Registration of Nurse Agencies

Context and purpose

This guidance is intended to set out the position of the Care Inspectorate in relation to the Registration of Nurse Agencies.

The guidance will assist and direct Care Inspectorate staff in respect of the registration and regulation of nurse agencies and may also assist applicants in making applications to register Nurse Agency Services.

It will also assist Care Inspectorate staff and existing service providers in relation to changes to registration including a change of manager.

The Care Inspectorate needs to support service innovation while also maintaining its obligation to promote improvement and seeking to ensure that vulnerable people receive the quality of care to which they are entitled.

Because of the range and complexity of nurse agency applications they may not always share uniform operational arrangements.

It is an offence under the Public Services Reform (Scotland) Act 2010 (“the Act”) for a person to provide a care service without appropriate registration so it is important that potential providers give due consideration to ensuring appropriate registration is obtained before providing a care service. The various ‘care services’ are defined in Schedule 12 to the Act. The Care Inspectorate can provide general information and assistance to any potential applicant for registration regarding care service types, though it is ultimately for the applicant to decide which type of care service registration to apply for.

1. The legal definition of a nurse agency

The Act defines a nurse agency as “a service which consists of or includes supplying, or introducing to persons who use the service, registered nurses, registered midwives or registered health visitors; but a service may be excepted from this definition by regulations”.

2. Extent of Regulation

Given the wording of the definition we consider that this covers both situations where nurses are to be provided to a registered care service and situations where nurses are to be provided to an individual in their own home. The introduction or supply of nurses in either of these situations would mean it would be likely to fall within the nurse agency definition and will require to register with the Care Inspectorate as a Nurse Agency.

a) A service which introduces nurses to individual clients, care services or health care settings but has no on-going accountability for those nurses would fall within the nurse agency definition
b) A service which **supplies** nurses to individual clients, care services or health care settings, whether occasionally or regularly, would fall within the nurse agency definition.

c) A service which supplies or introduces occupational health nurses, where they are registered nurses, would fall within the nurse agency definition.

The definition also captures those employment or recruitment agencies which supply or introduce registered nurses, registered midwives or registered health visitors to anyone using the agency. This includes the supply or introduction to other registered care services. The Care Inspectorate will only regulate that aspect of the employment/recruitment agency which supplies and/or introduces nurses, midwives or health visitors and will not regulate any aspect of the business which deals with the supply/introduction of other types of workers (for example cleaners, administrators, other care workers – though where an agency introduces/supplies care workers to individuals they may require to register as a support service).

It is important to determine whether the applicant wishes to introduce or to supply nurses (or potentially do both) as this may influence what expectations we have of the provider’s management arrangements following registration and may have a bearing in terms of conditions of registration.

The Care Inspectorate will consider adopting more flexible operational arrangements for a nurse agency which is primarily an introduction service where it is considered acceptable in all the circumstances to do so. We may adopt a more flexible approach with respect to Inspections – for instance where nurses are introduced to care services or health care settings and no on-going relationship is maintained, the Care Inspectorate will expect the usual safe recruitment and other checks regarding ‘fitness’ and qualifications, but would not expect the agency to be involved in ongoing training. That being said, the Care Inspectorate would expect the Agency to make appropriate professional regulatory referrals should it become aware of any practice issues involving any nurse it introduced even if the nurse no longer remains on their books.

If the applicant proposes to retain and supply registered nurses as part of the service, then the Care Inspectorate will expect that the provider is in a position of on-going accountability for the nurses supplied and would expect the provider to meet all the relevant legal obligations with respect to staffing, fitness and training of the manager and employees. The Care Inspectorate will usually require that the provider is located in the locality of the proposed service and will have more stringent management arrangements in place in order to be satisfied that the provider can comply with all the relevant regulations relating to staffing matters.
3. **Quality Matters**

When meeting applicants for registration, it is important to ensure that any potential providers understand that if they wish to provide a nurse agency service in Scotland, then they will require appropriate registration with the Care Inspectorate. In assessing applications the Care Inspectorate must be satisfied that applicants will be able to comply with the Act and regulations made under the Act. The Care Inspectorate will also take account of the National Care Standards for Nurse Agencies when making a decision about the application, so applicants should be aware of what is expected of them in relation to these. How they will meet the care needs of the vulnerable is our primary consideration, as with all care services.

