

On 1 April 2011 a new independent scrutiny and improvement body replaced the Care Commission – **Social Care and Social Work Improvement Scotland (SCSWIS)**.

Contact SCSWIS on **0845 600 9527** or visit **www.scswis.com**



The Scottish Government

nationalcarestandards

care homes for people with learning disabilities

revised september 2005

dignity —

privacy —

choice —

safety —

realising potential —

equality and diversity —



national **care** standards
care homes for people with learning disabilities

dignity —

privacy —

choice —

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equality and diversity —

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ISBN: 0-978-7559-4744-7

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

Produced for the Scottish Government by RR Donnelley B57231 08/08

First published by the Scottish Executive, December 2001
Revised September 2005
Reprinted by the Scottish Government, August 2008

Further copies are available from
Blackwell's Bookshop
53 South Bridge
Edinburgh
EH1 1YS

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Introduction

national**care**standards
care homes for people with learning disabilities

Introduction

Care homes for people with learning disabilities

People with learning disabilities have the same rights and responsibilities as other people. National standards are needed to make sure that people with learning disabilities keep these rights and responsibilities when they are staying in a care home.

People with learning disabilities are a very mixed group with different experience and different support needs. Some people only need limited support to lead an independent life. Others need a very high level of support. Many people have other difficulties, including mental health problems and behaviour that challenges services. They may have complicated medical needs that are linked to physical, sight and hearing difficulties.

The Scottish Executive's review *The same as you?* emphasised that people with learning disabilities should be treated and respected as individuals with the right to decide what kind of life they want to lead. The review emphasised the importance of making sure that everyone who wants to can take an active part in their community and have full access to general services with specialist support provided when it is needed.

The national care standards

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

As a result, the standards have been developed from the point of view of people who use the services. They describe what each individual person can expect from the service provider. They focus on the quality of life that the person using the service actually experiences.

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

Before moving in (standards 1 to 6)

- 1** Informing and deciding
- 2** Trial visits
- 3** Your legal rights
- 4** Your environment
- 5** Management and staffing arrangements
- 6** Support arrangements

Settling in (standards 7 to 11)

- 7** Moving in
- 8** Making choices
- 9** Feeling safe and secure
- 10** Exercising your rights
- 11** Expressing your views

Day-to-day life (standards 12 to 19)

- 12** Lifestyle – social, cultural and religious belief or faith
- 13** Eating well
- 14** Keeping well – healthcare
- 15** Keeping well – medication
- 16** Private life
- 17** Daily life
- 18** Supporting communication
- 19** Support and care in dying and death

Moving on (standard 20)

- 20** Moving on

Using the national care standards

If you are thinking about moving into a home, you may want to look at the standards to help you decide which home to choose. If you already live in a care home, you may use the standards when discussing the service you get with:

- staff and managers;
- your social worker or care manager, if you have one; or
- someone acting on your behalf, for example, your representative¹ (see note below).

If things go wrong you can refer to standards when you raise concerns or make a complaint. (See 'Expressing your views', standard 11.)

Home owners or managers will use the standards to find out what is expected of them in offering support and care services. The standards make it clear that everything about the service should lead to you enjoying a good quality of life. They guide the owner or manager over:

- building requirements;
- whom to employ; and
- how they should manage the service.

The principles behind the standards

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

¹ The word 'representative' in these standards means an independent citizen advocate, friend or relative.

The main principles

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

Dignity

Your right to:

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

Privacy

Your right to:

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

Choice

Your right to:

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

Safety

Your right to:

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

Realising potential

Your right to have the opportunity to:

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

Equality and diversity

Your right to:

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

The Scottish Commission for the Regulation of Care

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

The Scottish Social Services Council

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

How standards and regulations work together

The Act gives Scottish Ministers the power to publish standards which the Care Commission must take into account when making its decisions. It also gives Scottish Ministers the power to make regulations imposing requirements in relation to care homes for people with learning disabilities.

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

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

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

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

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

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

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

Comments

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

www.scotland.gov.uk/health/standardsandsponsorship

You can also contact us at:

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1-6

Before moving in

- 1 Informing and deciding
- 2 Trial visits
- 3 Your legal rights
- 4 Your environment
- 5 Management and staffing arrangements
- 6 Support arrangements

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Before moving in

Introduction to standards 1 to 6

Standards in this section are grouped around aspects of the service that are offered before you move in. You need to know what choices are available to you and to receive information about the home to help you judge in advance what your quality of life will be like in a care home.

Deciding to move into a care home, even for a short time, is a big decision, and you must have proper information to help you reach that decision. You can expect the information to be up to date and reliable, and set out in a way that you can easily understand.

Trial visits

Being able to visit the care home and spend some time in it, talking to people who live there and members of staff, is essential to making a positive choice about moving in. You may sometimes want your relatives, friends, carers or representatives to be able to visit as part of helping you to decide. You can expect that providers will respect your need to have time to make a decision.

