**Nurses Agencies** 

# **National Minimum Standards**

# Nurses Agencies National Minimum Standards

A statement of national minimum standards applicable to nurses agencies made by the National Assembly for Wales under the powers conferred by section 23(1) of the Care Standards Act.

Signed,

Minister for Health and Social Services Welsh Assembly Government

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# Introduction

#### Aims

This document sets out National Minimum Standards for nurses agencies, which form the basis on which the Care Standards Inspectorate for Wales (CSIW) will determine whether nurses agencies provide appropriate safeguards for service users to whom they supply nurses.

# **Regulatory Context**

These standards are published by the National Assembly for Wales in accordance with section 23 of the Care Standards Act 2000 (CSA). They will apply from 1 September 2003.

The CSA reforms the regulatory system for care services in England and Wales. It establishes the National Assembly for Wales as the social care and independent healthcare registration authority for Wales. For the time being these functions are discharged through its division known as the CSIW. The CSIW will be responsible for the registration of social and health care services previously registered with local councils and health authorities. In addition, the CSA extends the scope of regulation significantly to other services not currently registered, to include domiciliary care agencies, fostering agencies and residential family centres.

The CSA repeals the Nurses Agencies Act 1957 and requires nurses agencies to be registered by the CSIW. The CSA also requires nurses agencies to comply with requirements of Employment Agencies Act 1973 (the EAA) and its Regulations (they have until now been exempt). The EAA and its Regulations are enforced by the Employment Agency Standards Inspectorate (the EASI). The EAA does not involve licensing or routine inspection, but the EASI respond to concerns and complaints about agencies and can carry out spot checks of agencies. They have enforcement powers and can prosecute agencies that do not comply with the EAA Regulations.

The EAA Regulations are concerned mainly with issues relating to the way an agency conducts its business. Bringing nurses agencies within its remit will ensure consistency with the approach to other employment agencies in terms of the way they are required to conduct their business operations. There is no real overlap with the proposed way that the CSIW will regulate agencies, which is based more on issues to do with the protection of people who receive care from agency nurses, such as ensuring the fitness of those carrying on agencies and of nurses supplied by them.

The CSA sets out a broad range of regulation making powers covering, amongst other matters, the management, staff, premises and conduct of social and independent healthcare establishments and agencies. Section 23 gives powers to the National Assembly to publish statements of national minimum standards that the CSIW must take into account when making its decisions. These standards will form the basis for judgements made by the

CSIW regarding registration and the imposition of conditions for registration, variation of any conditions and enforcement of compliance with the CSA and associated Regulations, including proceedings for cancellation of registration or prosecution. The CSIW will therefore consider the degree to which a regulated service complies with the standards when determining whether or not a service should be registered or have its registration cancelled, or whether to take any action for breach of Regulations.

The Nurses Agencies (Wales) Regulations 2003 apply to all agencies supplying nurses to service users in Wales. There will be a requirement to register each branch as a separate agency. Nurses agencies supplying nurses to service users in England need to be aware of the Nurses Agencies Regulations 2003.

# Structure and Approach

The National Minimum Standards for nurses agencies focus on achievable outcomes for service users – that is, the impact by agencies on organisations and individuals. The intention is that the attached set of standards will apply to all nurses agencies. Each standard is preceded by a statement of the intended outcome for service users. The standards themselves are numbered and the full set of numbered paragraphs must be met in order to achieve compliance with the standard.

While the standards are qualitative – they provide a tool for judging whether service users are receiving safe and quality assured services – they are also measurable. Regulators will look for evidence that the requirements are being met through:

- discussions with service users, staff, managers and others;
- observation of arrangements at the agency;
- scrutiny of written policies, procedures and records.

The involvement of lay assessors in inspections will help ensure a focus on outcomes for service users.

The standards have been drafted on the basis that it is important that they do not conflict with, or are not inconsistent with, other standards and requirements across the other areas that the CSIW will regulate.

#### Definitions

Section 4(5) of the Care Standards Act defines nurses agencies for the purposes of regulation by the National Assembly. The definition covers employment agencies, as defined in the Employment Agencies Act 1973, which broadly means providing services for the purposes of finding persons employment with employers, or of supplying employers with persons for employment by them. It also covers employment businesses, again as defined in the 1973 Act, who supply persons in the employment of the person carrying on the business, to act for, and under the control of, other persons.

