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**The Scottish  
Government**

**nationalcarestandards**  
nurse agencies

revised september 2005

dignity —

privacy —

choice —

safety —

realising potential —

equality and diversity —



national **care** standards  
nurse agencies

dignity —

privacy —

choice —

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realising potential —

equality and diversity —

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# Introduction

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# Introduction

## Nurse agencies

Nurse agencies have existed for many years to supply qualified nurses to private individuals and to healthcare establishments. In Scotland they have been licensed by health boards under the Nurses (Scotland) Act 1951. This Act made provision for agencies to be regulated in relation to:

- the qualifications of the person who runs the agency;
- storing and keeping records;
- paying nurses; and
- matching skills to positions.

Under this legislation, local health boards carried out annual inspections and collected the licence fee.

Over the years, nurse agencies have become an important staffing resource for all grades of qualified and unqualified staff for the NHS (Scotland) and independent sector healthcare providers, in both the acute and continuing care sectors.

The Nurses (Scotland) Act 1951 has been repealed by the Regulation of Care (Scotland) Act 2001 ('the Act'). Regulation of nurse agencies transferred to the Scottish Commission for the Regulation of Care ('the Care Commission') in April 2002.

## The national care standards

Scottish Ministers set up the National Care Standards Committee (NCSC) to develop national standards. The NCSC carried out this work with the help of a number of working groups. These groups included people who use services, their families and carers, along with staff, professional associations, regulators from health and social care, local authorities, health boards and independent providers. Many others were also involved in the consultation process.

As a result, the nurse agencies standards focus on outcomes for the person who receives nursing care. They describe what the service user (that is, the organisation who pays for the service or the individual who pays for the service) can expect from the nurse agency.

The standards are grouped under headings which follow the person's journey through the service. These are as follows.

### **Before using the service (standards 1 and 2)**

- 1 Information about the nurse agency
- 2 Agreeing the service

### **Using the service (standards 3 to 5)**

- 3 Service arrangements
- 4 Management and staffing arrangements
- 5 Concerns, comments and complaints

### **Using the national care standards**

Nurse agencies and their customers will use the standards to find out what is expected of them in offering support and care services.

National care standards have been developed for all care services. The focus of the standards is on the quality of experience of the people using the service. However, the position of nurse agencies in relation to these standards will differ from direct care providers, because a lot of their work will involve supplying staff to other care services that are registered by the Care Commission. The managers and staff of nurse agencies will need to be aware of the standards that are relevant to any service that is registered by the Care Commission to which they are supplying staff. For example, a nurse agency may be asked to provide nursing staff to a care home that is regulated by the Care Commission.

The quality of the communication and monitoring systems will be an important way of making sure that nurse agencies can provide a service that allows the organisation to meet the national care standards against which it is inspected.



Many nurse agencies combine their business with providing home nursing and home care to individuals living at home. Care home services have been regulated by the Care Commission since December 2003. Therefore, nurse agencies that offer nursing care and care at home will have to meet the standards for nurse agencies and the standards for care at home.

### **The principles behind the standards**

The standards are based on a set of principles. The principles themselves are not standards but reflect the recognised rights people enjoy as citizens. These principles are the result of all the contributions made by the NCSC, its working groups and everyone else who responded to the consultations on the standards as they were being written. They recognise that services must be accessible and suitable for everyone who needs them, including people from black and ethnic minority communities. They reflect the strong agreement that your experience of receiving services is very important and should be positive, and that you have rights.

The main principles are dignity, privacy, choice, safety, realising potential and equality and diversity.

#### **Dignity**

Your right to:

- be treated with dignity and respect at all times; and
- enjoy a full range of social relationships.

#### **Privacy**

Your right to:

- have your privacy and property respected; and
- be free from unnecessary intrusion.

#### **Choice**

Your right to:

- make informed choices, while recognising the rights of other people to do the same; and
- know about the range of choices.

## **Safety**

Your right to:

- feel safe and secure in all aspects of life, including health and wellbeing;
- enjoy safety but not be over-protected; and
- be free from exploitation and abuse.

## **Realising potential**

Your right to have the opportunity to:

- achieve all you can;
- make full use of the resources that are available to you; and
- make the most of your life.

## **Equality and diversity**

Your right to:

- live an independent life, rich in purpose, meaning and personal fulfilment;
- be valued for your ethnic background, language, culture and faith;
- be treated equally and to be cared for in an environment which is free from bullying, harassment and discrimination; and
- be able to complain effectively without fear of victimisation.

