for recoupment.</p> <p>For Revenue</p>	<p>Revenue: Part Agreed.</p> <p>Revenue’s experience is that only a limited set of cases is appropriate for a formal instalment arrangement. Revenue monitors cases paying by instalments.</p> <p>Revenue will put in place a process to identify those cases which are coming close to the 12-year deadline to maximise the collection and recovery of amounts due before expiration of the deadline.</p> <p>A manual system is currently in place and the most recent review was conducted in January 2020. An update to the current database to provide for systemised analysis is under consideration.</p> <p>Update 2021:</p> <p>The Department will seek an update from the Revenue Commissioners on this matter and will forward to the PAC.</p>

3 Committee of Public Accounts Examination of C&AG Special Report 110 – Nursing Homes Support Scheme (Fair Deal)

In October 2020, the Public Accounts Committee examined this report and it published its report in January 2021, making 6 recommendations. A Minute of the Minister for Public Expenditure and Reform was circulated in March 2021, containing responses to those recommendations. An update on the progress with those recommendations is provided below.

3.1 Update on Recommendations of the Public Accounts Committee

Issue 1 – Determining the costs of nursing home care

The Health Service Executive does not have an integrated financial and procurement management system. This creates difficulties when evaluating the cost of care and auditing related expenditure. Costs incurred under the Nursing Homes Support Scheme are currently recorded within nine separate financial systems throughout the HSE. The Committee was informed that the HSE intends to have 80% of its expenditure covered by an integrated financial and procurement management system by quarter one 2024.

Recommendation 1:

The Committee is of the opinion that the lack of an integrated financial and procurement management system is a serious operational deficiency. The Committee recommends that implementation of this system is prioritised to ensure robust financial oversight can be undertaken and that the targeted timeline for delivery is adhered to. The Committee requests that the HSE provides it with annual progress updates.

Response 1:

The Department and the HSE accept this recommendation and the HSE has agreed to provide the Committee with an annual status update on the Integrated Financial Management System (IFMS) project.

The HSE notes that the timelines referred to in the existing, approved plan have been impacted by COVID-19 and that the January 2021 surge has generated unprecedented pressure on key IFMS project stakeholders who are involved in the delivery of services.

As a result, on 22 January 2021, IFMS Project governance invoked a contract suspension mechanism to achieve a no-penalty pause in the project to give effect to the minimum suspension period from 22 February until 7 April 2021. After this time, it is anticipated that the current extraordinary service pressures will have abated and participation of key service stakeholders in the system design will resume. However, given the degree of uncertainty around assumptions made in relation to the course of the disease, the timelines around suspension and resumption will be kept under continuous review.

Detailed replanning is underway to take account of the impact of the suspension period and other COVID-19 impacts on the project. This revised plan will be recommended to the HSE's internal governance committee for approval on resumption of the project in April 2021.

Update 1:

Delivery of the IFMS is an operational responsibility lying with the HSE. The Department understands that the HSE has recently provided the Committee with an update on the IFMS, including at the recent Committee meeting on the HSE's 2020 Financial Statements. More detailed information can be requested from the HSE if required.

Issue 2 – Value for Money review

A value for money review of the Nursing Homes Support Scheme was initiated by the Department of Health in March 2018 and was due for publication in March 2019. Publication was then delayed until quarter four 2019. However, to date, the report has still not been published. The Department cited difficulties in obtaining data from other bodies as a reason for the delay. At the date of the meetings in October 2020 no publication date could be provided.

Recommendation 2:

The Committee finds it unacceptable that the review has been significantly delayed and that a timeline for publication could not be provided. The Committee recommends that the Department of Health completes the following actions: -

- ***urgently provides the Committee with a timeline for the publication of the review,***
- ***provides the Committee with quarterly updates,***
- ***provides the Committee with a copy of the review upon completion, and***
- ***publishes the review without delay.***

Response 2:

The Department accepts this recommendation.

The Value for Money Review on Nursing Home Care Costs was initially delayed due to difficulties in obtaining private sector data. The Review was further delayed due to the Covid-19 pandemic as the Department focused resources in responding to the crisis.

Work on the VFM resumed in late 2020, with a final draft submitted to IGEES for review in January 2021. A final draft, incorporating IGEES' observations is being reviewed by the Steering Committee with a final meeting of the Steering Committee planned with the intention of signing off on the final report. It is anticipated that this meeting will take place by Q2 2021, with the report laid before the Oireachtas shortly thereafter.