Your legal rights

You and your carer, relatives or representative must be confident that the home is being managed properly, in line with relevant legislation and guidelines. You must know what would happen in an emergency or if the home closed.

Your environment

Each care home will have its own special features and layout depending on the building and the needs of the people who use its services. The design and layout of the physical environment help to make sure that you can enjoy living in safe and comfortable surroundings. The design and layout of the physical environment should also be accessible to disabled friends or relatives who wish to visit.

The standards in this section do not describe in detail the wide variety of needs of everyone who lives in a care home. The providers must make sure that the statement of function and purpose that they give to the Care Commission when they are applying for registration describes the type of service they want to provide and who they want to provide it for. The Care Commission will make sure that the provider keeps to the statement of function and purpose.

Providers must meet legal requirements, such as those relating to the structure of the building, health and safety matters and fire safety procedures. There are other regulatory organisations which the provider must answer to about these matters. However, the Care Commission and you will want to know that the service meets all the necessary legal requirements.

Scottish Ministers have announced the physical standards for care homes for adults. These are set out in this section. They show the differences between standards for new homes (new build as well as extensions to existing buildings), and existing buildings. Existing homes will not have to meet the standards for new homes even if a change of proprietor triggers a new registration.

Management and staffing arrangements

The standards in this section are about knowing that the people who are responsible for your support and care have all the necessary experience, skills and training to meet your needs. If they are to provide you with the best possible service, they must know what works well and be able to do this for you.

Because your needs may change over time and because every person living in the care home will have their own changing needs, the provider must make sure that the management and staffing arrangements are always sufficient to meet these needs. This is reflected in the standards. They do not set exact requirements about the number and skills mix of the staff but make it clear that the service must always meet the needs of the people using it.

Scottish Ministers know it is important to have enough trained staff in care homes. They have set standards for this which applied from April 2002 onwards. These are set out in this section.

Support arrangements

You will want to know that the care home can meet your particular needs as well as giving you the opportunity to maintain or develop your interests. Personal plans take account of this, and describe the way you will receive the individual support and care that you need. You can expect that the provider will discuss your needs with you before offering you a place in the care home. You can also expect that your personal plan will change as your needs for support change.

Informing and deciding

Standard 1

You have all the information you need to help you decide about moving into, or going to stay in, a care home.

- 1** You have an introductory pack which clearly explains the moving-in process. Everything is written in plain English or in a language and format that is suitable for you. It should include:
 - the care home brochure;
 - the charges and the services they cover;
 - the accommodation and service provided;
 - the number of places provided;
 - arrangements that need to be made if private funding runs out;
 - the home's philosophy;
 - any rules that the home has;
 - the complaints procedure;
 - the most recent inspection report on the home;
 - a statement of your rights and responsibilities as a resident;
 - policies and procedures for managing risk and recording and reporting accidents and incidents; and
 - arrangements agreed with the Care Commission to be put in place if the care home closes or if there is a new owner.
- 2** Before deciding about moving into a care home, you can talk it over with the staff and others in the care home.

Trial visits

Standard 2

You have the chance to visit the home and to meet the staff, management and some of the people who live there before you move in.

- 1** You can visit the home at least once to help you decide, in your own time, about moving in.
- 2** If you want, family members, your carer or your representative may be involved in these visits, and be involved at all stages of the planned move.
- 3** You can discuss the move with people who know a lot about where you are going including the staff of the care home and other people living there.
- 4** You can get to know others who may live with you and agree how to share your home.

Your legal rights

Standard 3

You have full information on your legal position about your occupancy rights in the home. You are confident that the home is run in line with all applicable legal requirements.

- 1** You get a written agreement which clearly defines the service that will be provided. It sets out terms and conditions of accommodation and residence, including your rights to live in the home, payment arrangements, and arrangements for changing or ending the agreement.
- 2** You have a copy of this written agreement in a format you can understand.
- 3** You can ask for, and be given copies of, the care home's policies and procedures.
- 4** You can ask for, and be given confirmation that, the home meets with all the relevant legislation and guidance relating to fire, food hygiene safety, health and safety procedures, and risk management.
- 5** You are told by staff about the need to insure your personal belongings and can choose to insure them.

Your environment

Standard 4

Your environment will enhance your quality of life and be a pleasant place to live.

- 1** You will be able to move around easily in the home and its grounds.
- 2** You can expect that the home is run in a way that protects you from any avoidable risk or harm, including physical harm and infection. The nature of its design, facilities and equipment also protect you.
- 3** You can expect that the care home is kept clean, hygienic and free from offensive smells and intrusive noise throughout. There are systems in place to control the spread of infection, in line with relevant regulations and published professional guidance.
- 4** You can bring personal belongings with you into the care home, including some of your furniture.
- 5** All bedrooms and public rooms will have windows. You should expect to be able to sit somewhere and have a view out of a window.
- 6** The door to your room will have a lock which you can use. Staff will be able to open the door if there is an emergency.
- 7** You can control the heating, lighting and ventilation in your room.
- 8** You can expect that the rooms and corridors are kept in good decorative order, and that the home and furnishings are well maintained and only essential notices are displayed.
- 9** You receive information about what to do if there is a fire or other emergency.