## **The Scottish Commission for the Regulation of Care**

The Regulation of Care (Scotland) Act 2001 ('the Act') set up the Care Commission, which registers and inspects all the services regulated under the Act, taking account of the national care standards issued by Scottish Ministers. The Care Commission has its headquarters in Dundee, with regional offices across the country. It will assess applications from people who want to provide nurse agencies. It will inspect the services to make sure that they are meeting the regulations and, in doing so, will take account of the national care standards. You can find out more about the Care Commission and what it does from its website ([www.carecommission.com](http://www.carecommission.com)).

## **The Scottish Social Services Council**

The Act created the Scottish Social Services Council ('the Council') which was established on 1 October 2001. It also has its headquarters in Dundee. The Council has the duty of promoting high standards of conduct and practice among social services workers, and in their education and training. To deliver its overall aims of protecting service users and carers and securing the confidence of the public in social services, the Council has been given five main tasks. These are: to establish registers of key groups of social services staff; to publish codes of practice for all social services staff and their employers; to regulate the conduct of registered workers; to regulate the training and education of the workforce; to undertake the functions of the National Training Organisation for the Personal Social Services. The Council has issued codes of practice for social service workers and employers of social service workers. These describe the standards of conduct and practice within which they should work. The codes are available from the Council website ([www.sssc.uk.com](http://www.sssc.uk.com)).

## **How standards and regulations work together**

The Act gives Scottish Ministers the power to publish standards which the Care Commission must take into account when making its decisions. It also gives Scottish Ministers the power to make regulations imposing requirements in relation to nurse agencies.

The standards will be taken into account by the Care Commission in making any decision about applications for registration (including varying or removing a condition that may have been imposed on the registration of the service). All providers must provide a statement of function and purpose when they are applying to register their service. On the basis of that statement, the Care Commission will determine which standards will apply to the service that the provider is offering.

The standards will be used to monitor the quality of services and their compliance with the Act and the regulations. If, at inspection, or at other times, for example, as a result of the Care Commission looking into a complaint, there are concerns about the service, the Care Commission will take the standards into account in any decision on whether to take enforcement action and what action to take.

If the standards were not being fully met, the Care Commission would note this in the inspection report and require the service manager to address this. The Care Commission could impose an additional condition on the service's registration if the provider persistently, substantially or seriously failed to meet the standards or breached a regulation. If the provider does not then meet the condition, the Care Commission could issue an improvement notice detailing the required improvement to be made and the timescale for this. Alternatively, the Care Commission could move straight to an improvement notice. The Care Commission would move to cancel the registration of any service if the improvement notice does not achieve the desired result. In extreme cases (i.e. where there is serious risk to a person's life, health or wellbeing) the Care Commission could take immediate steps to cancel the registration of any service without issuing an improvement notice.

Regulations are mandatory. In some cases not meeting a regulation will be an offence. This means a provider may be subject to prosecution. Not meeting or breaching any regulation is a serious matter.

Decisions by the Care Commission on what to do when standards or regulations are not met will take into account all the relevant circumstances and be proportionate.

You can get information on these regulations from the *Regulation of Care (Scotland) Act 2001*, which is available from the Stationery Office Bookshop. You can also see the Act on-line (see Annex B for the address).

You can also see the Scottish Statutory Instruments for the Regulation of Care Regulations 2002 on-line (see Annex B for the address).

## Comments

If you would like to comment on these standards you can visit our website and send a message through our mailbox:

[www.scotland.gov.uk/health/standardsandsponsorship](http://www.scotland.gov.uk/health/standardsandsponsorship)

You can also contact us at:

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# 1-2

Before using the service (standards 1 and 2)

- 1 Information about the nurse agency
- 2 Agreeing the service

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## Introduction to the standards

### Before using the service – standards 1 and 2

As a service user you must have proper information to help you reach a decision about using the service. You can expect the information to be up to date and reliable, in a format and language that you can easily understand and keep.

You must be confident that the service is managed properly in line with relevant legislation and guidelines. You must know what would happen in an emergency which changed the way the service was delivered or prevented it from being delivered or if the nurse agency was to close.

## Information about the nurse agency

### Standard 1

**You receive full information about the nurse agency and the services it provides.**

- 1 You have an information pack which is well presented and in a language and format that is easy to understand. The information includes:
  - details of the nurse agency and its aims;
  - details of the level and type of service that can be provided;
  - information on the arrangements for monitoring the quality of the service;
  - details of the nurse agency's policy and procedure for making comments, suggestions and complaints;
  - details of service costs, the charging policy and contractual arrangements;
  - contact names and phone numbers, including a 24-hour contact number;
  - confirmation that the agency is registered with the Care Commission; and
  - arrangements that will be made if the nurse agency closes or there is a change of ownership.



