

Scottish Code of Practice for the International Recruitment of Health and Social Care Personnel

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Foreword



I am pleased to present to Scottish health and social care employers the revised Scottish Code of Practice for the International Recruitment of Health and Social Care Personnel.

We have all been humbled by the dedication and sacrifices made by health and care workers across the globe during the COVID-19 pandemic. In recognition of these efforts, the World Health Organisation (WHO) has designated 2021 as the “International Year of Health and Care Workers”, recognising the critical role of health and care workers in ensuring our health and prosperity. At the same time, the WHO highlights the challenge that healthcare worker migration poses to many lower income countries, weakening already fragile healthcare systems and reducing their ability to respond to crises such as pandemics.

NHS Scotland benefits enormously from the contribution made by healthcare staff from across the world who come to train and work here. But equally, we recognise how important it is to ensure that recruiting staff to our own health and social care services does not disadvantage those same services in lower income countries.

We place great importance on Scotland being a good global citizen. The WHO’s [Global Code of Practice](#) is the universal ethical framework that links the international recruitment of health workers with the strengthening of health systems. By publishing a Code of Practice that aligns our own recruitment principles and practices with that framework, we are demonstrating Scotland’s continuing commitment to ethical recruitment and protecting and supporting the health and care systems of lower income countries.

A handwritten signature in black ink, which appears to read 'Jeane Freeman'.

Jeane Freeman
Cabinet Secretary for Health and Sport

1. Aims and Objectives

Aims

1.1 To promote high standards of practice in the ethical international recruitment and employment of health and social care personnel, and ensure all international recruitment is conducted in accordance with internationally agreed principles of transparency and fairness.

1.2 To protect and promote the sustainability of health and care systems through international cooperation, ensuring there are safeguards and support for countries with the most pressing health workforce challenges.

Objectives

1.3 To set out principles and best practice benchmarks to be adhered to by employers and recruitment agencies when recruiting international health and social care personnel, to ensure effective recruitment is undertaken in an ethical, managed and mutually beneficial way and in line with advice from the World Health Organisation (WHO).

1.4 To prevent active recruitment to Scotland from countries on the WHO Health Workforce Support and Safeguards List, 2020 ("the list") unless there is a government-to-government agreement, which will support managed recruitment activities that are undertaken strictly in compliance with the terms of that agreement. These countries face the most pressing health workforce challenges related to Universal Health Coverage (UHC). The list of countries can be found at [Annex A](#).

1.5 To set out the Scottish Government's approach to supporting health and care systems and workforce, and efforts to achieve universal health coverage, and the Sustainable Development Goals, alongside safeguards on active recruitment from countries with the greatest health workforce vulnerability.

1.6 To provide reassurance to international personnel that employment with the NHS, and other health and social care organisations that comply with the Code of Practice, will offer high standards of induction and support while working in Scotland.

2. Scope

2.1 There are 3 elements to the Code of Practice:

- (a) The Code of Practice;
- (b) The list of countries;
- (c) The list of agencies

Remit of the Code of Practice

2.2 Each Devolved Administration adheres to the common aims, objectives and guiding principles of the UK code of practice, but holds its own code of practice to reflect the different organisational structures in each nation.

2.3 This Code of Practice applies to the appointment of all international health and social care personnel in Scotland, including all permanent, temporary, agency and locum staff.

2.4 The following organisations must adhere to the Code of Practice when undertaking international recruitment activity to appoint health and social care personnel:

- (a) All health and social care organisations (public and independent);
 - (i) NHS boards and local authorities should ensure that there is compliance when they are setting up local contracts with independent providers.
 - (ii) Where national contracts are signed with the independent sector to increase capacity in the NHS or social care sector, compliance with the Code of Practice is a contractual obligation.
- (b) Any recruitment agency that wishes to supply health and social care personnel to the NHS, social care organisations or any other Scottish health and care provider.

Definition of "Active Recruitment"

2.5 For the purpose of this Code of Practice 'active international recruitment' is defined as the process by which health and social care employers and contracting bodies, agencies and sub-contractors target individuals, either physically or virtually, to market Scottish employment opportunities, leading to employment in the Scottish health or social care sector. This can include, but is not limited to, advertising to candidates through all types of communication mediums, incentivisation activities such as referral bonus schemes, and referring candidates to specific vacancies in Scotland in return for a fee from the employing organisation. Recruitment organisations are not allowed to charge fees to the individual employee.

2.6 The only exception to this definition is where a candidate has already been appointed by a Scottish employer following a direct, independent application and selection without the support of a recruitment agency. In this case an employer, if required, can use the services of a recruitment agency to support and facilitate the

employee's passage to the UK. In such cases, it is the agency's responsibility, if challenged, to evidence that the services they are providing are permitted under this exception.

Roles and responsibilities in relation to the Code of Practice

Scottish Government

2.7 Works with the UK Department of Health and Social Care (DHSC), and the other Devolved Administrations to set the policy for the Code of Practice.

UK Department of Health and Social Care

2.8 Works with the Devolved Administrations to set the policy for the code of practice, leads on government to government agreements and maintains stakeholder relations with the WHO on international recruitment matters including exchange of information and reporting.

NHS Employers

2.9 Although NHS Employers is the employers' organisation for the NHS in England, its work in relation to the Code of Practice is carried out on behalf of the whole UK, including the Devolved Administrations.

2.10 NHS Employers hosts information about each of the UK Codes of Practice, and the WHO list of countries on its website, and undertakes communications activity to promote the Code of Practice.

2.11 Provides a dedicated advice and support service to health and care organisations throughout the UK to help them to follow the guiding principles of the Code of Practice in all their recruitment activities.