When you are moving into an existing home, the following standards will apply.

- 10** By 2007, you will be able to have a single room if you want.
- 11** Your room should have at least 10.25 square metres of usable floor space, not including en-suite facilities² (see note below).
- 12** If you choose to share a room, it should have at least 16 square metres of usable floor space, not including en-suite facilities³ (see note below).
- 13** If the provider wants to install en-suite facilities (which may only be a toilet and wash-hand basin) these must be 3.5 square metres or more. If providers want to install a shower or bath, the same conditions as for new care homes apply⁴ (see note below).
- 14** If the provider is upgrading accommodation, they must discuss this with the Care Commission⁵ (see note below).
- 15** The shared space will be 3.9 square metres for each person living in the care home, not including corridors and circulation areas.
- 16** You will be able to lock the toilets, bathrooms and shower rooms but staff will be able to open the door if there is an emergency.

When you are moving into a new care home the following standards will also apply⁶ (see note below).

- 17** You will be able to have a single room if you choose.

² To ensure flexibility for existing provision that cannot meet this standard but is otherwise of good quality, specific criteria may be agreed with the Care Commission's registration and inspection staff to allow some existing rooms which do not meet the standard to remain in use.

³ As above.

⁴ To ensure flexibility for existing en-suite provision which is otherwise of good quality, some specific criteria may be agreed with the Care Commission registration and inspection staff to allow existing en-suite facilities which do not meet this standard to remain in use.

⁵ Providers are recommended to move as near as possible to 840 mm clear opening width off corridors of at least 1200 mm and for narrower corridors door widths will need to be wider.

⁶ A new care home means all new buildings as well as extensions to existing buildings; all conversions, and first-time registrations (not including existing local authority homes).

- 18** Your room will have at least 12.5 square metres of usable floor space, not including en-suite facilities.
- 19** If you and your husband or wife, partner or friend want to share a room, new homes will provide larger bedrooms of at least 16 square metres. All sizes exclude en-suite facilities.
- 20** You will have your own en-suite bath or shower facilities. The en-suite will include a toilet and wash-hand basin, with a shower or bath. Where the en-suite has a 'wet' floor shower, wash hand basin and toilet, the size will be at least 3.5 square metres. For a shower tray or bath, the size will need to be more than 3.5 square metres.
- 21** You will enjoy easy access, with all inside doors having a clear opening width of 840 mm, off wide corridors (of at least 1200 mm). Shared space will be at least 3.9 square metres for every person who lives in the home, not including corridors and circulation areas.
- 22** You will be in a building where there is the capacity to install modern equipment, such as:
- hoist tracking;
 - environmental control equipment;
 - call systems and alarms;
 - specialist communication equipment;
 - signs (taking account of individual needs such as sight and hearing difficulties, learning disabilities and dementia);
 - grabrails; and
 - smart technology.
- 23** If the home has more than one floor, there will be a passenger lift which you can use.
- 24** You will be able to lock the toilets, bathrooms and shower rooms but staff will be able to open them if there is an emergency.

Management and staffing arrangements

Standard 5

You experience good-quality support and care. This is provided by management and staff whose professional training and expertise allows them to meet your needs. The service operates in line with all applicable legal requirements and best-practice guidelines.

- 1** You can be assured that the home has policies and procedures which cover all legal requirements, including:
 - staffing and training;
 - administration of medication;
 - health and safety;
 - ‘whistle-blowing’;
 - environmental health;
 - fire safety;
 - managing risk;
 - proper record-keeping, including recording accidents, incidents and complaints; and
 - visits made to the home, including visits by children.
- 2** You are confident that staff know how to put these policies and procedures into practice. They have regular training to review this and to learn about new guidance.
- 3** You are confident that the staff providing your support and care have the knowledge and skills gained from the experience of working with people whose needs are similar to yours. If they are new staff, they are being helped to get this experience as part of a planned training programme.

- 4** You are confident that all the staff use methods that reflect up-to-date knowledge and best-practice guidance, and that the management are continuously striving to improve practice.
- 5** You know that the home's staff, managers and volunteers are all recruited and selected through a process which includes:
 - criminal records checks;
 - taking up references; and
 - cross-reference to the registers of the Scottish Social Services Council (Nursing and Midwifery Council), or other professional organisations, where appropriate.
- 6** You are confident that any volunteers who work in the care home are familiar with all the home's policies and procedures. They receive all the relevant training to help them put these into practice.
- 7** You are confident that at all times the number of staff who are trained and who have the necessary skills will be sufficient to meet your support and care needs. The levels are agreed between the Care Commission and the home owner or manager.
- 8** You know that at least 50%⁷ of the staff directly caring for you are either trained to at least SVQ2 level or equivalent or are working towards achieving the relevant qualification required for registration with the SSSC⁸.
- 9** You know that the service has a staff development strategy and an effective yearly training plan for all its staff. For staff caring for you directly, this focuses on them achieving the qualifications required for registration with the SSSC⁹.