In the Standards, wherever the word "agency" occurs, it means the nurses agency or business, as set out above. Where appropriate it means each branch of the agency. Some regulations and standards apply only to nurses agencies that are employment businesses; where this is the case, the regulations or standards make this clear.

"Nurse" means registered nurse, registered midwife, or registered health visitor.

"Service user" means an institution or organisation engaging a nurse supplied by the agency. This includes service users who are patients who hire a nurse from the agency to provide care directly to them. Some regulations and standards specifically relate to the supply of nurses to service users who are patients.

#### NHS nurse banks

NHS nurse banks are exempt from the requirement to register as nurses agencies. However, we propose that they will be held accountable against a Code of Practice for temporary staffing. This Code of Practice would be monitored by the NHS.

#### Nurses agencies and the supply of persons other than nurses

Under the definition in section 4(5) of the Act, there is nothing to prevent a nurses agency combining other businesses with the supply of nurses. If it chooses to do so, general requirements such as those about fitness of providers and managers will apply to the agency as a whole. However, it will always be open to the agency to split its business so that the supply of persons other than nurses is conducted entirely separately, in which case the Regulations and standards will not apply to that part of the business, because it does not fall within the definition of a nurses agency.

Where a nurses agency does include the supply of other workers as part of its business, Regulations such as those dealing with the fitness of nurses will not apply to the "other" workers because they are not nurses. However, agencies supplying domiciliary care workers have to be separately registered with the CSIW under the CSA.

The Act includes a provision in section 42 that allows the extension of the CSIW's regulation to, among others, agencies supplying other workers than nurses, although the power in section 42 has not yet been exercised.

#### INFORMATION

#### Introduction to Section 1 (Standard 1)

The following section relates to information requirements. The Regulations specify that agencies must produce a statement of purpose and a service user's guide.

Standard 1 details additional matters for inclusion in the service user's guide, which are not specified in the Regulations.

#### Information

OUTCOME: Prospective service users have the information they need about the agency in order to make an informed decision on whether to engage its services.

#### STANDARD 1

1.1 The certificate of registration is prominently displayed at all times so as to be readily and easily seen by all persons using the premises, in accordance with section 28(1) of the Care Standards Act.

1.2 A Statement of Purpose as specified in regulation 4 and Schedule 1 is supplied to the CSIW, and a copy is available on request for inspection by every service user and any representative of a service user.

1.3 A Service User's Guide provides comprehensive written and up-to-date information about the agency and the service it provides. This is available to service users and (where the service user is also a patient) to the service user's carers or advocates in an appropriate language and/or format (e.g. large print, audio tape, Braille), and includes information on:

- A summary of the Statement of Purpose;
- The range of qualifications of the nurses who are supplied, and the types of settings in which they are supplied to work;
- The circumstances in which the agency may cease to provide services to a service user;
- Arrangements for cancellation of the supply of a nurse by the service user or the agency;
- The agency's charges, and methods of payment;
- Arrangements which will apply during the sickness or other absence of a nurse supplied to a service user;
- Requirements in relation to timesheets;
- The complaints process operated by the agency, including information about the right of service users to contact the Care Standards Inspectorate for Wales.
- The address and telephone number of the appropriate office of the CSIW.

- Details of insurance cover;
- Hours of operation;
- A summary of the most recent service user or patient survey.

The Guide also includes information on the following matters that apply where the agency is an employment business:

- Procedures to safeguard nurses and patients;
- Procedures to safeguard the property of service users who are patients;
- Procedures for the administration, or assistance with the administration, of medication to service users who are patients, in accordance with the NMC Code of Professional Conduct;
- Requirements to protect the health and safety of nurses;
- Procedures to be followed in the event of an accident or other specified incident in the homes of service users who are patients;
- Arrangements for appropriately qualified and registered nurse support of nurses working out of hours;
- Arrangements for service users to express their views about the service provided by the agency.

1.4 Service users, their carers and advocates are kept fully informed on issues relating to their care from the agency, where the agency is an employment business. They are advised how to contact the agency on all days and at all times when nurses are working on assignments through the agency, including out of hours.