2.12 Provides a mechanism for stakeholders across the system to promote the Code of Practice, assess activity and, if necessary, address poor practice with employers.

2.13 Manages and hosts the list of agencies that adhere to the Code of Practice to help employers with their selection process.

2.14 Undertakes routine checks of agency compliance with the Code of Practice and responds to complaints or other information with regards to breaches of the Code. NHS Employers also takes necessary action as set out in the process for Code of Practice contraveners at [Annex B](#).

Local health and social care employers (NHS, local authority and independent)

2.15 Ensure that all recruitment of international health and social care personnel to fill vacancies or to take part in exchanges or education initiatives, is carried out in line with the Code of Practice.

2.16 Work with partner organisations to form a comprehensive plan for induction, pastoral and professional support and ensure international migrants are signposted

to appropriate organisations for further support, advice and guidance on their arrival and induction.

2.17 Exclusively use recruitment agencies on the recruitment agency list, that operate in accordance to the code of practice. The list is maintained by NHS Employers.

Recruitment Agencies (supplying health and social care personnel)

2.18 Should appear on the recruitment agency list and operate in accordance to the code of practice. The list is maintained by NHS Employers.

Health Education England

2.19 On behalf of DHSC and the Devolved Administrations, establishes effective government-government partnerships and exchange schemes as agreed by the Cross Whitehall International Recruitment Steering Group, to ensure recruitment is managed and mutual benefits are derived.

Cross Whitehall International Recruitment Steering Group

2.20 Chaired by the Department of Health and Social Care (DHSC), with membership from the Foreign, Commonwealth and Development Office (FCDO), Department for International Trade (DIT), Home Office (HO), Health Education England (HEE), NHS England/Improvement (NHSE/I), Department of Health for Northern Ireland, Welsh Government's Department of Health and Social Services and the Scottish Government.

2.21 Provides national policy oversight on implementation of the Code of Practice and collaboration on international recruitment supply activity, ensuring consistent ethical practices across health and care.

2.22 Provides oversight of diplomatic and development relationships related to international recruitment and training with partner countries, including new bilateral partnerships, exchanges and programmes, using expert advice from across government.

2.23 Approves any updates and changes to the Code of Practice, in consultation with the WHO. The Code of Practice will be reviewed one year after publication.

World Health Organisation

2.24 Provides guidance through the WHO Global Code of Practice on the International Recruitment of Health Personnel and, in collaboration with its Member States, periodically reviews the Code's relevance and effectiveness. WHO, as recommended by its Member States, has a list of the countries with the most pressing universal health coverage related health workforce challenges, which is subject to review.

2.25 The Scottish and UK Code of Practice refers to these countries in the context that there must be no active recruitment of health and social care personnel by UK recruiters from countries on the WHO Health Workforce Support and Safeguards

List, 2020 unless there is an explicit government to government agreement with the UK to support managed recruitment activities that are undertaken strictly in compliance with the terms of that agreement.

3. Guiding Principles

There are five guiding principles that underpin the Code of Practice and these are set out in this section.

1. International migration of health and social care personnel can make a contribution to the development and strengthening of health and social care systems, if recruitment is managed properly.
2. Opportunities exist for individuals, organisations and health and care systems in relation to training and education and the enhancement of clinical practice.
3. There must be no active international recruitment from Countries on the List, unless there is an explicit government-to-government agreement with the UK to support managed recruitment activities that are undertaken strictly in compliance with the terms of that agreement.
4. Recruitment of international health and social care personnel is closely monitored and reported on to the Cross Whitehall International Recruitment Steering Group.
5. International health and social care personnel will have the same legal rights and responsibilities as domestically trained staff in all terms of employment and conditions of work. They will also have the same access to further education and training and continuing professional development.

International migration of health and social care personnel can make a contribution to the development and strengthening of health and social care systems in both source and destination countries if recruitment is managed properly. See the WHO Global Code of Practice on the International Recruitment of Health Personnel.

3.1 International recruitment (migrant workers, moving temporarily or permanently for employment) has made a key contribution to the delivery of health and social care services and will continue to play a vital role in the future. With its focus on workforce planning to ensure the NHS has a sustainable health and care workforce, alongside increasing the supply of “homegrown” health and care staff through a range of measures including training more, retaining more and encouraging staff who have left to return.

3.2 The NHS has a long history of developing the knowledge and skills of health and care staff coming to Scotland at some time in their careers.

3.3 Compliance with this Code of Practice ensures that the international recruitment of health and social care personnel minimises harm to the health and care systems of source countries, whilst safeguarding the rights of health personnel to migrate, and ensures fair and just recruitment and employment practices.

3.4 Well managed migration ensures that the health systems of both the source and destination country derive benefits.

3.5 Good practice, ethical standards, respect for rights, and value for money should underpin all international recruitment activities.

Opportunities exist for individuals, organisations and health and care systems in relation to training and education and the enhancement of clinical practice

3.6 Individuals gain from opportunities to develop their skills, and in turn, advance their own careers. International health and social care personnel can bring new and valuable perspectives and learning that enables the transfer of experience and the sharing of ideas.

3.7 Collaborative partnerships for training and continuous learning can bring benefits for individuals, organisations and health and care systems of the UK and the source country.

There must be no active international recruitment from countries on the list, unless there is an explicit government-to-government agreement with the UK to support managed recruitment activities that are undertaken strictly in compliance with the terms of that agreement

3.8 Skilled and experienced health and social care personnel are a valuable resource to any country and, for some low and lower middle-income countries, the increasing scale of health and care worker migration threatens the achievement of national health and care goals. Countries on the list must not be targeted for international recruitment, unless there is a government-to-government agreement in place.