⁷ Calculation of the 50% includes registered nurses employed by the service where they are working as direct care staff. Nurses are included in the 50% as they are required to be registered with their regulatory body, the Nursing and Midwifery Council, to practise as nurses. The level of qualification to gain registration is significantly higher than SVQ2.

⁸ Information on the SSSC is given in the Introduction and on its relevant registration requirements in Annex E.

⁹ The last sentence does not include registered nurses, who must be registered with their regulatory body, the Nursing and Midwifery Council, and must maintain their standards and registration every 3 years.

- 10** You know that the home has a written policy and procedures on the conditions under which restraint is used, and that staff are fully trained and supported in the use of restraint. If it is necessary to restrain you on certain occasions this will be written into your personal plan and records kept of any incidents involving your restraint. You can expect to be supported after any episode of restraint. (Restraint¹⁰ – see note below.)
- 11** If your medicines are being organised for you, you can be sure that the staff who are doing this are knowledgeable and trained to do so, following up to date best-practice guidance. The staff are fully aware of the home's systems for giving medication. They know how to store and administer your medication safely and in the way that suits you best.
- 12** You can be sure that, whether or not you are organising your own medication, the staff are trained to check this. They will, with your agreement, get advice from your GP if there are any concerns about your condition or the medication.
- 13** You know that whenever staff are involved in any financial transaction with you or for you, it will be carefully recorded. This will be in a way that can be checked by the Care Commission.

¹⁰ Restraint: control to prevent a person harming themselves or other people by the use of physical means (actual or threatened laying on of hands on a person to stop them carrying out a particular action); mechanical means (for example, wrapping someone in a sleeping bag or strapping them in a chair); environmental means (for example, using cot sides to prevent someone getting out of bed); or medication (using sedative or tranquilising drugs for the symptomatic treatment of restless or agitated behaviour).

Support arrangements

Standard 6

You can be confident before moving in that the home will meet your support and care needs and personal preferences. Staff will develop with you a personal plan that details your needs and preferences and sets out how they will be met in a way that you find acceptable.

- 1** Your personal plan reflects your changing hopes, choices, needs and responsibilities. The provider, with your permission, will use the plan to help them decide if the care service can meet your needs.
- 2** Your personal plan includes information and decisions about:
 - what you like to be called;
 - what you like to eat and drink;
 - how you spend your time and what you like doing;
 - any equipment and adaptations you may need;
 - who should be involved in reviews of your care;
 - any communication needs you may have;
 - what communication arrangements you need if your first language is not English;
 - your individual health needs and how these should be met (where appropriate, they take account of your ethnic and cultural background);
 - your arrangements for taking any medication including any need to inform professionals;
 - an independent person to contact if you want to raise a concern or make a complaint; and
 - any measures of restraint which staff may have to use for your own safety or for the safety of others.

- 3 You receive a copy of your personal plan to keep.
- 4 When moving in, you will have the chance to be assessed for the full range of equipment, adaptations and other services that you require to meet your needs.
- 5 Your personal plan is reviewed every six months, or sooner if you want.
- 6 You may choose who should be involved in the development of your personal plan and in its reviews.

7-11

Settling in

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Settling in

Introduction to standards 7 to 11

Moving in

People take time to settle into a new home, particularly if the move is going to be long term. You can expect that the manager and staff will be sensitive to your feelings and worries during this period. They will respect your right to make choices about how your accommodation is provided, and how your support and care needs are met.

You may be moving from a hospital to a community house, or from your family home to independent or supported living. Your family are also likely to need support because any change will affect them as well as you.

You may also need support to move from being a child using residential services for children to becoming an adult using residential services for adults. Staff in your new home have an important contribution to make in supporting your family during and after the move.

When you move, you can expect that you, your family members and others will be involved in all stages of planning related to the move.

Making choices – feeling safe and secure

You have the right to make decisions about your life and care in the home. For a few people, however, individual circumstances will limit this opportunity. If you lack the capacity to make a decision, you will come under the provisions of *The Adults with Incapacity (Scotland) Act 2000*. Where relevant, you may be safeguarded by the provisions of *The Mental Health (Scotland) Act 1984*. You also have the right to choose the risks you want to take, as long as there is a sensible balance between your individual needs and preferences, and the safety of staff and other people living there.