# Agreeing the service

## Standard 2

**You will receive a written agreement which clearly defines the service that will be provided to meet your needs. This will set out the terms and conditions of payment arrangements and arrangements for changing or ending the agreement.**

- 1 You are fully involved with the nurse agency in developing the written agreement and in any later reviews. You will receive a copy of this agreement which has been signed and dated by a representative of the nurse agency.
- 2 Your written agreement includes details about:
  - how to change the service and how you can end it;
  - communication arrangements between you and the nurse agency;
  - who will receive copies of the written agreement and any later reviews;
  - the fees that will be charged; and
  - how and when the nurse agency will tell you if it can no longer provide the service.
- 3 You know that the nurse agency will check with you to make sure that the information about your needs is accurate.

# 3-5

Using the service (standards 3 to 5)

- 3 Service arrangements
- 4 Management and staffing arrangements
- 5 Concerns, comments and complaints

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## Using the service – standards 3 to 5

These standards reflect the way in which you can be assured that the nurse agency is acting in line with the service agreement and in the best interests of the person receiving the service.

The standards relating to **service arrangements** make it clear that you can expect to be fully consulted about the service provided.

The standards relating to **management and staffing arrangements** set out what you can expect of the nurses who are employed by the nurse agency, and their competence to work in a particular area and to provide a consistent standard of care.

The standards relating to **expressing your views** are very important to your experience of the service provided by the nurse agency and the way in which you feel you can influence and contribute to how services are delivered. If you are an individual who has bought services from the nurse agency, you can expect the nurse agency to support you if you want to express your views through an independent representative.

## Service arrangements

### Standard 3

**You are provided with a nurse or nurses who are most suitable to meet your needs.**

- 1 You are fully consulted to make sure that the most suitable nurse is placed for each assignment.
- 2 You can ask for a review of your service agreement with the nurse agency at any time.
- 3 You know that the nurse agency will communicate fully and effectively with you to get full details of needs. The nurse agency will tell your nurse about these needs.

- 4 You are confident that the nurse agency will regularly check with you to make sure that the service agreement is still suitable and that any agreed changes are made.
- 5 Where possible, and if you and the agency agree, the nurse agency will make sure that you are supplied with the same nurse or nurses.
- 6 You and the nurse are confident that the quality of the placement will be monitored satisfactorily.
- 7 You know that the nurse agency keeps accurate records of the needs of the person receiving the service, including:
  - when they need the service, where it will be provided and how long it will be provided for;
  - the type of nurse they need, for example, their qualifications, skills and experience; and
  - written evidence that nurses have been made aware of these needs.
- 8 You know that the nurse agency keeps accurate records showing:
  - that the service agreement reviews have taken place, within agreed timescales, and the outcomes of these reviews; and
  - that you have been consulted on:
    - how suitable the nurse or nurses are; and
    - if the same nurse or nurses will provide care for the person receiving the service.

If not, reasons should be recorded.
- 9 You are confident that the nurse agency uses an audit system to check regularly with you and the nurse to make sure that the quality of the placement is satisfactory. The outcome of the audit will be recorded, including any action that needs to be taken to put things right.

# Management and staffing arrangements

## Standard 4

**The service provides a consistent standard of care, delivered by nurses who are competent to work in the service area.**

- 1 You know that the nurse agency will communicate effectively with you to work out what tasks need to be done.
- 2 You are confident that the nurse agency will carry out a detailed assessment of the service required.
- 3 You know that the member of staff in the nurse agency who is responsible for placing nurses will be a registered nurse. He or she will have a knowledge of the environment that the person receiving the service lives in.
- 4 You are confident that the nurse agency places nurses who:
  - have the skills, experience and ability that are appropriate to the environment of the service and the people who are receiving it;
  - are registered with the Nursing and Midwifery Council (NMC) and work within the NMC Code of Professional Conduct;
  - respect the service and the person who is receiving it;
  - are dressed appropriately for the task and environment in which they are working; and
  - are aware of any cultural, or other sensitivities that affect the person receiving the service.
- 5 You know that the nurse agency has written policies, procedures and guidance in place to help relationships between you, the person receiving the service, the nurse providing the service and the agency.

- 6 You know that the nurse agency keeps accurate records of the specific qualifications, skills and experience of individual nurses, and details of all the tasks they have done.
- 7 You are confident that the nurse agency keeps up-to-date records of the continuing professional development required by the NMC of each nurse. It has policies, procedures and systems in place to assess and monitor the nurses' performance.
- 8 You know that the nurse agency has policies and procedures which cover all legal requirements, including:
  - staffing and training;
  - health and safety;
  - 'whistle-blowing'; and
  - proper record-keeping, including recording accidents, incidents and complaints.
- 9 The nurse agency's staff and managers are all recruited and selected through a process which includes:
  - criminal records checks;
  - taking up references; and
  - cross-reference to the registers of the NMC, Scottish Social Services Council or other professional organisations, where appropriate.
- 10 You can ask for, and be given, confirmation from the nurse that he or she is being provided by the nurse agency.