Update 2:

The Value for Money review has been approved by Cabinet and is due to be published imminently. It makes various recommendations to address the variance in cost between private and public care, which will be taken forward by the department in consultation with the HSE and other stakeholders.

Issue 3 – Maximum pricing

Under the Nursing Homes Support Scheme Act 2009 the NTPF is required to negotiate the maximum cost of care for nursing home residents who avail of the scheme in private or voluntary nursing homes. The Committee is of the opinion that negotiating maximum pricing has resulted in the maximum price becoming the standard price. The Committee acknowledges that the NTPF is bound by the legal provisions of the Act and is concerned that the current model is not functioning effectively and is limiting the competitiveness of the process.

Recommendation 3:

The Committee recommends that the Department of Health, as the Government Department responsible for the legislation, reviews the Nursing Homes Support Scheme Act 2009 to provide alternative mechanisms to facilitate more effective negotiations between the NTPF and private or voluntary nursing homes.

Response 3:

The Department of Health notes the recommendation to review the pricing mechanism for the NTPF and confirms that, as noted in Special Report 110, a Pricing Review has been completed by the NTPF.

As of March 2021, the Minister for Health and the Minister for Mental Health and Older People are considering the content of the Review and the appropriate next steps. Subject to these final considerations, it is anticipated that the report will be published and stakeholder engagement will subsequently commence on its implementation. It is important to note that the NTPF has been designated to negotiate prices with commercial interests on behalf of the State and as such the pricing review may contain content of a commercially sensitive nature that will be redacted from the published version of the report.

Furthermore, the Nursing Homes Support Scheme is a billion-euro complex statutory scheme that requires careful consideration in making any changes. Any such change must be considered in terms of the short and long-term impact on the viability of the Scheme and the continued accessibility of long-term residential care.

Update 3:

The NTPF Pricing Review was published on 4 June 2021. It was delivered by the NTPF, overseen by an interdepartmental steering group, with input from external experts. Its recommendations were:

- Carry out a formal assessment of using a formulaic approach in the pricing system

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- Carry out a formal assessment of amending the approach to the assessment of “Local Market Price” to reflect prices within other nursing homes within a certain distance of the nursing home rather than within the same county.
- The NTPF should engage with nursing homes and their representatives in relation to enhancing the internal NTPF Review process.
- The pricing system should be amended to cater for high dependency residents when the necessary systems are in place.

The current focus is on implementation of the first three recommendations. This work will be led by the NTPF, overseen by the Department via a steering group, with stakeholders engaged as appropriate.

The fourth recommendation is a complex policy matter, with significantly broader implications than the pricing mechanism itself. There are many existing strands of work whose conclusion will be necessary conditions for the delivery of a dependency-based pricing model, including the rollout of InterRAI and the development of the Safe Staffing Framework. The Department is establishing structures to monitor progress on all of these fronts and develop a long-term plan.

Issue 4 – Documentation of the NTPF’s negotiating procedures

The C&AG *Special Report 110* found that the board of the NTPF does not have internal written procedures or a guidance manual for its negotiators. The C&AG’s examination of a sample of files highlighted a lack of documentary evidence of items discussed during some negotiations. The Committee is of the opinion that this represents a lack of due diligence and transparency and does not represent best practice. The Committee was informed that the NTPF has accepted the C&AG’s recommendation to compile the documentation they use during negotiations into a single manual.

Recommendation 4:

The Committee acknowledges that the NTPF has accepted the C&AG’s recommendation regarding this issue. The Committee recommends that the collation of the NTPF’s negotiation documents takes place by quarter two 2021, and that the NTPF informs the Committee when the work is complete.

Response 4:

The Department of Health accepts this recommendation and the NTPF has agreed to the Committee’s request.

Update 4:

This has been completed by the NTPF

Issue 5 – Assessment of care

Contracts for nursing home residents, including pricing, are based on a standard assessment of need that occurs before a resident moves into a nursing home. However, the Committee was informed by the Health Service Executive that the cost of care is agreed for the lifetime of the resident. Essentially,

the standard assessment of need is carried out once and not reviewed. The Committee is of the opinion that this has created circumstances where nursing home residents are charged for supplies and services that are not included in their original assessment of need which does not take account of individuals' evolving care needs. The Committee is concerned that this could create unnecessary stress for some residents.