Exercising your rights – expressing your views

The staff and manager must always respect and actively promote your rights. You keep your rights and you must also respect other people's rights. The care home must take your comments, concerns and complaints about the quality of the service and your experience of it seriously. They are your way of contributing to and influencing how the home is run and how the services are delivered.

You have the right to speak for yourself and people may only speak on your behalf with your agreement. This includes your relatives and friends, volunteers, service providers and social work and health professionals. Everyone may have an opinion, but only you really know what you want and the views of others should never be represented as your own.

Sometimes, people need help in making informed choices or in expressing their views. You may wish to appoint an advocate to help you do this. An advocate can be informal – for instance a relative or a friend – or can belong to a formal service provided by an advocacy organisation. Either way, it is important that everyone involved understands when someone is speaking on your behalf or whether they are expressing a personal or a professional view.

Moving in

Standard 7

When you first move in, you are welcomed and encouraged by staff who are expecting you and who have made arrangements to introduce you to the other people living there.

- 1** You have a named member of staff (key worker), who will draw up your personal plan with you, check its progress and stay in regular contact with you and everyone involved in providing your support and care.
- 2** You can discuss your needs at all reasonable times with your key worker.
- 3** If you are not certain about whether you are making the right move, you can speak to the staff or your representative who will discuss with you the choices that are available to you.

Making choices

Standard 8

You have the right to make decisions and choices about your life, and the support and care you receive.

- 1** You achieve the aims set out in your personal plan, helped by the support and care of skilled staff.
- 2** You have information about the choices that are available to you while you live in the home, and the effect they will have on you. If you want, you can ask for an independent representative or for specialist advice.
- 3** You have time to think about your choices without having to decide straightaway.
- 4** Unless there are legal reasons for you not to do so, you can carry out your own financial, legal and other personal business at a time that suits you. You can decide who should know about and have access to your personal business.
- 5** You can keep and control your money and your personal belongings, unless your individual circumstances mean that specific legal arrangements have been made to look after them for you.
- 6** You have as much control as you want over reviews and other meetings.
- 7** You can employ your own worker or personal assistant as well as using staff who are employed in the home.
- 8** You are helped by staff to get information on your financial rights, your benefits and allowances, and the management of your own money. You have the chance to spend your money in a way that lets you do the things you want.
- 9** You can expect that there are proper financial systems in place to administer your financial affairs where you are unable to do so (in accordance with The Adults with Incapacity Scotland Act 2000).

- 10** If you want to be involved in planning and buying household shopping, you can be supported to do this.
- 11** You can expect to be involved in collecting any weekly benefits you receive and putting your money in the bank with whatever support you need.
- 12** You can expect to choose clothes and personal items, to be involved in buying them and to be supported as necessary.

Feeling safe and secure

Standard 9

You are allowed to take responsibility for your own actions, secure in the knowledge that the home has proper systems in place to protect your interests.

- 1** A sensible balance is offered to you in everyday events and activities, between the reasonable risks you want to take and the safety of the staff and other residents. This results from the home's individual risk assessment approach.
- 2** You are fully involved in your own risk assessment, as are any other people you may want to be involved, such as a family member or representative. You receive a copy of your risk assessment report.
- 3** You can discuss risks with staff. You receive guidance and support to live safely in your home and to take part in all the activities it offers. If there are any particular risks associated with these activities, staff will make sure you are given additional information and support.
- 4** You can contact someone quickly and easily when you need help or in an emergency, using a reliable and efficient alarm system.
- 5** You are reassured about your safety from intruders by knowing that the home has a system where all visitors need permission before they can come in.
- 6** Staff record and investigate any accidents or incidents, including any episodes of restraint, telling relatives, carers or other representatives if you want them to.
- 7** You are confident that you are living in an environment that is free from bullying, harassment and any other form of abuse.
- 8** You are confident that staff will not use restraint at all unless it is permitted by law and even then restraint will not be used until other interventions have failed (unless it is legally required).

Exercising your rights

Standard 10

You keep your rights as an individual.

- 1 You are confident that staff will treat you politely at all times and always respect your individuality.
- 2 Staff call you by your preferred name or title at all times.
- 3 If you need help, your request will be dealt with politely and as soon as possible.
- 4 Confidential information about you is only shared with others if you give permission, unless the law requires otherwise.
- 5 If any information cannot be kept confidential you will be told why not and who has the right to see it.
- 6 You can see for yourself that your records are kept confidential and that access to them is only allowed in controlled circumstances.
- 7 You know that any allegation of discrimination is properly investigated.
- 8 You are helped to understand your rights and responsibilities in relation to equal opportunities.
- 9 You are supported in keeping your civil rights (for example, in voting at elections).
- 10 If your behaviour challenges the service you receive, you receive good professional support to understand and, if possible, change your behaviour.
- 11 If your challenging behaviour is caused by the way the service is run staff will change their service arrangements to help you reduce the behaviour.
- 12 If physical restraint is needed to protect yourself or others at any time, this will be used as a last resort, as gently as is possible, and only in accordance with written guidelines.