# **REGISTERED PERSONS**

# Introduction to Section 2 (Standard 2)

The Care Standards Act requires any person who carries on or manages a nurses agency to be registered. In practice this means the individual owner and manager, or a body corporate if the agency is run by one (section 11(1) of the Act). The Regulations refer to the registered provider (the person carrying on the agency) and the registered manager. Each of these is also known as a "registered person". Where the activities of an agency are carried on from two or more branches, each branch is treated as a separate agency for registration purposes and must each have a registered person (section 11 (2)).

The Regulations define "fitness" in respect of registered providers and managers, and set out the statutory requirements for information which must be available in relation to them.

The registered person or registered manager of a nurses agency may be a registered nurse but there is no requirement for this.

#### Fitness of registered persons

OUTCOME: Service users are assured of the integrity of the agency and have confidence that it is run by a fit person or organisation.

#### STANDARD 2

2.1 All persons directly involved in managing and running the agency are able to demonstrate that they are fit persons, i.e. suitable and competent.

2.2 Owners and managers of the agency have a sufficient range of knowledge, experience and expertise between them for the effective and efficient running of the agency. The registered manager:

• obtains a nationally recognised qualification, at level 4 NVQ or equivalent, in management within 5 years from the date of application of these standards or, following that period, within 2 years of employment;

or

• is a first level registered nurse and, within 5 years from the date of application of these standards or, following that period, within two years of employment, has a relevant management qualification.

2.3 The registered manager undertakes periodic management training to update his or her knowledge, skills and competence to manage the agency.

# RECRUITMENT AND SUPPLY OF NURSES

# Introduction to Section 3 (Standards 3 to 6)

This section deals with the process of recruiting nurses to be supplied by agencies, including the checks to be made to ensure the proper identification of nurses and that they are appropriately qualified and competent for the tasks they may perform.

The Regulations make requirements about the fitness of nurses supplied by an agency, and specific requirements in respect of nurses supplied directly to patients. The Regulations also set out statutory requirements for information, which must be available in respect of nurses to be supplied by an agency. Standards 4 and 5 go into more detail about the checks that need to be carried out.

The Regulations also specify that the selection of individual nurses, and their placement with particular clients, must be made by or under the supervision of a registered nurse.

#### Recruitment process

OUTCOME: The process for recruitment and selection of nurses meets all the requirements of legislation and employment law including that related to equal opportunities and anti-discriminatory practice.

#### **STANDARD 3**

3.1 The recruitment process operates in line with equal opportunities and is non-discriminatory.

3.2 A person who is a registered nurse (with a current Nursing and Midwifery Council registration) undertakes interviews for the recruitment of all grades of agency nurses. This registered nurse has relevant experience to enable the assessment, selection and placement of nurses with clients according to their qualifications, competencies and skills. The nurse undertaking interviews need not be the same person who is responsible for the placement of nurses.

#### Checks on nurses

OUTCOME: Service users are confident that nurses supplied by the agency will provide good quality care and will not jeopardise the safety of patients.

#### STANDARD 4

4.1 All necessary and appropriate checks are undertaken on the nurse supplied or to be supplied, prior to commencing employment.

4.2 If a nurse is included on the list maintained by the Secretary of State for Health of individuals who are considered unsuitable to work with vulnerable adults (when the POVA list is operational), or the list maintained by the Secretary of State for Health of individuals who are considered unsuitable to work with children, or the Sex Offenders Register, and the agency believes that there are mitigating factors (e.g. a person who is on the list of individuals considered unsuitable to work with children, whose duties will not bring them into contact with children), the agency seeks agreement in writing from the CSIW before engaging or supplying that person.

4.3 The applicant's health record is checked, including obtaining a copy of the applicant's immunisation record and current status showing that the necessary immunisations for practice are current – in line with the recommendations in the UK Health Department's publication Immunisation Against Infectious Disease and Welsh Assembly Government guidance on the employment of new health care workers. A nurse is not engaged or supplied by the agency if she has a history of illness that would make her unsuitable for duties to which she may be assigned. In cases of doubt the agency seeks agreement in writing from the CSIW before engaging or supplying that person.

# Identification and qualifications

OUTCOME: The agency has documentary evidence demonstrating the personal identification, registration, ongoing eligibility to be employed as a nurse, and relevant qualifications of each nurse to be supplied.