3.9 Government-to-government agreements must take steps to ensure that migration to the UK does not exacerbate existing health and social care workforce shortages. Agreements will be informed by best evidence, for example a health labour market analysis, engagement with health sector stakeholders and consultation with the WHO. Further details on government-to-government agreements and case studies are available in [section 6](#).

3.10 Scotland recognises the importance of providing health and care systems support to countries facing severe health workforce vulnerabilities. Our health systems partnerships increase the capacity of the health and care workforce and support health systems improvements, examples are provided in [section 6](#). Where special recruitment arrangements have been agreed, a government-to-government agreement sets out the specific support which will be provided.

3.11 Individual health and social care personnel from countries on the list, who volunteer themselves by individual, personal application, can be considered for employment.

Recruitment of international health and social care personnel is closely monitored and reported on to the Cross Whitehall International Recruitment Steering Group.

3.12 DHSC will routinely collect and monitor data on health and social care personnel international recruitment activity and report to the Cross Whitehall International Recruitment Steering Group as appropriate. Information collected will record where recruits have come from, with a particular focus on low to middle income countries and fragile and conflict-affected states.

3.13 Where trends indicate an increased level of recruitment activity from low and lower middle-income countries or fragile and conflict-affected states, further work may take place to understand the cause and impact of this activity.

International health and social care personnel will have the same legal rights and responsibilities as domestically trained staff in all terms of employment and conditions of work. They will also have the same access to further education and training and continuing professional development.

3.14 All staff, regardless of country of origin and/or training, have the same legal protections within the workplace.

3.15 Relevant employment legislation applies as long as the employee holds a valid permit or appropriate visa.

3.16 All health and social care employees will be employed on the same terms and conditions of employment as other domestically trained employees.

3.17 Health and social care employees must meet and maintain the requirements for continued professional regulation.

3.18 The opportunity to enhance skills and experience are important features that underpin international health and social care mobility.

3.19 International workers employed within the NHS, social care sector and other health and care organisations that comply with the Code of Practice, will receive high standards of induction and support in their new career equal to other employees.

4. Best Practice Benchmarks

4.1 It is expected that all health and social care sector organisations that comply with the Code of Practice will apply the best practice benchmarks set out in this section.

4.2 These best practice benchmarks should be read in conjunction with [NHS Employers' International Recruitment Toolkit](#). The toolkit is designed to encourage and enable supportive practices and processes for the recruitment of international staff across a wide range of professions.

4.3 Although the toolkit was developed for employers in England, the general principles within the toolkit are applicable in all the nations of the UK.

There is no active recruitment of health and social care personnel from countries on the list.

4.4 No active recruitment will be undertaken from countries on the list by Scottish or UK-wide recruitment agencies, or by any international agency sub-contracted to that agency, or any health and care organisation in Scotland, unless there exists a UK government-to-government agreement that health and care personnel from that country may be targeted for employment under the terms of that agreement.

4.5 The list is available at [Annex A](#) and on the NHS Employers website. The list will be updated, alongside scheduled progress reports on WHO Global Code implementation, by the World Health Assembly every three years.

4.6 Health and social care organisations may consider applications from an individual in a country on the list if that individual is making an application directly and on their own behalf and not using a third party, such as a recruitment agency or a health or social care employer on a commercial basis.

All international recruitment by health and social care employers will follow good recruitment practice and demonstrate a sound ethical approach.

4.7 Health and social care employers, when using a recruitment agency, should only contract with agencies that comply with the Code of Practice. A list of those agencies can be found on the NHS Employers website www.nhsemployers.org.

4.8 Using approved agency frameworks ensures compliance with NHS pre-employment standards and grants access to a wide range of experienced international recruitment organisations that all operate at a high standard of quality. [NHS National Services Scotland](#) can provide further information about frameworks in Scotland.

4.9 All international recruitment will be sensitive to local health and care needs so that international recruitment from any country should not weaken local health and care provision.

4.10 A recruitment agency will be removed from the list of agencies if, following a thorough investigation, it is found to be breaching the principles of the Code of Practice. This process is set out in [Annex B](#).

International health and social care personnel will not be charged fees for recruitment services in relation to gaining employment in Scotland

4.11 Applicants will not be required to pay any fees to any recruitment agency, or other body, to gain employment.

4.12 Any costs incurred by a recruitment agency will be incorporated into the negotiated fee charged to employers. At the employer's discretion, Visa costs to exit their home country/enter UK and/or any professional registration fees would normally be met by the health or social care candidate if applying independently, and by the employer if through active recruitment.

4.13 Employers will not contract agencies that charge fees to candidates for them to be considered for recruitment in Scotland. Agencies that sub-contract to agencies outside the UK, should also not be used if that agency from outside of the UK charges fees.

All international health and social care personnel will have the appropriate level of English language to enable them to undertake their role effectively and to meet registration requirements of the appropriate regulatory body.

4.14 All potential employees will be able to communicate effectively to practice safely and to enable them to communicate appropriately with patients, clients, carers, family and colleagues.

4.15 It is lawful for employers to apply conditions relating to a candidate's linguistic ability if this is required because of the nature of the post to be filled.

4.16 If a regulatory body requires an assessed competency in English language to be eligible for registration, this should be achieved where possible and if appropriate, prior to selection interview.

All appointed international health and social care personnel must be registered with the appropriate UK regulatory body

4.17 Candidates should be advised of the requirements to practice in the UK and how to obtain relevant professional registration and be signposted to the relevant regulatory organisation. It is the responsibility of the recruit to progress the registration process, with support from the relevant regulatory body. Employers should continue to communicate with their recruit and make sure they are clear about the process to avoid unnecessary delays.