# Concerns, comments and complaints

## Standard 5

**You can raise any concerns about the quality of the service and these will be dealt with.**

- 1 You enjoy clear and open communication with the nurse agency and know that it will deal with your comments, suggestions or complaints properly and speedily and tell you the outcome.
- 2 You know that the nurse agency has a written policy and procedure in place for comments, suggestions and complaints which is easily available and understandable, and keeps accurate records of all the comments, suggestions and complaints it receives.

### **If you are paying for the nurse agency directly**

- 3 If you have an independent representative (for example, a citizen advocate), you know that the nurse agency will listen to what she or he has to say on your behalf as if the views expressed were your own.
- 4 The nurse agency will explore on your behalf opportunities for you to have an independent representative and will try to help this relationship develop to your advantage.

# Annex A

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# Annex A

## Glossary

### **Advocate or advocacy**

A person independent of any aspect of the service or of any of the statutory agencies involved in purchasing or providing the service, who acts on behalf of, and in the interests of the person using the service. An advocate can be helpful if a person feels unable to represent him or herself.

### **Agency manager**

Registered nurse or person holding a current medical qualification who is responsible for running the agency.

### **Agency nurse**

A qualified nurse, midwife or health visitor currently registered with the NMC who is registered with the agency to provide care.

### **Applicant**

A qualified nurse, midwife, health visitor or care assistant who is registering with an agency.

### **Citizen advocate**

See advocate

### **Complaints procedure**

Clear procedures that help the user of the service or others to complain about any aspect of the service.

### **Format**

Information presented in a layout that is suitable for you. This could be in easy-read language, braille, on tape or on disk.

## **NMC**

Nursing and Midwifery Council. This organisation was set up by Parliament to ensure nurses, midwives and health visitors provide high standards of care to their patients and clients. To achieve its aims, the NMC maintains a register of qualified nurses, midwives and health visitors, sets of standards for education, practice and conduct, provides advice for nurses, midwives and health visitors and considers allegations of misconduct or unfitness to practice. Website: [www.nmc-uk.org](http://www.nmc-uk.org)

## **People who receive services**

The individuals who receive nursing care from the nurse.

## **Quality assurance process**

A process carried out by the nurse agency to monitor effectiveness and whether people who use the service are satisfied.

## **Service agreement**

An agreement between the nurse agency and the service user about the terms of business, communication arrangements and how the agreement can be ended.

## **Service user**

This may be an organisation registered by the Scottish Commission for the Regulation of Care or an individual who is buying the service for themselves. In some cases the service user may be a relative who is buying the service on behalf of an individual.

## **Whistle-blowing**

The disclosure by an employee (or professional) of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of his fellow employees. (Lord Barrie QC 1995)



# Annex B

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## **Annex B**

### **Useful reference material**

#### **Legal**

##### **The Adults with Incapacity (Scotland) Act 2000**

Under this Act anything that is done on behalf of an adult with incapacity will have to:

- benefit him or her;
- take account of the person's wishes and those of his or her nearest relative, carer, guardian or attorney; and
- achieve the desired purpose without unduly limiting the person's freedom.

##### **The Children (Scotland) Act 1995**

The Act puts children first. Each child has the right to:

- be treated as an individual;
- form and express views on matters affecting him or her; and
- be protected from all forms of abuse, neglect or exploitation.

Parents and local authorities have rights and responsibilities in achieving the balance of care.

##### **The Data Protection Act 1998**

The Act covers how information about living, identifiable people is used. All organisations that hold or process personal data must comply.

### **The Disability Discrimination Act 1995**

This wide-ranging Act, which came into force in 1996, makes it illegal to discriminate against disabled people in employment, access to goods, services, transport and education.

### **Fire Precautions (Workplace) Regulations 1997 (as amended)**

The Regulations place a responsibility on employers for carrying out risk assessments in relation to premises. The risk assessment is a means of providing fire precautions for the safety of people using the premises.

### **The Health and Safety at Work etc Act 1974**

The Act is the basic piece of health and safety law that covers everyone who is affected by work activity. It places the burden of legal responsibility for health and safety at work with the employer.