# STANDARD 5

5.1 The agency keeps all necessary records in respect of each nurse supplied or to be supplied by the agency.

5.2 Nurses supplied by the agency have a current registration with the Nursing and Midwifery Council (NMC):

- The agency obtains a caller code from the NMC and is able to provide evidence that they have obtained confirmation of registration of new and existing registered nurses via the NMC's Employer's Confirmation Service.
- The agency checks notifications of registered nurses who have been removed or suspended from the register.
- All nurses work within the NMC Code of Professional Conduct.
- 5.3 The following information is recorded:
- Record of any formal interview to a consistent and adequate procedure;
- Details of next of kin, together with an emergency contact telephone number;
- A copy of the individual's immigration status, if appropriate (see Home Office guidance on Prevention of Illegal Working);
- A copy of the driving licence, if necessary for the duties to be carried out.

- Details of other employment (if any) including current employment by other agencies;
- Details of any unspent convictions, subject to the Rehabilitation of Offenders Act (1974) and Rehabilitation of Offenders (Exceptions) Order 1975.

# **Competence**

OUTCOME: Nurses supplied by the agency are competent and trained to undertake the activities for which they are employed and responsible.

# STANDARD 6

6.1 Where the agency is an employment business, there is a written and formal induction process that is completed by every new nurse to be supplied. The induction process covers, as fully as possible, the responsibilities that the nurse supplied will have. As a minimum it is expected that this induction process should include training on the following topics:-

Expected role and responsibility Moving and handling Basic Life Support/CPR Risk Assessment Health and Safety First Aid

The induction training should be repeated at the frequency recommended by the HSE/Resuscitation Council where appropriate.

6.2 The agency shall supply details of qualifications and experience of the person being supplied to the service user.

6.3 The agency shall assure itself, by confirming current registration and examining such other certificates as indicate specialist or advanced knowledge and skills, that nurses supplied to service users have been trained to work in the field of practice to which they are being assigned. Arrangements should be made to conduct an annual appraisal on the nurses' performance and to identify any training needs. The agency should endeavour to provide arrangements for clinical supervision if necessary.

6.4 The assessment of service users' needs for home nursing will be carried out only by a registered nurse. The assessment should include an assessment of environmental risk. The collection of information on service users' needs will be carried out by or under the supervision of a registered nurse, who takes professional responsibility for the updating, accuracy and sufficiency of the information. Records of this assessment are made and should be available for inspection.

6.5 The person carrying out the assessment of home nursing needs is responsible for obtaining the patient's informed consent to assessment, treatment and care.

#### COMPLAINTS AND PROTECTION

#### Introduction to Section 4 (Standards 7 to 11)

The following section addresses the matter of how those using an agency's services can make complaints about the agency (Standard 7). The Regulations require agencies to operate a complaints procedure.

The standards in this section also cover issues concerning the safety and protection of people receiving care direct from nurses supplied by the agency and the reporting and handling of abuse. It should be noted that the Regulations require incidents involving the Police to be reported to the CSIW. Also, where a nurse is considered to have breached the NMC Code of Professional Conduct, the Regulations require this to be reported to the NMC.

Standards 8, 9 and 11 apply only where the agency is an employment business.

#### **Complaints**

OUTCOME: Service users are confident that their complaints will be listened to, taken seriously and acted upon.

#### STANDARD 7

7.1 The agency maintains a clear written procedure for handling complaints. Positive action is taken to publicise the complaints procedure and enable service users to make a complaint. Publicity includes advice that complaints may be taken up with the CSIW if the complainant is dissatisfied.

7.2 The procedure sets out a clear investigative process with timescales for action, ensuring that all complaints are thoroughly followed through.

7.3 All complaints are acknowledged promptly. The agency keeps a full written record of the nature of the complaint and details of the action taken as a result.

7.4 The agency operates a system to analyse and identify any recurring area or pattern of complaints. A summary of all complaints and action taken is provided to the CSIW on request.

7.5 Nurses supplied by the agency are fully and promptly informed of complaints relating to themselves.

7.6 A procedure is in place for reporting nurses to the NMC where there is evidence of misconduct.

7.7 A complaints procedure is available to be used by nurses placed by the agency, where it is an employment business.

# Protection from abuse

OUTCOME: Service users who are also patients are protected from abuse, where the agency is an employment business.