- 13** When staff cannot support you, you receive specialist support from outwith the care home to help with your behaviour.
- 14** If you choose to stay in your care home regardless of your challenging behaviour, staff will continue to offer you support and care. They will help you decide if this is the best decision for you and make sure you understand about the rights of other people living in the care home. Sometimes legal requirements may demand that you move to a place of safety without your agreement.
- 15** You are treated with respect and keep your dignity in all activities, including personal care, healthcare, social activities and community life. Wherever possible and practical you or your representative will be able to choose if a male or female member of staff carries out personal care tasks.
- 16** You are treated as an adult, with your needs as you grow older being taken into account.
- 17** You can choose how you look and how you dress. Where necessary, staff can sensitively guide you in the way that is set out in your personal plan.

Expressing your views

Standard 11

You are encouraged to express your views on any aspects of the care home at any time.

- 1** You can freely discuss any concerns you have with your key worker, other residents or any member of the care home's management.
- 2** You know how to make a complaint or comment to the home about the service. You are also aware of the procedure for making formal complaints directly to the Care Commission.
- 3** The home deals with concerns and complaints quickly and sympathetically, and provides full information about what will happen as a result of the complaint.
- 4** You are supported and represented if you have a disagreement with another individual, including a member of staff. If you wish to have other people to help you express your views, staff will have information about any independent and confidential advocacy service that can help you in this way and will encourage and support you to use it.
- 5** If you have a representative, staff will listen to what he or she has to say on your behalf, as if you were expressing the views yourself.
- 6** If you belong to an advocacy group, staff will take seriously any suggestions or proposals that come from the group.
- 7** You can play a part in the Care Commission's inspection of your service. The purpose of the inspection is explained to you and you are free to tell the Care Commission what you like and dislike about where you live.
- 8** The manager of your care home will make available a copy of each inspection report about the home so that you and your representative can look through it in your own time.

12-19

Day-to-day life

- 12 Your lifestyle – social, cultural and religious belief or faith
- 13 Eating well
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Day-to-day life

Introduction to standards 12 to 19

The standards in this section focus on the ways in which the service promotes your general health and wellbeing. They are an important means of making sure that your quality of life is maintained or improved, and that you feel part of the everyday activities that are going on around you.

Your lifestyle – social, cultural and religious belief or faith

The principle of valuing diversity means that you are accepted and valued for who you are. The standards in this section make it clear that you can continue to live your life in keeping with your own social, cultural or religious beliefs or faith when you are in the care home.

Eating well

Good, nutritious food and drink are important in keeping and improving your health. Individual choices of food and drink vary, as do dietary needs. Having your own needs and choices met is an important part of the quality of day-to-day life.

Keeping well

Keeping healthy or regaining your health are important to your wellbeing and quality of life. You have a right to have your health needs met and to have support in using the full range of healthcare services. You also have a right to have your medication arranged efficiently and safely.

Private life

How you spend your day is up to you. You do not have to be with other people all the time. Staff will respect your wish to be on your own. You can entertain your friends and relatives in your own room.

Daily life

Living in a care home, you continue to be very much part of your own community, and to enjoy ordinary daily life.

Supporting communication

People have different ways of communicating. Some speak a language other than English while others may use their own gestures or signs. Sometimes as a result, people may have difficulty making themselves understood. However, being able to communicate is an essential part of letting staff know what your needs are and playing an active part in the care home. For more information about making information accessible contact The Scottish Accessible Information Forum, Royal Exchange House, 100 Queen Street, Glasgow G1 3DN.

Support and care in dying and death

The staff at the home should care sensitively for people who are dying, with extra services brought in if they are needed. The staff should handle each person's death with dignity and sensitivity, in line with their spirituality, culture and faith, and those of their family.

Friends, relatives and carers outside the care home also need help and support at these times. They should be welcome to visit the care home while the person is being cared for, and after his or her death as part of their grieving process.

Lifestyle – social, cultural and religious belief or faith

Standard 12

Your social, cultural and religious beliefs or faith are respected. You are able to live your life in keeping with these beliefs.

- 1 You are given the opportunity and support you may need to practise your beliefs, including keeping in touch with your faith community.
- 2 Staff make sure they are properly informed about the implications of your social, cultural and religious belief or faith for you and other people living in the care home.
- 3 Your holy days and festivals, birthdays and personal anniversaries are recognised and ways found to make sure you can mark and celebrate these as you choose.
- 4 The social events, entertainment and activities provided by the care home will be organised so that you can join in if you want to.

Eating well

Standard 13

Your meals are varied and nutritious. They reflect your food preferences and any special dietary needs. They are well prepared and cooked, and attractively presented.