### **The Human Rights Act 1998**

The Act incorporates the European Convention on Human Rights into Scots and English law in relation to the acts of public bodies. Its purpose is to protect human rights and to maintain and promote the ideals and values of a democratic society. The Articles of Convention include:

- freedom of thought, conscience and religion;
- freedom of expression;
- freedom of assembly and association;
- the right to have respect for private and family life; and
- the right to marry.

### **The Mental Health (Scotland) Act 1984**

Currently under review, the Act provides for the compulsory detention and treatment of people with a mental disorder.

## **The Misuse of Drugs Act 1971**

The Act is the main law for drugs control in the UK. It prohibits the possession, supply and manufacture of medicinal and other products except where these have been made legal by the *Misuse of Drugs Regulations 1985*. The legislation is concerned with controlled drugs and puts these into five separate schedules. Anyone who is responsible for storing or administering controlled drugs should be aware of the content of the *Misuse of Drugs Regulations 1985* and the *Misuse of Drugs (Safe Custody) Regulations 1973*.

## **The Police Act 1997**

Part V of the Police Act 1997 was implemented in April 2002. This provides for the Scottish Criminal Record Office to issue criminal record information certificates to individuals and organisations.

## **The Public Interest Disclosure Act 1998**

The Act protects workers who ‘blow the whistle’ about wrongdoing. It mainly takes the form of amendments to the Employment Rights Act 1996, and makes provision about the kinds of disclosures which may be protected; the circumstances in which such disclosures are protected; and the persons who may be protected.

## **The Race Relations Act 1976**

The Act makes racial discrimination illegal in employment, service delivery, training and other areas.

## **The Race Relations (Amendment) Act 2000**

The Act makes racial discrimination illegal in public activities that were not previously covered. It puts a general duty on public organisations to promote race equality.

## **The Regulation of Care (Scotland) Act 2001**

The Act establishes a new system of care service regulation including the registration and inspection of care services which takes account of national care standards. The Act also creates two new national, independent bodies, the Scottish Commission for the Regulation of Care, to regulate care services, and the Scottish Social Services Council, to regulate the social service workforce and to promote and regulate its education and training.

You can visit these websites for information:

- Regulation of Care (Scotland) Act 2001  
[www.scotland-legislation.hmsso.gov.uk/legislation/scotland/acts2001/20010008.htm](http://www.scotland-legislation.hmsso.gov.uk/legislation/scotland/acts2001/20010008.htm)
- Regulation of Care (Scotland) Act 2001 Statutory Instruments  
[www.scotland-legislation.hmsso.gov.uk/legislation/scotland/s-200201.htm](http://www.scotland-legislation.hmsso.gov.uk/legislation/scotland/s-200201.htm)

## **The Rehabilitation of Offenders Act 1974**

The Act enables some criminal convictions to become 'spent' or ignored, after a rehabilitation period. The rehabilitation period is a set length of time from the date of conviction.

## **The Sex Discrimination Act 1975**

The Sex Discrimination Act 1975 makes it unlawful to discriminate on grounds of sex or marital status in recruitment, promotion and training. The Act also covers education, the provision of housing, goods and services and advertising.

## **Policy**

### **Aiming for Excellence: Modernising Social Work Services in Scotland 1999**

The White Paper sets out the proposals to strengthen the protection of children and vulnerable adults and to make sure high quality services are provided. The Scottish Commission for the Regulation of Care is an independent regulator set up for this purpose.



## **The Way Forward For Care**

The Scottish Executive Policy Position Paper of July 2000 develops the proposals set out in *Aiming for Excellence*. It includes proposals for regulating independent healthcare.

## **Our National Health 2000**

The health plan aims to improve Scotland's health and close the health gap between rich and poor, restoring the NHS as a national service and improving care and standards.

## **Renewing Mental Health Law 2001**

The Scottish Executive's proposals for changes to existing legislation arising from its consideration of the Review of the Mental Health (Scotland) Act 1984.

## **The UN Convention on the Rights of the Child**

The Convention is not a law but a code that the Government signed up to in 1991. It recognises that young people under 18 in Scotland do have rights. These rights must be given fairly, and children and young people must be kept safe and well, and able to take part in society.

## **Other Useful References**

### **Nursing and Midwifery Council (NMC)**

UKCC Guidelines for Professional Practice (1996)<sup>1</sup>

UKCC Standards for PREP

Code of Professional Conduct (December 2004)

Guidelines for Records and Record Keeping (April 2002)

Guidelines for the Administration of Medicines (April 2002)

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<sup>1</sup> UKCC is the United Kingdom Central Council for Nursing, Midwifery and Health Visiting. The responsibilities of this body were taken over by the Nursing and Midwifery Council (NMC) on 1 April 2002.

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