Recommendation 5:

The Committee recommends that the standard assessment of need for each resident is reviewed at appropriate intervals. This is to ensure that the care required by nursing home residents is continuously met without imposing an additional financial burden upon residents in the event of their care needs increasing over time.

Response 5:

The Department of Health notes that the regular review of care needs is an existing feature of the care that is provided in nursing homes.

The Department of Health understands that the standard assessment of need referred to in the recommendation is the "care needs assessment" made under the Nursing Homes Support Scheme (NHSS) Act 2009 to determine eligibility for long term residential care.

While this particular assessment is not repeated once eligibility has been confirmed, continuous assessment of residents' care needs is fundamental to their care and is directly addressed in the HIQA *National Standards for Residential Care Settings for Older People in Ireland (2016)* through Standard 2.1. . It is also important to note that under Regulation 5 of the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013, the person in charge of a nursing home is required to arrange a comprehensive assessment, by an appropriate health care professional of the health, personal and social care needs of a resident immediately before or on the person's admission to a nursing home. The person in charge must also prepare a care plan, based on the assessment, and this care plan is required to be formally reviewed at least every 4 months.

The Department of Health further notes that the NHSS covers the cost of the standard components of long-term residential care, which includes "*Nursing and personal care appropriate to the level of care needs of the person*".

The resident's contribution to this cost is calculated according to the financial assessment of means under the NHSS Act and relates only to the assessment of their ability to contribute to their care based on their assets and income. The amount charged to the resident under the NHSS Act is not calculated with reference to the supplies and services that the resident receives, or the price per resident charged by the nursing home to the NHSS.

Update 5:

As highlighted, participants' care needs are already regularly reviewed as part of the care they receive in nursing homes; this is required by regulations under the Health Act 2007 and HIQA standards. A participant's care needs does not effect the amount of state support they receive under the NHSS as this is based on their financial assessment.

The Department is exploring, in line with recommendations of the Pricing Review, Value for Money Review and Nursing Homes Expert Panel, how funding structures might change in future to reflect the dependency levels of participants in the future.

Issue 6 – Charges to residents for medical supplies and services that should be provided free of charge to those with a medical card

The Committee requested submissions from various stakeholders on the operation of the Nursing Homes Support Scheme. Nursing Homes Ireland (NHI) raised the issue of medical card holders residing in private nursing homes having difficulties accessing medical supplies and services that they are entitled to through their medical card. The HSE informed the Committee that access to medical card services for medical card holders should not be impacted by the card holder living in a private nursing home. This issue is discussed in more detail in *Overview report on the regulation of designated centres for older persons – 2018*, which was published by HIQA in 2019. In this report HIQA state that registered providers of nursing home care cite access to medical card services as a common issue for nursing home residents. Due to the potential detrimental effects that delays in accessing medical card services can have on a resident, some nursing homes, with the agreement of the resident and/or their families, organise these services through private providers and the subsequent charge is passed on to the resident.

Recommendation 6:

The Committee recommends that the HSE ensures that any resident of a nursing home in possession of a medical card has timely access to, and is never charged for, the medical equipment and services that they are entitled to - regardless of where they reside - under their medical card. The Committee recommends that this matter is addressed urgently by the HSE and nursing homes to ensure that the practice of charging residents for items and services to which they are entitled as medical card holders can cease with immediate effect.

Response 6:

The Department of Health notes that established procedures exist whereby residents should not be charged for items or services that they are entitled to under the medical card. However, it is important to draw a distinction between entitlements as medical card holders to avail of services through the public care system and the choices that residents may make to purchase supplies or services privately that are in excess of what is funded through the medical card system. For example, there are limits for medical card holders on the quantity of supplies of certain items that are available free of charge, while availability of public services may be governed by local management of waiting lists.

A person's eligibility for other schemes, such as the medical card scheme or the drugs payment scheme, is unaffected by participation in the NHSS or residence in a nursing home. In determining the services covered by the NHSS it was considered very important that the care recipient and the taxpayer would be protected and would not end up paying for the same services twice. For this reason, medications and aids that are already prescribed for individuals under an existing scheme are not included in the services covered by the NHSS, as this would involve effectively paying twice for the

same service. An operator should not seek payment from residents for items which are covered by the NHSS, the medical card or any other existing scheme.

