

Who regulates health and social care

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HSE is the national independent regulator for health and safety in the workplace. This includes private or publicly owned health and social care settings in Great Britain.

We work in partnership with our co-regulators in local authorities to inspect, investigate and, where necessary, take enforcement action. You can find further guidance on whether work activities are regulated by HSE or the local authority on our web page, [Is HSE the correct enforcing authority for you?](#).

There are many other bodies responsible for regulating different aspects of these sectors. Many of these have more specific powers and legislation than HSE and may therefore be in a better position to respond to patient or service user incidents or complaints. For more detailed guidance, please refer to our [A-Z guide to the Health and Safety \(Enforcing Authority\) Regulations](#).

Our role in patient and service user incident investigation

Healthcare is managed and regulated differently in England, Scotland and Wales. The various regulators across Great Britain have a range of powers to secure improvement and/or justice. Where those regulators have patient or service user safety within their remit, and have powers to secure justice, we will not, in general, investigate or take action. However we may investigate, in accordance with our selection criteria (as set out below), **where other regulators do not have such powers**.

In England, Scotland and Wales regulatory bodies such as the General Medical Council (GMC) and Nursing and Midwifery Council (NMC) have important roles to

play in ensuring professional standards are maintained. They may be better placed than HSE to secure justice, improve standards or prevent a recurrence.

The roles of health and social care regulators, professional bodies and others are described below, and where we also link to relevant agreements with them. The agreements set out our respective roles and responsibilities, clarify which regulator is likely to take action and describe information sharing arrangements.

HSE sets out its overall [public safety policy](#) and [priorities for enforcement](#) on our website. In general we will only investigate where:

- the accident or incident is reportable under the [Reporting of Injuries Diseases and Dangerous Occurrences Regulations \(RIDDOR\)](#) **and** falls within our [incident selection criteria \(PDF\)](#). These tend to include major non-clinical accidents such as trips and falls, scalding and those arising from people handling, or
- the accident or incident is not RIDDOR reportable, **but** has clearly been caused by well-established standards not being achieved **and** the failure to meet them arises principally from a systemic failure in management systems. We will only investigate such incidents where a death has occurred, or where the harm was so serious that death may have resulted, and where admissible evidence is likely to be available

The 'established standards' that HSE will consider, in deciding whether investigation is appropriate, include:

- widely recognised, followed and expected practices for dealing with a particular issue,
- NHS, Department of Health or other 'safety alerts', or similar warnings, that are widely known across the sector, or
- dutyholders (healthcare providers) internal guidance, or well-established external guidance from others, where this addresses issues that fall within HSE's broader selection criteria

'Established standards' will not, in general, include those which cover:

- the standard of care or treatment, such as those dealing with the types of drugs or approach that might be appropriate, or
- 'quality of care' issues, such as those dealing with hydration or nutrition

Systemic failures in management systems may include:

- absence of, or wholly inadequate, arrangements for assessing risks to health and safety
- inadequate control of identified, or well recognised, health and safety risks, or
- inadequate monitoring, or maintenance, of the procedures or equipment needed to control the risk

In general, we will not investigate where:

- the incident arises from poor clinical judgement (rather than a failure to implement the actions flowing from clinical judgements)
- the incident is associated with 'standards of care', such as the effectiveness of diagnostic equipment; or the numbers and experience of clinicians
- the incident is associated with quality of care, such as hydration and nutrition, or
- the incident arose from the disease or illness for which the person was admitted (whether or not that disease was properly diagnosed or treated). The exceptions to this are where the prime cause was inadequate maintenance of, or training in, the use of equipment needed to treat the disease or illness; or it otherwise falls within the criteria set out above, or the worked examples given below

The policy in practice – some worked examples

The [examples of how this policy works in practice \(PDF\)](#) provided on our website illustrate how this policy works in practice in certain situations.

These will be added to over time, to help translate the overall policy and guidance into consistent decision making.

How fire precautions in care homes are enforced

General fire precautions, for example ensuring adequate means of escape from a building, are enforced by individual Fire and Rescue Services (FRS) in England, Wales and Scotland.

HSE deals with process fire risk, for example using flammable liquids and LPG or electrical faults, which can cause fires.

Although serious fires in care homes are fairly rare, when they do occur they can be catastrophic. In 2004, a fire occurred at Rosepark Care Home in Uddingston, Scotland, in which 14 elderly residents lost their lives.