4.18 Candidates should be strongly advised to commence the registration process in good time and if possible before applying for a post. If a candidate does not have registration at the time of appointment, employers and contracting bodies should factor this in when agreeing contracts and start dates. Employers should consider

approaching the appropriate regulatory body early in the recruitment process to provide early insight on upcoming registration demand and support the professional regulator to manage capacity.

4.19 Employers must ensure that confirmation of professional registration, or notification of any stipulated period of supervised practice, is received prior to the candidate taking up the post where this is stipulated by the regulatory body.

4.20 Candidates should be advised of the importance of professional support and representation from membership representative bodies and where appropriate medical defence, should they be engaged in any process, including supervised practice, with their regulator.

All international health and social care personnel required to undertake supervised practice, if required to do so by a regulatory body, should be fully supported in this process.

4.21 To enable the health or social care personnel to provide safe and effective care they will be appropriately supervised and the employer will take active steps to ensure the workplace environment is one in which all staff can demonstrate their competence.

4.22 The health or social care personnel will not be charged for any part of supervised practice and will be employed on the same terms and conditions of employment as other trained employees. Employers are encouraged to recognise previous experience where applicable.

4.23 The health or social care personnel will have appropriate opportunities to reach the required standard for UK registration and will be objectively and fairly assessed.

All international health and social care personnel will undergo the normal health assessment prior to commencing employment.

4.24 All employment offers will be made subject to occupational health clearance.

4.25 Occupational health assessment information is confidential and will only be divulged to the relevant occupational health bodies, or as permitted and/or required by law.

4.26 Employers will ensure thorough, sensitive, individual risk assessments are conducted for all new international migrants before they are exposed to work in a clinical environment.

All international health and social care personnel will have appropriate checks undertaken for any criminal convictions as required by legislation.

4.27 Applicants will be informed that any individual who has made a false declaration may be dismissed from their post.

4.28 All appointments should provide references from current and previous employers and/or education provider.

4.29 All personnel will be required to complete a statement informing the employer of any criminal conviction. Employers should undertake the necessary checks for criminal convictions as required under Scottish law.

4.30 Employers and contracting bodies must carry out pre-employment checks seeking to verify that an individual meets the preconditions of the role they are applying for.

4.31 In Scotland, personnel working with children and protected adults will be required to join the "[Protecting Vulnerable Groups](#)" (PVG) scheme which is managed by Disclosure Scotland. The application process involves gathering criminal record and other relevant information.

All international health and social care personnel offered a post will have a valid visa or appropriate permit before entry to the UK.

4.32 Personnel offered a post in Scotland must have an appropriate UK visa or appropriate permit that allows them to undertake employment/training.

4.33 The cost of any visa may be met by the employer at their discretion.

4.34 All personnel employed in the UK are employed on the same terms and conditions as domestically recruited employees.

Appropriate information about the role applied for will be available to all international health and social care personnel

4.35 Health and social care personnel will have access to all the relevant information about the post they have applied for. This will include a job description, person specification, grading structure, salary, location, information on the professional regulatory context and relevant staff-side organisations.

4.36 All parties involved in recruitment will have explicit equal opportunities policies and procedures.

4.37 On making the job offer, health and social care employers and contracting bodies should provide candidates with the exact terms of the contract under which they will be working. Any element which may differ pre- and post-professional registration such as salary, and any incentives and reclaim of advances must be clearly explained in writing. This applies regardless of when the formal contract is issued.

All newly appointed international health and social care personnel will be offered appropriate support and induction. As part of this, employers should undertake pre-employment/placement preparation activity to ensure a respectful working environment for all.

4.38 Employers and potential education providers should ensure they understand the culture, context and system within which the individuals work in their home country before the international health and social care personnel arrives.

4.39 Other staff working in the host organisation should be made aware of the requirement to recruit internationally and of the support expected of them to encourage a culture in which diversity is valued and respected.

4.40 Induction should include aspects of cultural awareness, equal opportunities and diversity. Ongoing support should be culturally sensitive and offer career development and opportunities for progression.

4.41 Feedback is sought from currently employed staff and internationally recruited individuals as the employment/placement progresses and any issues are identified and resolved in a timely manner.

4.42 Each international recruit must be made aware of how to find help and assistance in all aspects of their appointment. They should undergo a comprehensive programme of induction to ensure that they are clinically and personally prepared to work safely and effectively within the Scottish health and care system. The provision of a mentor can be helpful. NHS [Employers International Recruitment toolkit](#) provides advice and good practice guidance on the support required.

4.43 Induction programmes should encompass wider pastoral support to settle into working and living in Scotland. It should include such matters as: initial welcoming of staff (and family where appropriate), accommodation, pay, registering with a GP and dentist, school information (if required,) information relating to professional organisations, union representation, national embassies, high commissions and introduction to social networks.

4.44 The potential financial position of health and social care personnel should be considered, and employers and contracting bodies should be aware that additional support may be required at varying levels depending on each individual situation.

Health and social care employers should respond appropriately to applications from international health and care personnel who are making an individual application.

4.45 Individuals making enquiries from outside of the UK should be directed to the appropriate regulatory body in the first instance.

4.46 Individuals applying to vacant posts should be dealt with equitably and fairly. Where appropriate, employers will have determined whether they accept applications from individuals requiring a visa or permit for that post.

Health and social care employers and contracting bodies should record international recruitment activities. This will support Scotland and the UK to monitor and measure the impact of international recruitment flows on the

health and social care sector in both the country of origin and Scotland and the UK.

4.47 It is important to have a national perspective on international recruitment supply and demand to inform policy development, workforce planning, recruitment processes and attrition rates. This also helps to identify best practice in maximising benefits to the UK, to the country of origin health and social care systems, and to health and social care personnel.