- 1** Catering and other staff get to know your food choices and any ethnic, cultural, faith or other preferences you have. Any special diet (for example, vegetarian, low-fat or high-protein) is recorded in your personal plan.
- 2** You are offered a daily menu that reflects your preferences. The menu varies regularly according to your comments, and will always include fresh fruit and vegetables.
- 3** You have a choice of cooked breakfast and choices in courses at the midday and evening meals.
- 4** Meals are nutritionally balanced for your dietary needs, for example, if you have diabetes or poor kidney function or need a liquidised or textured soft diet.
- 5** You can have snacks and hot and cold drinks whenever you like.
- 6** If you are unable to check if you are getting enough of the right things to eat or drink, staff will keep an eye on this for you. If, for any reason, you are not taking enough staff will explain this to you or your representative. With your agreement, staff will take any action needed, including seeking advice from a dentist, dietician, speech and language therapist or your GP.
- 7** If there is anything that may affect your ability to eat or drink, for example problems with your teeth or with swallowing, you are confident that this will be assessed and regularly reviewed. Staff will provide appropriate help, for example, adapted cutlery and crockery, a liquidised diet, or someone to assist you with eating and drinking in a discrete manner, in a way that suits you and respects your dignity.

- 8** If you are unable to take food or drink by mouth you get these by other means, for example PEG or parenteral feeding, in a way that best suits you and respects your privacy and dignity.
- 9** You enjoy meals that are well presented. All food handling follows good food-hygiene practices.
- 10** You are free to eat your meals wherever you like, for example, in your own room or in the dining room. You can take them in your own time.

Keeping well – healthcare

Standard 14

You are confident that the staff know your healthcare needs and arrange to meet them in a way that suits you best.

- 1** You continue to be registered with your usual GP and dentist. If this is not possible, staff will help you to register as quickly as possible with a new GP and dentist of your choice from those providing services in the area of the home.
- 2** If you have been receiving community healthcare services (for example, physiotherapy, speech and language therapy, occupational therapy or advice on your diet) and still need them, you will continue to receive them in the home. Otherwise, the staff will make new arrangements for you.
- 3** If you have been receiving hospital healthcare services, for example review of your epilepsy and its treatment or for heart or eyesight problems, and still need these you are supported and helped to get them.
- 4** During your first week in the home, and at least every six months after that, you will receive a full assessment of your health to find out all your healthcare needs. This will include the need for any emergency treatment, for example, treatment for an epileptic seizure and the staff will ensure that these are met. Staff will record all assessments and reviews of your healthcare needs.
- 5** You are given information about the range of hospital services that you might need for your healthcare needs.
- 6** If your review shows that you need help or advice, for example, from a speech therapist, dentist, GP, dietician or someone else, staff will arrange this for you and help you to follow any advice you have been given.
- 7** If you become ill, or your health is not improving, either physically or emotionally, and you need healthcare¹¹ (see note below), you know that the staff will make arrangements for this straightaway, if you cannot do so yourself.

¹¹ GP; dentist; optician; counselling; services accessed *via* your GP, dietician, speech and language therapist, occupational therapist, physiotherapist, hospital care including psychiatry.

- 8** If you need it, you are given support and help to attend any consultations about your health and also have someone to help explain about your health if you have any difficulty with communication.
- 9** You can expect the staff to be aware of issues of assessing and managing any symptoms, including pain, that you may have, and how to access specialist services.
- 10** You will receive information about preventive healthcare (for example breast, cervical, and prostate cancer screening, blood pressure screening, immunisation and regular check-ups). If you want to take part in any of these, staff will help you to do so.
- 11** If you have any problems, or need advice, about intimate aspects of your health, for instance your sexual health, you can ask your key worker or other member of staff where to get information and help for this.
- 12** If you want to use complementary therapies you can ask your key worker or other member of staff where to get information about these.
- 13** You can be confident that the provider is aware of your nutritional state and will, with your agreement, arrange for this to be regularly assessed and reviewed. This assessment will take account of any special health needs you may have or any changes in your health.
- 14** If there are concerns from the review of your nutritional state, staff will explain these to you or your representative and will arrange further advice, for example, from your GP, dentist, a dietician, a speech and language therapist.
- 15** If you have any personal care equipment you can get help and support to look after it and maintain and repair it.
- 16** If you want to, you will be able to take part in physical activities in or outside the home which help you maintain a healthy lifestyle.

Keeping well – medication

Standard 15

If you need to take medication, staff know this and there are arrangements in place for you to take your medication safely and in the way that suits you best.