# STANDARD 8

8.1 The registered person ensures that service users who are also patients are safeguarded from physical, financial or material, psychological or sexual abuse, neglect, discriminatory abuse or self-harm, inhuman or degrading treatment, through deliberate intent, negligence or ignorance, in accordance with written policies.

8.2 Robust procedures for responding to suspicion or evidence of abuse or neglect (including whistle-blowing) ensure the safety and protection of service users, including the involvement of the police and the passing on concerns to the CSIW in accordance with the Public Interest Disclosure Act 1998 and the National Assembly's guidance "In Safe Hands".

8.3 All allegations and incidents of abuse are followed up promptly and the details and action taken are recorded.

8.4 The agency complies with the relevant legal requirements relating to the referral of individuals to the Secretary of State for consideration for inclusion on the lists of persons unsuitable to work with children or vulnerable adults, as appropriate.

8.5 The agency has clear policies and procedures for nurses on the safe handling of money and property belonging to service users who are also patients. These preclude nurses supplied by the agency being involved in assisting in the making of or benefiting from service users' wills.

8.6 Clear protocols are in place in relation to entering and leaving the homes of service users.

8.7 There are clear procedures for nurses to follow in case of a nonresponse or discovery of an accident to the service user on arrival at the premises or other emergency situation.

# Assistance with medication

OUTCOME: Service users who are patients are protected by the agency's procedures for assistance with medication, where the agency is an employment business.

# STANDARD 9

9.1 The agency operates a clear, written policy in accordance with the NMC Code of Professional Conduct. This identifies parameters and circumstances for administering or assisting with medication, and identifies the limits to assistance and the tasks, which may not be undertaken without specialist training. It also makes clear that a patient's informed consent should be sought for all aspects of care.

9.2 The policy makes it clear that any administration of or assistance or support with medication is only given when it is within the competence of the nurse, and with the patient's informed consent in line with the Welsh Assembly Government's guidance on consent to examination and treatment.

9.3 The policy includes a clear process for reporting concerns, responding to incidents and seeking guidance if unanticipated events occur. It covers capacity to consent and drug error procedure.

9.4 The person administering or assisting with medication records any assistance or advice immediately after the medication is administered. Records should include dosage given, time of medication, and method of administration, and should be recorded on the home care medication record and if necessary in the care plan or personal file of the service user.

#### **Confidentiality**

OUTCOME: Action is taken to protect confidentiality of information relating to service users who are also patients, their carers and advocates.

#### STANDARD 10

10.1 All information relating to service users who are also patients is kept in confidence.

10.2 The agency complies with the requirements of the Data Protection Act 1998, in particular ensuring that service users who are also patients have access to the information that is kept on their personal file if they wish.

#### Safe working practices

OUTCOME: The health, safety and welfare of service users who are also patients, and of nurses, are promoted and protected, where the agency is an employment business.

#### STANDARD 11

11.1 The registered person ensures so far as is reasonably practicable the health, safety and welfare of service users who are also patients, and of nurses.

11.2 The registered person ensures compliance with relevant legislation relating to the provision of care to people in their own homes. The main statutory provisions are as follows:

- Health and Safety at Work Act 1974;
- Management of Health and Safety at Work Regulations 1999;
- Manual Handling Operations Regulations 1992;
- Control of Substances Hazardous to Health Regulations (COSHH) 1988;
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 1995;
- Lifting Operations and Lifting Equipment Regulations (LOLER) 1998;
- Provision and use of Work Equipment Regulations 1998 (PUWER).

11.3 Where the service user is also a patient, to ensure the health and safety of the service users and the nurse, the agency will work with the service user to perform an adequate assessment of the risks at the premises where work is to be performed, or ensure that all relevant information on risks, including information required for infection control, is obtained from the service user and made known in writing to the nurse, before she starts work or as soon as possible where pressure of time does not allow an assessment of risk to be undertaken prior to the provision of care.

11.4 Nurses supplied by the agency to a patient, whether in the patient's own home or in any other environment, ensure that equipment is in a safe condition to use and that inspections have taken place on time, and if necessary remind the organisation providing the equipment that a check is due. Equipment is not used if the necessary checks have not been undertaken.