4.48 Health and care organisations should ensure they record information about their recruitment activity such as countries targeted, planned recruitment numbers, headcount and nationality of international recruits in employment and the length of the recruitment process.

4.49 DHSC has a UK designated national authority to contribute to exchange on health worker migration on a global level, including regular progress reports to the World Health Organisation, for ongoing monitoring, analysis and policy formulation.

4.50 Health and social care employers are encouraged to share information on any known breaches of the Code of Practice.

Illustrative case studies

4.51 A guiding principle of the Code of Practice is that there must be no active recruitment from countries on the list, unless there is an explicit government-to-government agreement with the UK to support managed recruitment activities on the terms of the agreement. Active recruitment is defined at [paragraph 2.5](#).

4.52 The scenarios below set out how the definition of active recruitment is applied in practice. These scenarios are not an exhaustive list of the types of conduct which constitute active recruitment, any conduct which falls within the definition at paragraph 2.5 will constitute active recruitment.

Recruitment activity in breach of the Code of Practice

Scenario 1

An agency advertises within a country on the list and actively supports a number of candidates from that country with their applications, appointments and travel to Scotland. This would be deemed active recruitment and contravenes the guiding principles within the Code of Practice.

Scenario 2

An agency runs a recruitment fair in Lebanon highlighting opportunities in Scotland. Lebanon is on the list and should not be actively targeted for recruitment. The agency does not actually hire anyone. This would still be deemed active recruitment and contravenes the guiding principles within the Code of Practice.

Scenario 3

An agency/organisation with multinational contracts advertises in Uganda. They highlight that they are recruiting to a different country (i.e. not Scotland or the UK), however they also have contracts in Scotland. It later transpires that the agency facilitated a candidate's arrival to work in Scotland. This would still be deemed active recruitment and contravenes the guiding principles within the Code of Practice.

Scenario 4

An agency based in a country on the list, does not advertise in that country but is approached by a group of individuals looking to work in the NHS. The agency interviews and appoints a number of these candidates and then organises the travel logistics and visa to bring them to Scotland. This would be deemed active recruitment and contravenes the guiding principles within the Code of Practice.

Scenario 5

A recruitment agency based in a country on the list is approached by several individuals requesting they are matched to vacant posts in the social care sector. The recruitment agency approaches a number of social care employers with details of the candidates wishing to apply and the employer takes it from there. This would be deemed active recruitment as the individuals did not approach the social care employer individually.

Acceptable recruitment activity under the Code of Practice

Scenario 6

A nurse from Zimbabwe applies to work in the NHS unassisted. They are interviewed by the NHS Board and deemed successful for the post, subsequently travelling to Scotland on receipt of their visa. This activity did not include any active recruitment therefore does not contravene the Code of Practice.

Scenario 7

A doctor from Syria is working in Canada having relocated there five years ago. An agency advertises in Canada and the doctor is picked up in the cohort and wishes to come to Scotland. This activity is not in breach of the Code of Practice; ethical recruitment is determined by the country from which the individual is being recruited, rather than the nationality of the individual.

Scenario 8

A nurse from Peru applies directly to a social care employer in Scotland and is successfully appointed. The social care employer requires the support of a recruitment agency to facilitate the nurse through the remaining part of the recruitment process. This activity is not in breach of the Code of Practice as the nurse approached the social care employer directly and it was only after the individual was appointed that the recruitment agency was brought in to support the remaining part of the process.

5. WHO Health Workforce Support and Safeguard List 2020

5.1 The WHO Health Workforce Support and Safeguard List 2020 sets out the countries that should not be actively targeted for recruitment by health and social care organisations or recruitment agencies, unless there is a government-to-government agreement in place to allow managed recruitment undertaken strictly in compliance with the terms of that agreement.

5.2 The list is available at [Annex A](#) and replaces “*the list of developing countries that should not be actively recruited from*” referred to in the previous code of practice.

5.3 The list is based on the analysis set out in the “*Report of the WHO Expert Advisory Group on the Relevance and Effectiveness of the WHO Global Code of Practice on the International Recruitment of Health Personnel*” (a link can be found in the resources section at [Annex C](#)).

5.4 Recruitment activity from countries on the list will be monitored and where trends indicate an increased level of recruitment activity, DHSC will work with the country in question to understand the cause and whether it is related to active recruitment. The informal and formal escalation stages of investigation followed when it transpires that recruitment activity contravenes the code of practice is set out at [Annex B](#).

Red, amber and green grading of countries

5.5 Whether active recruitment is permitted from a country is determined by its red, amber or green (RAG) grading as follows:

- a) **Red:** No active recruitment permitted.
- b) **Amber:** Managed recruitment permitted and undertaken strictly in compliance with the terms of the government-to-government agreement approved by the Cross Whitehall International Recruitment for Health Steering Group. Active recruitment outside of the government to government agreement is not permitted.
- c) **Green:** Active recruitment permitted. In some countries, particularly middle income, this may be through a government to government agreement to set parameters for how UK agencies recruit.

Criteria for determining red countries

5.6 Red graded countries are countries which appear on the list. These countries have been determined by the WHO Expert Advisory Group using the following criteria:

- a) UHC Service Coverage Index Score: This is the coverage index for essential health services and is presented on a scale of 0 to 100. 25% of countries considered by the WHO scored under the benchmark of 50 points.

- b) Density of doctors, nurses and midwives per 10,000 population. The benchmark was set as the median workforce density for these three occupations, 46 doctors, nurses and midwives (healthcare workers) per 10,000 population.

5.7 Of the 180 WHO Member States included in the analysis, 43 countries scored less than 50 points on the UHC service coverage index and had a health workforce density below the median healthcare workers per 10,000 population.