4. **The manager of a nurse agency.**

The Care Inspectorate expects that the Manager of a Nurse Agency will be a Registered Nurse or a person holding a current medical qualification who is responsible for running the agency. This is reflected in the National Care Standards for Nurse Agencies¹.

The registered manager is responsible for ensuring that the necessary on-going professional evaluation, development and assessment of training needs of agency staff is carried out.

The Care Inspectorate may agree to the manager of a nurse agency being an individual other than a registered nurse or person holding a current medical qualification, where it can be demonstrated that the individual holds a management qualification and has relevant experience in a social care or health care setting. It will be at the sole discretion of the Care Inspectorate to determine whether it is satisfied that the Act and regulations will be complied with in situations where an alternative qualification is held. In these circumstances, we would require that the service has an identified registered nurse responsible for placing nurses, to include carrying out an assessment of the needs of the placement. The applicant must demonstrate to the satisfaction of the Care Inspectorate that it has systems in place for supervision, support and governance by a Registered Nurse. There must also be a registered nurse ‘on call’ for the service at all times of operation.

5. **The person placing registered nurses**

Any individual responsible for making decisions about placing nurses should be a registered nurse and must have knowledge of the environment and the needs of the placement in order to make an appropriate assessment.

The National Care Standards for nurse agencies state that registered nurses should be placed by a registered nurse. This supports an understanding of the requirements of the placement, and the type of care needs to be met and delivered by the agency nurse.

---

6. The provision of premises

While the service provider may be based outwith Scotland, the Care Inspectorate expects that any registered service will be supported by local management and premises which support the general principles of the Act, including local governance arrangements.

Alternative arrangements may be considered in individual circumstances, at the discretion of the Care Inspectorate.

The applicant must demonstrate that they can comply with the Act and regulations made under the Act. We would expect applicants will also be able to demonstrate an awareness and understanding of the NMC Nursing and Midwifery Code of Practice and relevant best practice guidance, appropriate to providing a service within Scotland.

7. Meeting the applicant - what should be assessed?

Early discussion should address the following:

- the Act,
- regulations made under the Act,
- any other legislation which it appears relevant to take into account and
- the National Care Standards for Nurse Agencies.

Applicants should be able to demonstrate how they will comply with these. The Care Inspectorate must be satisfied that the applicant will be able to comply with the Act and regulations made under the Act, before granting registration.

The scope of the application should be considered, including the following core elements:

- The Aims and Objectives of the service to include proposed locality and management arrangements.

- client assessment and placement protocols. It is recommended that applicants undertake on-site assessments to assess the client’s requirements, the environment of care and any specific factors which inform appropriate staff matching. (NCS standard 4).

- The lines of reporting and the management and governance arrangements. An organisational diagram illustrating the proposed structure and lines of reporting, along with details regarding the proposals for staff support and supervision, quality evaluation and healthcare governance arrangements should be sought from applicants.

- Corporate policy and procedure manual (key policies may include: recruitment, professional development and review, assessment and placement protocol, infection control, Adult Support and Protection, complaints, medication (depending on the inclusion of domestic placements) and mandatory training such as Moving and Handling, fire safety, etc.)
This is not intended as an exhaustive list, and further additional information may be sought from applicants. In addition, these are not the only factors that will be taken into account when considering an application for registration. All of the information in the application will be considered in reaching a decision about registration.

8. Conditions of Registration

Section 74 of the Act allows conditions to be applied to any care service in respect of the number of persons to whom the service may be supplied.

In terms of section 60 of the Act, a grant of registration may be subject to such conditions as the Care Inspectorate thinks fit.

