



Department
of Health &
Social Care

*From the Lord Bethell
Parliamentary Under Secretary of State for Innovation*

*39 Victoria Street
London
SW1H 0EU*

020 7210 4850

PO-1262354

The Rt Hon Sir George Howarth MP
By email to: george.howarth.mp@parliament.uk

24 November 2020

Dear Sir George,

Thank you for your correspondence of 7 October to Matt Hancock, on behalf of a number of your constituents, about NHS fertility services.

The level of provision of local health services, including fertility treatment, available to patients is, and has been since the 1990s, a matter for local healthcare commissioners, who must consider the needs and priorities of all their population. This is currently determined by clinical commissioning groups (CCGs).

Ministers and the Department do not have powers to direct CCGs in relation to their commissioning functions, nor any role in the oversight of CCG Board activities. Rather, if there are concerns about provision of care, we expect NHS England to ensure the CCG is not breaching its statutory responsibility to provide services that meet the needs of the local population. Where performance concerns are identified, NHS England can exercise formal legal powers to provide enhanced support to a CCG or, in rare circumstances, to intervene where it is believed that a CCG is failing, or is at risk of failing, to discharge its functions.

We have been consistently clear that we expect CCGs to commission fertility services in line with National Institute for Health and Care Excellence (NICE) guidelines, so that there is equal access across England. The current variation is unfair to patients with infertility, who have every right to expect NHS services based on clinical need. The variation has been exacerbated by the use of non-clinical criteria, such as having a child from a previous relationship or using narrow age ranges, which are not in line with NICE's guidance. We intend to take action to address these variations in due course.

In June 2019, the Department wrote to the chief executives of CCGs in England about the publication of commissioning guidance for fertility services by the fertility regulator, the Human Fertilisation and Embryology Authority (HFEA), and the new benchmark price for in vitro fertilisation. The Department strongly recommended that CCGs look again at their commissioning approach to fertility services to ensure they are serving their local patients well, promoting fair and equal access, and obtaining best value for money.

Elective services, including fertility services, have been affected by the NHS response to the coronavirus (COVID-19) pandemic. The HFEA decided to halt fertility treatment services from 23 March to protect public safety and support the NHS. Following updated

scientific and professional advice, the HFEA allowed fertility clinics to reopen from 11 May, provided they meet robust criteria assuring that safe and effective treatment can be offered. We understand that nearly all clinics are now open.

We have taken a close interest in the return to full capacity of these services and are in ongoing discussion with NHS England and the HFEA to ensure that the recovery of these services happens at pace and that any delays for patients in accessing these important services are minimised.

We are aware that some CCGs have indicated that they may not offer treatment to patients that have passed the NICE guideline age threshold, and we believe this is unfair. We expect CCGs to give fair consideration to all patients who have had fertility treatment delayed, so that no one misses out on treatment due to COVID-19.

I am pleased to report that NHS England has agreed a joint statement with NICE and the HFEA that will encourage CCGs to give special consideration to the need for flexibility and sensitivity for individuals whose waiting times, investigations or planned treatment have been disrupted due to COVID-19. This is to ensure that all women and their partners seeking fertility treatment are treated fairly. The statement will be issued to the NHS shortly.

The HFEA has now published advice for clinics during the second national lockdown. Fertility patients should be able to continue or start treatment in line with the broad advice that travel is allowed for *any medical concerns, reasons, appointments and emergencies*.

However, individual fertility clinics may have to promptly review their policies and procedures in light of the COVID-19 position in their local area and of the impact on the broader health services.

I hope this reply is helpful.

A handwritten signature in black ink that reads "Bethell". The signature is written in a cursive, slightly slanted style.

LORD BETHELL