Changes in a country's RAG grading – red to amber

5.8 A red country can become amber if a government-to-government partnership agreement is put in place to allow recruitment of health and social care personnel only on the terms of the agreement.

5.9 The government of any red graded country may approach DHSC, HEE or a system partner with a proposal for a workforce partnership. Proposals can also come from any relevant organisation, but should be agreed with the country concerned, via the FCDO office in post.

5.10 If the agreement is approved and implemented, the country will remain on the list as amber and managed recruitment of health and social care personnel is undertaken strictly in compliance with the terms of that agreement.

Green Countries

5.11 Active recruitment is permitted from green countries. Green countries are any country not included on the WHO Health Workforce Support and Safeguard List 2020.

5.12 Some green countries have a government to government agreement in place for international health and care workforce recruitment ([Annex A](#)). This may set parameters for how UK employers, contracting bodies and agencies recruit. Health and social care employers and recruitment agencies are encouraged to recruit on the terms of the government to government agreement.

5.13 The green country list will be updated on a regular basis, as new government to government agreements are signed. It is recommended employers, contracting bodies and recruitment agencies regularly check the list for updates and prior to embarking on any recruitment campaign. There are a small number of green listed countries where an increase in international recruitment may exacerbate existing health and social care workforce shortages. Where this is the case, the same process outlined above can be followed to change the grading of a green list country to amber, so that any international recruitment is managed strictly in compliance with the terms of a government-to-government agreement.

Review of the list

5.14 The methodology for the list will be reviewed every 3 years as part of the assessment of the WHO Code's relevance and effectiveness. The next review will follow the fifth round of national reporting in 2023–2024 and be presented to the Seventy-ninth World Health Assembly.

6. Health Workforce Development and Health Systems Sustainability

6.1 The WHO estimates 18 million more health workers are needed by 2030¹ in low- and lower-middle income countries to achieve UHC. The WHO Expert Advisory Group urges all WHO Member States to mobilise the necessary investments in the education, recruitment and retention of health workers to effectively deliver UHC.

6.2 This Code of Practice sets out the Scottish Government's approach to safeguarding against active recruitment from countries with the greatest UHC related health workforce vulnerability, as well as supporting health workforce development and health systems sustainability. There are different mechanisms through which this support is provided in low income and lower middle-income countries.

Government-to-government Partnership Agreements

6.3 A government-to-government partnership agreement is established through a Memorandum of Understanding signed by the UK government and the partner country's government. These types of agreements can be of value to all countries supplying health and social care personnel, including those not on the list, because they enable recruitment of health and care staff to be taken forward in a managed and mutually beneficial way.

6.4 Each individual partnership agreement on health workforce will be different and dependent on the partner country's health workforce needs. Partnerships provide opportunities for collaboration and mutual benefit, whether through direct reimbursement, exchange of skills, knowledge and processes, support in the development of training and education or/and the circular migration of staff (whereby healthcare staff move to the UK for a period of time to work and expand their skills and knowledge that they can apply to the health system of their home country on their return).

6.5 Agreements should ensure that migration to the UK does not exacerbate any existing domestic workforce shortages² in that country, and that work is linked to strategies that support development of the health workforce and strengthen the health system there.

6.6 For countries not on the list, there is still value - in particular to middle-income countries - in developing government to government agreements to set parameters implemented by the country of origin for how UK employers and agencies recruit. An example of this is the long-standing agreement between the Government of the Philippines and the UK, whereby large-scale nurse recruitment takes place, within agreed parameters as set by the Government of the Philippines. The UK Government will continue to engage proactively with countries that are interested in this approach.

¹ WHO Overview of global health workforce [Health workforce \(who.int\)](https://www.who.int/news-room/fact-sheets/detail/global-health-workforce)

² Steps recommended by the WHO: health labour market analysis; engagement with health sector stakeholders and notification of associated agreements through the code of practice and National Health Workforce Account (NHWA) reporting process

In agreeing these new partnerships, the UK will engage with relevant stakeholders in partner countries, including but not limited to, Ministries of Health, professional organisations, and civil society. Partnership agreements will refer to the evidence base including health labour market analysis.

6.7 HEE works with a number of countries, responding to requests for support on workforce development, creating placements for professional groups, matching NHS workforce need with international training requirements and seeking out new bilateral relationships to strengthen workforce development in the NHS and outside the UK.

6.8 In Scotland, NHS Boards and NHS staff also organise and participate in a number of training and exchange programmes which support healthcare services both in Scotland and in partner countries.

6.9 Examples of educational programmes which bring doctors and nurses to the UK to work, often with a view to returning to their countries of origin with improved clinical skills are provided in case studies 1 and 2.

Case Study 1 - Medical Training Initiative

The Medical Training Initiative is a successful programme aiming to improve the skills of the medical workforce in low- and middle- income countries. Funded by HEE and sponsored by the Academy of Medical Royal Colleges it allows doctors to experience training and development in the NHS for up to two years. Doctors return to their home countries where service users and colleagues benefit from the skills and experience they have obtained in the UK.

Case Study 2 - The Livingstone Fellowship

The aim of the Livingstone Fellowship is to enable doctors from Zambia and Malawi to come to Scotland for specialist medical training through NHS Scotland. The grant supports capacity strengthening of the medical profession in Zambia and Malawi and contributes to the Sustainable Development Goals of quality education by providing a means to specialist medical training and to the goal of good health and wellbeing by developing, recruiting and training health workers from Zambia and Malawi.

7. Agency List

7.1 NHS Employers organisation updates and maintains a list of recruitment agencies which operate in accordance with the Code of Practice. Health and social care local employers should only use agencies who are on the Code of Practice Agency List.

