

# Fertility Treatment (Transparency) Bill

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[AS INTRODUCED]

## CONTENTS

- 1 Duty to publish information about IVF treatments
- 2 Duty to publish information about treatment add-ons
- 3 Duty to publish report about shortfall in NHS-funded IVF treatments
- 4 Timing, form and manner of publication
- 5 Enforcement
- 6 Interpretation
- 7 Commencement, extent and short title



[AS INTRODUCED]

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# B I L L

TO

Require providers of *in vitro* fertilisation to publish information annually about the number of NHS-funded IVF cycles they carry out and about their provision of certain additional treatments in connection with *in vitro* fertilisation; to require such providers to publish a report about their provision of NHS-funded IVF treatment in certain circumstances; and for connected purposes.

**B**E IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## 1 Duty to publish information about IVF treatments

- (1) An IVF provider must publish information about the IVF treatments it provides in a financial year.
- (2) That information must include—
  - (a) the total number of full IVF cycles provided; 5
  - (b) the number of NHS-funded IVF cycles provided;
  - (c) the total number of patients to whom a full IVF cycle was provided;
  - (d) the number of patients to whom an NHS-funded IVF cycle was provided;
  - (e) for patients in paragraph (c) to whom the IVF provider has at any time provided an NHS-funded IVF cycle— 10
    - (i) the total number of full IVF cycles the IVF provider has at any time provided to each patient;
    - (ii) of those, the number that were NHS-funded IVF cycles;
    - (iii) whether each patient has by the end of the financial year in question received the recommended number of NHS-funded IVF cycles; 15
  - (f) such other information as a relevant integrated care board may require in relation to the provision of IVF treatment.

## 2 Duty to publish information about treatment add-ons 20

- (1) An IVF provider must publish information about the treatment add-ons it provides in a financial year.

- (2) That information must include—
- (a) for each treatment add-on provided in that year—
    - (i) a description of the treatment add-on;
    - (ii) any claims made by the IVF provider as to its effectiveness;
    - (iii) the cost charged to the patient; 5
    - (iv) the total number provided;
    - (v) of that number, the proportion provided alongside an NHS-funded IVF cycle;
  - (b) the number of patients to whom one or more treatment add-ons—
    - (i) were offered; 10
    - (ii) were provided;
  - (c) the total amount paid by patients for treatment add-ons.
- (3) In this section a “treatment add-on” is a non-essential treatment that is intended to be provided in addition to a core IVF treatment but for which evidence as to the efficacy of increasing live birth rate or safety in a clinical setting is lacking or absent (and includes treatments listed in the Authority’s published list of add-ons, as amended from time to time). 15

### 3 Duty to publish report about shortfall in NHS-funded IVF treatments

- (1) If any patients about whom information is published in a financial year under section 1(2)(e)(iii) have not received the recommended number of NHS-funded IVF cycles by the end of that year, the IVF provider must publish a report—
- (a) stating, by comparison with the previous financial year, whether there has been an increase or decrease in the provision of NHS-funded IVF cycles, in number and in proportion to full IVF cycles;
  - (b) in so far as possible—
    - (i) analysing the reasons why those patients have not received the recommended number of NHS-funded IVF cycles;
    - (ii) confirming whether those patients have been or will be offered the recommended number of NHS-funded IVF cycles, if required to conceive; 25
    - (iii) identifying steps required to ensure that all patients who meet the referral criteria receive the recommended number of NHS-funded IVF-cycles, if required to conceive; 30
    - (iv) identifying any such steps the IVF provider or a relevant integrated care board plans to take and when they plan to do so. 35
- (2) A relevant integrated care board must provide such assistance as is reasonably practicable to enable the IVF provider to comply with its duty under subsection (1).

### 4 Timing, form and manner of publication 40

- (1) Subject to subsection (2)—

- (a) information must be published under section 1 or 2 within the period of one month beginning with the last day of the financial year to which it relates;
  - (b) a report must be published under section 3 within the period of three months beginning with the last day of the financial year to which it relates. 5
- (2) A copy of any such publication must be—
- (a) easily accessible on the IVF provider’s website, and
  - (b) provided as soon as reasonably practicable to—
    - (i) the Authority, and 10
    - (ii) any relevant integrated care board.
- (3) The publication of information under this Act must be done in a way that prevents the information from being identified as relating to a particular patient.
- (4) The Authority may from time to time give directions as to the form and manner of any publication required by sections 1 to 3. 15
- (5) Directions given under subsection (3) are to be treated as having been given under the 1990 Act.

## 5 Enforcement

- (1) A licence under paragraph 1 of Schedule 2 to the 1990 Act, whenever granted, is to be read as including a condition that requires compliance with sections 1 to 4. 20
- (2) All powers, rights and obligations under the 1990 Act apply in respect of that condition as they apply in respect of conditions imposed by or under the 1990 Act. 25

## 6 Interpretation

In this Act—

- “the 1990 Act” means the Human Fertilisation and Embryology Act 1990;
- “the Authority” means the Human Fertilisation and Embryology Authority; 30
- “financial year” means a period of 12 months ending with 31st March in any year;
- “full IVF cycle” has the same meaning as in the NICE guideline;
- “integrated care board” has the same meaning as in Chapter A1 of Part 2 of the National Health Service Act 2006; 35
- “IVF provider” means a person authorised to provide IVF treatment and related services in pursuance of a licence under paragraph 1 of Schedule 2 to the 1990 Act;
- “IVF treatment” means the creation *in vitro* of human embryos and the subsequent use of those embryos in providing treatment services in accordance with the 1990 Act; 40

- “NHS-funded IVF cycle” means a full IVF cycle provided under an arrangement entered into by an integrated care board or NHS England for the provision by the IVF provider of treatment services;
- “NICE guideline” means “Fertility problems: assessment and treatment” (CG156) published 20th February 2013 by the National Institute for Health and Care Excellence, as updated or replaced from time to time; 5
- “provided” in relation to a financial year means either begun and completed in that year or completed in that year, whenever begun;
- “recommended” means recommended by the NICE guideline in relation to a patient, having regard to the referral criteria; 10
- “referral criteria” means the criteria for referral for IVF set out in the NICE guideline;
- “relevant integrated care board” means the integrated care board for an area in which the IVF provider provides IVF treatment;
- “treatment services” has the same meaning as in the 1990 Act (see section 2(1)). 15

## 7 Commencement, extent and short title

- (1) This Act extends to England and Wales.
- (2) This Act comes into force as follows—
  - (a) this section comes into force at the end of the period of two months beginning with the day on which the Act is passed; 20
  - (b) sections 1 to 6 come into force on 1st January 2025.
- (3) The Secretary of State may by regulations made by statutory instrument make transitional or savings provision in connection with the coming into force of any provision of this Act. 25
- (4) The power to make regulations under subsection (3) includes the power to make different provision for different purposes.
- (5) This Act may be cited as the Fertility Treatment (Transparency) Act 2023.



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