Each application will be considered on its own merits and circumstances and the Care Inspectorate will take a range of factors into account in considering whether conditions are appropriate. Factors we take into account may include, but are not limited to, the proposed service size; location of the manager and geographical spread; anticipated extent of service provision (for instance the number of placements or clients at any one time); any previous relevant regulatory history of the proposed provider and the manager’s qualifications and experience. The Care Inspectorate must be satisfied that a care service provider will be able to comply with the Act and regulations made under the Act, taking account of the National Care Standards and this will be our main consideration when assessing the application.

**Standard Conditions**

- Any staff member responsible for placing nurses must be a registered nurse with the appropriate qualifications, skills and experience.
- A registered nurse must be ‘on-call’ whenever the service is in operation.
- The service must ensure that all nurses placed by them are registered with the relevant regulatory/professional body, and on the relevant parts of the register in respect of the work they are to be carrying out.

**Other Conditions**

Other types of conditions may be applied, for example regarding the numbers of service users/placements, the geographical spread of service provision and client group, such as:

- The service will operate from two offices – one based at XXXX and one based at XXXX.
- The service will be provided in [area] and [area]

NB - where a condition limits the geographical area of service provision, the service provider would require to submit a variation application should they wish to extend the service provision at any point in the future.
9. The role of the Health/Social Care Assistant

Regulation of nurse agencies providing carers (other than registered nurses, midwives or registered health visitors)

Where a service supplies or introduces carers to registered care service providers, the Care Inspectorate will not regulate this aspect of the service, as it is not a care service which requires registration under the Act. The Care Inspectorate will only consider the part of the service that supplies or introduces registered nurses, midwives and/or registered health visitors, as the care service, when carrying out its regulatory functions.

10. Summary

In summary, the Care Inspectorate:

- will regard a nurse agency as only that part of the business which supplies or introduces registered nurses, midwives or registered health visitors

- will regard the supply or introduction by a nurse agency of care staff (who are not required to be registered with the NMC) to registered care services as an aspect of the service that the Care Inspectorate does not need to inspect or scrutinise. The Care Inspectorate expects that any registered care service taking on agency care workers should ensure that all staff are ‘fit’ to practise within their service and this includes those workers who are supplied by any employment ‘agency’ service. The Care Inspectorate does not require nursing agencies to notify the Care Inspectorate in respect of misconduct allegations or other notification requirements where these relate to ‘healthcare assistants’, ‘social care assistants’ or other types of workers who do not require to be registered with the NMC to carry out their job.

- considers that where an individual or organisation registered as a nurse agency also supplies and/or introduces care staff (who are not required to be registered with the NMC) to people in their own homes, that will likely fall within the definition of a ‘support service’ and if so will also require to register as a support service (Care at Home) as well.

- considers that an employment agency which does not fall under the definition of a ‘nurse agency’ but solely supplies care/support workers to other registered care services does not need to be registered with the Care Inspectorate. However, if they supply care/support workers to people in their own homes then the service will likely fall within the definition of a support service and if so will require to register as a support service (care at home).
Other languages and formats

This publication is available in other formats and other languages on request.

Tha am foillseachadh seo ri fhaighinn ann an cruthannan is cănain eile ma nithear iarrtas.

ঐনুরোধসাপেক্ষে এই প্রকাশনাটি অন্য ফর্মাট এবং অন্যান্য ভাষায় পাওয়া যায়।

تكرعانكت دخوست کرند پر دیگر شکل او دیگر دیوانه شی فراهم کی کاپیت سیز

ये उंची पुस्तक घेत्र तुँहा अध्ययन उपलब्ध रहें, दिए हुए सार्वजनिक डिच उपलब्ध रहें।

هذه الوثيقة متوفرة بلغات ونماذج أخرى عندطلب

本出版品有其他格式和其他語言備索。

Na życzenie niniejsza publikacja dostępna jest także w innych formatach oraz językach.