The Department further notes that waiting times for services were significantly impacted over 12 months to March 2021 by the disruption to primary care services as a result of COVID-19 restrictions, staff absence and the need to divert staff resources to the COVID response. The HSE is actively working to improve access times and to address backlogs as far as possible through service innovation and adaptation.

Moreover, Budget 2021 provided unprecedented investment to develop new pathways of care for primary and community health services, including specialist teams for older persons and those with chronic disease. Sláintecare's Enhanced Community Care programme and the additional funding provided in 2021 allows for significant capacity building and will see over 2,000 staff recruited to primary and community sector, with a particular focus on frontline nursing and community therapist staff. These measures are designed to increase the level of healthcare provided in community and primary care settings and will thus benefit residents of nursing homes as well as older persons living at home.

Update 6:

The Department recognises that residents and nursing homes may face issues in accessing services or items provided under the medical card, as supplies are limited, and access may be governed by local waiting lists; these issues may also apply to people outside nursing homes. Whilst nursing home residents should not be charged for items provided by the medical card, they may also choose to access such services privately. Whilst COVID-19 has impacted waiting times, the HSE is working actively to improve access times and address backlogs. 720 additional staff have been recruited in 2021 to improve community care pathways, with €15m allocated in the budget for further recruitment in 2022.

Appendix: Background information on the NHSS

A1. Nursing Homes Support Scheme (NHSS)

The NHSS was established by the Nursing Homes Support Scheme Act 2009 (the Act). The Act was signed into law by the President on the 1st July 2009 and came into operation on the 27th October 2009. The Act was amended by the Health (Amendment) Act 2013, and the Health (General Practitioner Service) Act 2014.

The Act was commenced on a phased basis. Commencement Orders were drafted to enable:

- the National Treatment Purchase Fund (NTPF) to begin price negotiations on the price of nursing home care with private nursing homes,
- the care representative process to commence for those with diminished capacity availing of the loan element of the scheme; and,
- the preparation by the HSE of the forms necessary for the operation of the scheme.

A number of regulations have been introduced since the scheme commenced to rectify anomalies that have emerged in the administration of the scheme.

The NHSS, commonly referred to as Fair Deal, is a system of financial support for people who require long-term residential care. Participants contribute to the cost of their care according to their means while the State pays the balance of the cost. The Scheme aims to ensure that long-term nursing home care is accessible and affordable for everyone and that people are cared for in the most appropriate settings.

The systems that existed prior to the introduction of the NHSS were acknowledged as being inequitable. There were vastly different levels of support available to residents in the public system and residents in the private system. Individuals who obtained a public bed were charged a maximum of up to 80% of the State Pension (Non-Contributory) towards the cost of their care. In contrast, individuals who availed of a private nursing home bed may have been entitled to a level of subvention, based on their means, but otherwise were obliged to meet the full cost of their nursing home care.

Under the NHSS, participants in the Scheme contribute up to 80% of their assessable income and a maximum of 7.5% per annum of the value of assets held. In the case of a couple, the applicant's means are assessed as 50% of the couple's combined income and assets. The first €36,000 of an individual's assets, or €72,000 in the case of a couple, is not counted at all in the financial assessment. The capital value of an individual's principal private residence is only included in the financial assessment for the first three years of their time in care. This is known as the three year cap.

Since the enactment of the Nursing Home Support Scheme (Amendment) Act 2021 and its commencement on October 20th 2021, the three year cap on financial assessment has been extended to both family owned and operated farms and businesses and to the proceeds of sale of the individual's principal private residence. This has enhanced protections for family farms and business owners and has removed a disincentive to the sale when a family home is no longer being used.

A2. Statutory Role of State Agencies

Health Service Executive (HSE)

The HSE has statutory responsibility for administering the scheme. The role of the HSE includes the preparation of guidance material and application forms, accepting applications, assessing an applicant's care needs, conducting a financial assessment to determine the level of contribution from the resident and disbursing payments to approved nursing homes in respect of the State contribution towards the cost of care. Details of the scheme, including the application form, are available on the HSE website www.hse.ie. A list of approved nursing homes in each county is also published on the website.

National Treatment Purchase Fund (NTPF)

The National Treatment Purchase Fund (NTPF) was established in 2004 and has been designated by the Minister for Health pursuant to Section 40 of the Nursing Homes Support Scheme Act 2009 as a body authorised to negotiate with proprietors of non-HSE registered nursing homes to reach agreement in relation to the maximum price(s) that can be charged for the provision of long-term residential care services to Nursing Homes Support Scheme residents.