Application procedure

7.2 Recruitment agencies wishing to apply for inclusion on the Code of Practice Agency List are required to complete an [online application form](#) (available on the NHS Employers website). The application form confirms:

- a) the agency's commitment to fully adhere to the Code of Practice
- b) the business practice of the agency
- c) a declaration of all associated business activities relating to the commercial recruitment of health and social care personnel.
- d) If, after assessment of the application and resolution of any queries, an agency is not successful in being placed on the list, they will be advised of the reason in writing via email. The agency must wait three months before it can re-apply and must show that it has changed its business practice to be placed on the list.

How the list of agencies is monitored

7.3 The procedure for monitoring agencies for their adherence to the principles of the Code of Practice is as follows:

7.4 On a bi-annual basis NHS Employers writes to all agencies via email (allowing them two weeks to respond) asking them to:

- a) check that their contact details are correct
- b) confirm their compliance with the principles of the Code of Practice
- c) supply two referees from health or social care employers to confirm that they use the agency and that the agency complies with the Code of Practice.

7.5 If an agency does not respond to the first letter within two weeks, they will receive a second letter asking for the same information and will have a further two weeks to respond.

7.6 If the agency does not reply to the second letter, a third and final letter will be sent, requesting the same information and they will be given a further two weeks to reply.

7.7 If NHS Employers does not receive a reply to the final letter by the specified period, this may result in the agency being removed from the list. If removed, an agency will only be allowed to re-apply after a period of three months and will need to demonstrate that they will remain fully compliant with the Code of Practice and the operating practice.

7.8 NHS organisations are encouraged to make a note of this procedure and ensure that their agency complies with it when they receive their initial letter.

Removal from the Agency List

7.9 A recruitment agency will be removed from the list of agencies if, following a thorough investigation, it is found to be breaching the principles of the Code of Practice. Each case will be investigated on an individual basis and further detail on the escalation process for informal and formal investigations can be found in [Annex B](#). This process includes an appeals procedure.

Use of the NHS Employers logo

7.10 NHS Employers logo is protected and commercial recruitment agencies who are successfully placed on the list of agencies that adhere to the Code of Practice are not permitted to display the logo on their business materials, such as documents, websites or on social media accounts.

7.11 Agencies are also reminded that inclusion on the list does not imply that they belong to a group that are either preferred suppliers or recommended by NHS Employers. It also does not guarantee they will be engaged by health or social care organisations to recruit on their behalf.

8. Annex A - WHO list of countries

8.1 Countries on the WHO Health Workforce Support and Safeguard List 2020 are graded red between a partner country, which restricts recruiting organisations to the terms of agreement, the country is added to the amber list. If the country is not on the red or amber list, then its green. If a government to government agreement is put in place with a red country, then the grading of that country is changed to amber and recruitment can happen on the terms of the agreement.

Red countries - active recruitment is not permitted

Afghanistan	Liberia
Angola	Madagascar
Bangladesh	Malawi
Benin	Mali
Burkina Faso	Mauritania
Burundi	Micronesia, Federated States.
Cameroon	Mozambique
Central African Republic	Nepal
Chad	Niger
Congo	Nigeria
Congo, Dem. Rep.	Pakistan
Côte d'Ivoire	Papua New Guinea
Djibouti	Senegal
Equatorial Guinea	Sierra Leone
Eritrea	Solomon Islands
Ethiopia	Somalia
Gabon	South Sudan
Gambia, The	Sudan
Guinea	Togo
Guinea-Bissau	Uganda
Haiti	United Republic of Tanzania
Kiribati	Vanuatu
Lesotho	Yemen, Rep.

Amber countries - international recruitment is only permitted in compliance with the terms of a government-to-government agreement.

- Kenya.

Green countries - active recruitment is permitted from green countries.

8.2 Green countries are any country not included on the WHO Health Workforce Support and Safeguard List 2020. Green countries which have signed government to government agreements in place for international health and social care workforce recruitment, are noted separately below.

Green countries with a government to government agreement are:

- Philippines
- Malaysia

9. Annex B – Contraventions of the Code of Practice

Process for Code of Practice Contraveners

9.1 This section describes the informal and formal escalation stages of investigation when NHS Employers becomes aware of recruitment activity that contravenes the Code of Practice.

Informal stage

9.2 NHS Employers receives information about an agency, either through random checks or another manner, that indicates a potential breach of the Code of Practice.

9.3 NHS Employers carries out desktop research and other checks (for example a check of Companies House and the agency website) to determine whether there is any evidence to pursue with the agency.

9.4 If appropriate, the agency is contacted via email to clarify their business activities and is given ten days to respond.

9.5 The agency response is considered and depending on the response, the informal case is either closed or a formal investigation begins.

Formal stage

9.6 Where a formal investigation is required, any relevant information including media articles, social media activity, promotional/website material from the accused party in relation to alleged wrongdoing or contact from an employer, framework provider, trade union representative or other stakeholder should be collated and saved securely.

9.7 The above information is outlined in a formal letter.

9.8 The formal signed letter should be addressed to the Managing Director and sent to the agency/organisation no later than ten working days following the end of the informal process. This step in the process is to understand the facts surrounding the alleged breach, outline the initial findings from the informal stage and collate potential evidence in relation to the agency/organisation concerned.

9.9 The agency will have ten working days to formally respond. If there are mitigating circumstances or the need for the agency to investigate practices internally, NHS Employers may consider an extension to the ten-day response time frame.

9.10 The reply from the agency and any supporting evidence will be reviewed and considered against the guiding principles and best practice benchmarks of the Code of Practice. NHS Employers may consider whether any of the points in the 'Opportunity to correct behaviour' conduct' are met and if the formal procedure needs to continue.