Valuable lessons that other care home owners can learn from this tragic incident can be found in the [Rosepark 'Dear colleague letter' \(PDF\)](#) issued by the Department of Health.

There is also [Practical Fire Safety Guidance for Care Homes](#) issued by the Scottish Government and general advice on [HSE's Fire and Explosion website](#).

Does HSE regulate foster care?

Other bodies regulate fostering. Carers are subject to a thorough assessment process to ensure their suitability to foster children and receive training, monitoring and supervision. For this reason, HSE would not generally regulate foster care.

Further information on regulation of foster care can be found in the [Fostering Service Regulations](#).

Other regulators

Health and social care are devolved matters and there are different regulators in England, Scotland and Wales. The powers, roles, remits and ways of working of each of these regulators are all different. A brief summary of their roles and responsibilities follows. Further information can be found on their websites:

Regulators in England

- [Care Quality Commission \(CQC\)](#) - In England, the CQC is the independent regulator for the quality and safety of care. This includes the care provided by the NHS, local authorities, independent providers and voluntary organisations in registered settings. CQC register most but not all types of care. They regulate providers of:
 - healthcare services to people of all ages, including hospitals, ambulance services, clinics, community services, mental health services and other registered locations, including dental and GP practices
 - social care services for adults in care homes (where nursing or personal care is provided), in the community and in people's own homes
 - services for people whose rights are restricted under the Mental Health Act

The CQC registers care services under the Health and Social Care Act 2008 and associated regulations. It focuses on outcomes for people who use services and assess these using information from a wide range of sources. This includes reports of incidents, as well as information from both people who use services, through inspections carried out by expert teams.

Details of HSE's agreement with the CQC is contained within the [Memorandum of Understanding \(PDF\)](#). In general the CQC, rather than HSE, will deal with the majority of patient and service user serious health and safety incidents.

Regulators in Scotland

- [Healthcare Improvement Scotland \(HIS\)](#) - HIS' focus is to reduce healthcare associated infection risk to hospital patients, to improve the care of elderly patients, and to regulate independent healthcare services through an inspection framework. HIS inspectors do this by carrying out announced and unannounced inspections in acute NHS hospitals in Scotland to check the NHS QIS standards for older people in acute care and standards for prevention and control of healthcare associated infection are being met

- [A Memorandum of Understanding has been agreed between HSE and HIS \(PDF\)](#) on working arrangements between the two organisations.
- [Care Inspectorate](#) - As with HIS, the role of the Care Inspectorate is to inspect, regulate and support improvement of services and provide public assurance on service quality.

HSE has a [liaison agreement with Scottish Local Authorities and the Care Inspectorate \(PDF\)](#). The aim of the agreement is to describe and promote effective working arrangements between the respective organisations.

[Mental Welfare Commission for Scotland \(MWC\)](#) - The MWC promotes the welfare of individuals with mental illness, learning disability or related conditions. It investigates cases where it appears there may be ill treatment, deficiency in care and treatment or improper detention of any such person. Following investigations, it can make and follow up recommendations.

[A Liaison Agreement between the MWC and HSE \(PDF\)](#) has been agreed to promote effective working arrangements and information sharing on areas of mutual interest.

Regulators in Wales

[Care Inspectorate Wales \(CIW\)](#) - In Wales, CIW regulates social care, early years services and local authority care support services. Regulation includes registration, inspection, responding to concerns about regulated services, compliance support and enforcement.

HSE has agreed a Memorandum of Understanding with CIW and local authorities in Wales (gael yn Cymraeg) which outlines our respective roles and responsibilities to enable effective, co-ordinated and comprehensive regulation of care, safety and health in Wales.

- [Memorandum of Understanding with CIW and Local Authorities in Wales \(gael yn Cymraeg\) - Welsh version \(PDF\)](#)
- [Memorandum of Understanding with CIW and Local Authorities in Wales - English version \(PDF\)](#)

[Healthcare Inspectorate Wales \(HIW\)](#) - In Wales, HIW's role is to review and inspect NHS and independent healthcare organisations. Services are reviewed against a range of published standards, policies, guidance and regulations. They also register independent services and have powers to take enforcement action in these matters. HIW is the Local Supervisory Authority (LSA) for the statutory supervision of midwives. It also has inspection and enforcement powers for the Ionising Radiation (Medical Exposure) Regulations, which stem from the Health and Safety at Work etc Act .