# MANAGEMENT AND ADMINISTRATION

# Introduction to Section 5 (Standards 12 to 18)

The following section is concerned with matters relating to the management of the agency. It covers financial management, organisational policies, record keeping, and quality assurance. Certain requirements relating to the agency's financial position and accounting procedures are set out in Regulations. Standard 15 (organisational policies), and Standard 16 (agreements between the agency and nurses), apply only where the agency is an employment business.

#### Financial procedures

OUTCOME: Approved accounting and financial procedures are adopted to ensure the effective and efficient running of the business and its continued financial viability.

#### STANDARD 12

12.1 Suitable accounting and financial procedures are adopted to demonstrate current financial viability and to ensure there is effective and efficient management of the business.

12.2 Where the agency is an employment business, payment to a nurse supplied by the agency will be made regardless of whether the client has paid the agency. Receipts are issued in respect of payments made to the agency if the client so requests.

12.3 The agency ensures that adequate insurance cover is held against loss of, or damage to, assets that are used for the purposes of the agency. In particular, the insurance covers the cost of replacing lost or damaged assets, and losses incurred as a result of any interruption of the operation of the agency.

12.4 The agency also ensures that adequate insurance is held against liability which may be incurred to any person as a result of the operation of the agency, including death, injury, public liability, damage or other loss, and that the amount of such cover is commensurate with the level and extent of activities undertaken and not less than £5 million.

12.5 The registered provider is able to demonstrate that there is an adequate process for business and financial planning to cover the operation of the agency.

# <u>Premises</u>

OUTCOME: There are designated premises suitably equipped for the purpose of the day to day operation and management of the service.

# STANDARD 13

13.1 The premises contain equipment and resources necessary for the efficient and effective management of the service.

13.2 The premises provide an accessible, safe and clean working environment for staff. The premises are accessible by the CSIW for inspection purposes as required.

#### Management structure

OUTCOME: An appropriate management structure and clear lines of accountability are in place.

#### STANDARD 14

14.1 The management structure reflects the size of the agency and the volume and complexity of the care provided.

#### Organisational policies

OUTCOME: Nurses supplied by the agency know the standards of conduct expected of them and are aware of the agency's organisational policies, where the agency is an employment business.

#### STANDARD 15

15.1 The agency operates a clear written set of organisational policies, which are included in a staff handbook to be issued to every nurse who is supplied or available for supply by the agency.

15.2 The staff handbook includes information on:

- the conduct expected of nurses supplied by the agency;
- the role and responsibilities of nurses supplied by the agency;
- record keeping requirements;
- training and development requirements and opportunities;
- the specific policies implemented in relation to the supply of nurses to service users who are patients;
- where the agency is an employment business, disciplinary action which may be taken against them;
- the agency's policy for dealing with allegations of abuse.

# Agreements between the agency and nurses

OUTCOME: There is a written agreement between the Agency and nurses.

# STANDARD 16

16.1 Where the agency is an employment business, all nurses to be supplied by it are provided with a written contract of service or for services, specifying details of their terms and conditions of service. The terms and conditions of engagement may vary in their title depending on the status of the agency. This only applies to employment businesses because those agencies introducing nurses on a permanent basis will not have a contract of either type with the nurses since the engagement occurs between the nurse and their new employer.

#### Record keeping

OUTCOME: Service users' and nurses' interests are safeguarded by the agency's record keeping policies and procedures.

# STANDARD 17

17.1 The agency retains, up to date and accurate, all records required by regulation for the protection of service users and for the efficient running of the business, in a form suitable for inspection by the CSIW. Records retained on electronic or photographic media are acceptable. Records are maintained for at least three years.

17.2 Individual records concerning service users and nurses supplied by the agency are kept secure, up to date and in good order, and are constructed, maintained and used in accordance with the Data Protection Act 1998 and other statutory requirements.

#### Quality assurance

OUTCOME: The agency operates in the best interests of service users and of nurses supplied by it.

#### STANDARD 18

18.1 The agency operates an effective written Quality Assurance system, based on consulting with service users and where appropriate their carers or advocates, in order to measure success in meeting the aims and objectives of the agency.

18.2 The agency should monitor the quality of placements for both service users and nurses.

18.3 The registered person ensures that the agency has a continuous process of self-monitoring, including an internal audit at least annually.