9.11 If NHS Employers is satisfied behaviour has been corrected, NHS Employers closes the case and responds to the agency within ten working days.

9.12 If behaviours have not been rectified, NHS Employers contacts any known organisations whom the agency has worked with to help establish any other areas of non-compliance with the Code of Practice.

9.13 NHS Employers formally writes to the agency to outline next steps, as below, within ten working days.

9.14 A NHS Employers panel is convened, and a date is set for the panel to meet.

9.15 The panel receives relevant documentation one week before the panel meeting.

9.16 The panel meets and decides on whether there is any further information required and can at this stage request to meet with the agency.

9.17 The panel then decides any appropriate sanctions, which may include a decision to remove the agency from the agencies list or allow it to remain with closer monitoring and/or appropriate corrective action undertaken by the agency.

9.18 NHS Employers formally writes to the agency outlining the outcome of the panel within ten days of the panel meeting.

9.19 If the agency is found to be in breach of the Code of Practice, they will be notified of removal from the list.

9.20 If the panel is unable to prove the recruitment activity contravenes the Code of Practice, the agency will be advised that they will remain on the list of agencies however will be subject to monthly spot checks for one year.

9.21 The Scottish Government and NHS Boards will be informed of any removal so that they can take any appropriate action concerning agency contracts.

9.22 At this stage, the agency can appeal to NHS Employers by providing any further relevant information for consideration.

9.23 If the agency appeal is upheld, the agency will be placed back on the list and all relevant bodies informed.

9.24 Generally, a six-month waiting period comes into effect before the agency/ employing organisation can apply to be placed back on the list. It is at the discretion of NHS Employers on whether this waiting period should be extended, or any applications should be immediately refused in future. This will consider repeated breaches, the measures put in place to prevent future breaches and the agency/organisation's co-operation in any investigations.

9.25 To re-apply, an agency will need to provide evidence that it has changed its business practice.

9.26 The agency will either be accepted or declined.

9.27 If declined, the agency will need to wait an additional six months before re-applying.

Appeal procedure

9.28 Recruitment agencies that are removed from the Code of Practice list can lodge an appeal against the decision to NHS Employers. All appeals must be made in writing and the agency must set out the grounds for their appeal, with any written evidence to support their case.

9.29 The purpose of the appeal procedure is to review the process and reason for the decision to remove an agency from the list when the agency believes the process was improperly administered or the decision was unjustified. In most circumstances, the agency would have been involved in the investigation about their removal from the list, for example, when NHS Employers needs to clarify details of events or the agency's operating procedures. Agencies are always given the opportunity to comment on the information and provide an explanation of their activity.

Action by appeals panel

9.30 If an agency appeals against removal from the list, a formal appeals panel will meet to consider the appeal. The panel includes:

- a senior manager from NHS Employers who has not been involved in the original investigation and decision
- a member of the NHS Employers Policy Board
- a representative from the Department of Health and Social Care
- a representative from the appropriate Devolved Administration in the case of appeals by agencies in that country.

9.31 The appeals process should be completed within six weeks of receiving the written appeal unless there are circumstances that warrant an extension. In these circumstances, the appeals panel should inform the organisation in writing of the reasons, and where possible, the timescale of the delay.

9.32 The panel members will consider the appeal submission together with the original papers supplied by the NHS Employers' investigation team. Panel members can ask for additional information or clarification from either the agency or the NHS Employers' investigation team. Panel members do not have to consider the appeal together in a formal face-to-face meeting but should meet if requested by one of the panel members.

9.33 Consideration should be given to the following:

- whether the primary investigators clearly demonstrated that a breach of the Code of Practice has taken place - the evidence should support this - and the decision to remove the agency from the list is proportionate
- whether there is any possibility that the information on which the original decision was based is incorrect
- whether the organisation has been given an opportunity to respond and provide an explanation of their actions

- whether the organisation disproved the evidence or raised serious doubt about its validity
- whether the process has been handled properly by NHS Employers.

9.34 The panel will make a majority decision whether to uphold or reject the appeal. It may also make other specific recommendations. When the review is completed, the agency will be notified of the outcome in writing by NHS Employers.

9.35 If the appeal is upheld, the agency will be put back on the list of agencies and NHS Boards will be notified.

10. Annex C - Resources and Links

World Health Organisation publications

WHO Overview of global health workforce
[Health workforce \(who.int\)](https://www.who.int/health-workforce)

WHO Global Code of Practice on the International Recruitment of Health Personnel (May 2010)
<https://www.who.int/publications/m/item/nri-2021>

User's Guide to the WHO Global Code of Practice on the International Recruitment of Health Personnel (January 2011)
<https://www.who.int/publications/i/item/user%E2%80%99s-guide-to-the-who-global-code-of-practice-on-the-international-recruitment-of-health-personnel>

Report of the WHO Expert Advisory Group on the Relevance and Effectiveness of the WHO Global Code of Practice on the International Recruitment of Health Personnel (May 2020)
https://apps.who.int/gb/ebwha/pdf_files/WHA73/A73_9-en.pdf

Resources for Employers and Agencies

NHS Employers website
[UK Code of Practice for international recruitment - NHS Employers](https://www.nhs.uk/employers)

NHS Employers International Recruitment Toolkit
<https://www.nhsemployers.org/publications/international-recruitment-toolkit>

Application process for agencies (including online application form)
[Agency list applications, removals and appeals - NHS Employers](https://www.nhs.uk/employers)

NHS National Services Scotland
[NSS Corporate | NHS National Services Scotland \(nhsnss.org\)](https://www.nhs.uk/nss)

Protecting Vulnerable Groups Scheme (PVG)
[The Protecting Vulnerable Groups \(PVG\) scheme - mygov.scot](https://www.mygov.scot)



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