The NTPF has statutory independence in the performance of its function and negotiates with a nursing home on an individual basis. The Minister for Health does not have any role in this regard. In its statutory role to negotiate maximum prices charged for the provision of long-term residential care services to NHSS residents, the NTPF established processes are the appropriate mechanism for engagement. The established processes include provision for an NTPF review mechanism where agreement is not initially reached in relation to the price.

The NTPF has clear, established processes for agreeing prices, and has successfully negotiated terms with over 430 private and voluntary nursing homes participating in the Scheme. The NTPF's processes are available to all nursing homes and since the end of 2017 there has been a net increase in the number of nursing homes operating in Ireland with an increase of almost 1,300 (5.7%) in the number of beds in the nursing homes with whom the NTPF has agreed terms.

NTPF Pricing Review

The Review of the Nursing Homes Support Scheme, A Fair Deal highlighted the need to re-examine the pricing mechanism used by the NTPF in relation to the NHSS. The Minister for Health subsequently requested that the NTPF carry out a review of the pricing system. A steering group was established with representation from various departments and agencies and expert advice and stakeholder submissions were sought. In June 2021, the Department published the *Review of Pricing System for Long Term Care Facilities* and a new steering group has been established to oversee the implementation of its recommendations. As of December 2021, this group had met twice.

Health Information and Quality Authority (HIQA)

Under the Health Act, 2007, all nursing homes both public and private must register with HIQA and comply with the conditions and requirements laid down by HIQA in this context. Fees are payable by operators of nursing homes for initial registration, for variations of conditions of registration and an

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annual fee is also payable by each registered provider. Under the Health Act, 2007 HIQA can inspect nursing homes for registration purposes and to ensure quality standards are being met.

Revenue Commissioners

The Revenue Commissioners are the appointed agents for the HSE in the collection of the repayable monies under the optional loan element of the scheme.

A3. NHSS Data

	2013	2014	2015	2016	2017	2018	2019	2020
Client numbers at year end	22,396	22,296	22,724	23,002	22,949	23,305	23,629	22,725
Increase		-0.4%	1.9%	1.2%	-0.2%	1.6%	1.4%	-3.8%
Funding (€m)	974	939	993	940	940	962	992	1,074
Increase		-3.6%	5.8%	-5.3%	0.0%	2.3%	3.1%	3.1%

In 2021 the net budget for the Scheme was **€1.04bn**. The National Service Plan forecast that the number of those supported by the Scheme would reduce in 2021 to 22,500, due to the high number of leavers as a result of COVID-19 and lower numbers of entrants.

A4. Operation of the NHSS

To be eligible for financial support under the scheme a determination must be made to confirm that an applicant needs nursing home care, which is determined through a care needs assessment.

Anyone who is assessed as requiring long-term residential care can avail of the scheme, regardless of age, as long as the person's care needs can be appropriately met in a nursing home that participates in the scheme.

Contribution Based on Means

Once an applicant has been confirmed as requiring long-term residential care, their income and assets are assessed to determine the level of their personal contribution and the level of financial support to be provided by the HSE. Nobody will pay more than the actual cost of care.

Safeguards

The scheme contains a number of safeguards to ensure that personal contributions reflect individual circumstances and that both the person entering long term residential care and their spouse/partner are adequately provided for.

Nursing Home loan

Where an applicant's assets include land or property held in the State, the contribution based on such assets may be deferred and collected after the applicant's death. This is the optional loan element of the scheme (the legal name is ancillary State support) and is designed to ensure that the applicant does not have to sell his/her home during their lifetime to pay for their care. If an applicant does not

have full capacity, a care representative, appointed by the Circuit Court acts on behalf of the applicant in relation to the loan element of the scheme.

Resident Choice

Once an applicant to the scheme is approved, s/he can choose to enter any approved nursing home that has an available bed and can cater for his/her care needs. The applicant can choose a public, private or voluntary nursing home, and their level of contribution is unaffected by their choice of nursing home.

Placement List

In order to manage the available funds within budget throughout the year, a national placement list for the release of funding is operated by the HSE. Funding approvals are issued to applicants in chronological order, to ensure equity nationally. Applicants are placed on the national placement list in order of their approval date and funding is released in order of their place on this list. The length of time spent on the placement list depends on the number of applicants currently receiving financial support, the number of new applications and the available budget.