HSE has a Memorandum of Understanding (gael yn Cymraeg) with HIW which has been agreed to promote effective working arrangements and information sharing on areas of mutual interest.

- [Memorandum of Understanding with HIW \(gael yn Cymraeg\) - Welsh version \(PDF\)](#)
- [Memorandum of Understanding with HIW - English version \(PDF\)](#)

UK-wide regulators

[Medicines and Healthcare Products Regulatory Agency \(MHRA\)](#) - The MHRA is a government agency responsible for ensuring medicines and medical devices work, and are acceptably safe. It is an executive agency of the Department of Health. The MHRA is responsible for the regulation of medicines and medical devices and equipment used in healthcare and the investigation of harmful incidents. It also looks after blood and blood products, working with UK blood services, healthcare providers, and other relevant organisations to improve blood quality and safety.

As the UK Competent Authority, the MHRA is responsible for the regulation of devices throughout the UK and for issuing Medical Devices Alerts (MDAs). In Scotland, Health Facilities Scotland (HFS), which is part of NHS Scotland, works closely with the MHRA, and will notify MHRA of each adverse incident report in Scotland and the results of any investigation. For example, HFS may identify a need for a MDA and will liaise with MHRA on the need for and drafting of the alert.

HFS receives adverse incident reports from NHS Boards and local authorities. It is responsible for coordinating investigations so that, as far as possible, root causes can be established and remedial action taken to prevent or reduce any identified risks.

Professional bodies

In addition to these regulators, there are also professional regulatory bodies who aim to ensure proper standards are maintained by health and social care professionals and act when they are not. In order to practice in the UK, professionals are required to register with the appropriate body.

These bodies fulfil similar functions for different professions across the UK. Their main duties are to:

- maintain an up-to-date register of professionals
- set and maintain standards for education, training and conduct
- investigate when these standards are not met or when a professional's fitness to practise is in doubt

A summary of the professions covered by each body follows. For further information on their role, please check their websites:

Healthcare professional bodies

- [General Medical Council \(GMC\)](#) - The GMC regulates doctors. HSE has a [Memorandum of Understanding with the GMC \(PDF\)](#) which is an agreed framework for co-operation and collaboration between the two organisations. The Memorandum sets out the respective roles and responsibilities and outlines mechanisms in place for effective liaison relationships
- [Nursing and Midwifery Council \(NMC\)](#) - The NMC regulates nurses and midwives
- [General Dental Council \(GDC\)](#) - The GDC regulates dental professionals in the UK. This includes dentists, dental nurses, dental technicians, clinical dental technicians, dental hygienists, dental therapists and orthodontic therapists
- [General Optical Council \(GOC\)](#) - The GOC regulates optometrists, dispensing opticians, student opticians and optical businesses
- [General Chiropractic Council \(GCC\)](#) - The GCC regulates chiropractors
- [General Osteopathic Council \(GOsC\)](#) - The GOsC regulates osteopaths
- [General Pharmaceutical Council \(GPC\)](#) - The GPC is the regulator for pharmacists, pharmacy technicians and pharmacy premises in Great Britain
- [Health and Care Professions Council \(HCPC\)](#) - The HCPC regulates healthcare professionals: arts therapists, biomedical scientists, chiropodists/podiatrists, clinical scientists, dieticians, hearing aid dispensers, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, practitioner psychologists, prosthetists/orthotists, radiographers, and speech and language therapists. From 1 August 2012, the HCPC also assumed responsibility for regulating social workers in England.

The work of these professional bodies is regulated by the [Professional Standards Authority](#) (previously known as the Council for Healthcare Regulatory Excellence). This authority aims to protect the health and wellbeing of patients and the public by scrutinising and overseeing the work of regulatory bodies that set standards for training and conduct of health and care professionals.

Social care professional bodies

- [Health and Care Professions Council \(HCPC\)](#) - The HCPC is the regulator of the social work profession and social work education in England
- [Social Care Wales \(SCW\)](#) - The SCW is the social care workforce regulator in Wales
- [Scottish Social Services Council \(SSSC\)](#) - The SSSC is the regulator of the social work profession and social work education in Scotland