- 1** You can choose whether to manage your own medication unless there are specific legal provisions applying to you that prevent this.
- 2** If you are managing your own medication, you will be given your own lockable storage to keep your medication in your room. If you need it, you will also have special storage somewhere else (for example, in a fridge) that is secure and accessible to you.
- 3** You can get help from the staff with arranging the ordering and collecting of your prescriptions if you want or need it.
- 4** If you are on medication that someone else needs to administer (for example, an injection), the staff will do this in a way that recognises and respects your dignity and privacy, as set out in your personal plan.
- 5** If you have any questions or need advice about your medication which the staff cannot answer, they will help you to get the advice from your community pharmacist, GP or another member of the primary care team.
- 6** If you need tests as part of the routine review of your medication staff will make arrangements for you to have these.
- 7** If you have your medication managed for you, you can be confident that the home has comprehensive systems in place for ordering medication and for its safe storage and administration, and for the safe disposal of unused medicines.
- 8** You know that any medication you receive will have been prescribed for you.

- 9 You can expect staff to be aware of issues around the assessment and management of any symptoms you may have, including pain, and how to access any specialist services.
- 10 You are confident that staff will monitor your medication and the condition for which it has been prescribed. If there are any changes or concerns about the medication or the condition, including side effects they will get medical advice if you agree.
- 11 You are confident that the home keeps accurate, up-to-date records of all the medicines that have been ordered, taken or not taken, and disposed of.
- 12 If you are capable of understanding that you need to take medication and what will happen if you do not do so, but you refuse to take it, staff must respect your wishes.
- 13 You may not understand that you need to take medication and what will happen if you do not do so. If so, there are legal powers¹² (see note below) that allow other people to give permission for you to receive treatment if it is necessary for your health and welfare. Staff will not give medication except in accordance with the law. Even where the law allows medication to be given without consent, it will not be given in a disguised form unless you have refused and your health is at risk and this will be recorded.
- 14 You know that if any drugs go missing, the staff will take the necessary action to report this to the relevant authorities.

¹² Adults with Incapacity Act 2000, Mental Health (Scotland) Act 1984.

Private life

Standard 16

Your rights to privacy are respected.

- 1** You have control over who goes into your room or living space, and when this happens. Your door will have a locking system that you can use but staff will be able to open it if there is an emergency.
- 2** You have a lockable space for personal belongings in your own living space.
- 3** Staff consult you about visits and visitors, and protect you from unwanted attention.
- 4** You can entertain visitors and friends in private.
- 5** You can give visitors refreshments and sometimes share meals with them.
- 6** Staff can help you to arrange meetings with visitors, and to help your disabled friends and relatives into and around the building.
- 7** You can discuss your needs in confidence and privacy with whoever you choose.
- 8** You will be helped with intimate physical care or treatment sensitively and in private, in a way which maintains your dignity.
- 9** Staff will knock on your bedroom, toilet and bathroom doors, and wait for you to say they can come in.
- 10** You have a key for, or some way of accessing, the main (front) door. You have support to safely leave or enter your home as you choose and if you need it.
- 11** Staff recognise that your sexuality and sexual needs and preferences are important to you. They accept and support your right to have intimate relationships that you have consented to in the privacy of your home and if it is legal to do so.

- 12** Your family can discuss their concerns with relevant staff members in private and without interruption.
- 13** If you are a parent you will be supported to retain and fulfil your parental responsibilities and if you wish can receive help and support with parenting skills.
- 14** You can make and receive phone calls in private and receive mail, including e-mails, in private, unless there are good reasons to prevent this. If this is the case, staff must explain these reasons to you and record them. You receive your mail unopened but receive help in dealing with it if you ask for this.
- 15** You can spend time on your own if you want to.
- 16** Young children coming to visit you have somewhere safe to play and to be looked after.
- 17** You do not have to stick to routines that fit in with staff.
- 18** You are free to come and go as you please, although sometimes this may need to be worked out in line with your personal plan. You will know about any restrictions on leaving or coming into the home, or when you get up or go to bed.
- 19** Your personal possessions and clothing are treated with respect. Your clothing will be clearly identified as yours and it will not be acceptable for you to have to share your possessions unless you choose to do so.

Daily life

Standard 17

You are supported to make choices and decisions about day-to-day aspects of your life and about how you spend your time.

- 1** You can keep up relationships with friends, relatives and carers and links with your own community. If you want, the staff will support you to do this.
- 2** If your personal plan says you should have opportunities for education, training and work, staff will help you find these. Staff do everything possible to give you access to college courses, community education and other learning. If you have serious disabilities, you have one-to-one support to help you to be included in these opportunities.
- 3** If you have serious disabilities, staff will help you to get involved in activities that benefit you, while still giving you a choice.
- 4** You can choose activities and holidays, with up-to-date information in a form you can understand. Information will include details of any concessionary schemes. Staff help you to get involved.
- 5** The social events, entertainment and activities provided by the care home will be organised so that you can join in if you want to.
- 6** You are supported and encouraged to use local services such as hairdressers, shops and banks.
- 7** You have access to information about local events, facilities and activities.
- 8** You know that the staff will explain, justify and record any limits on your independence in your personal plan and know that these limits will be reviewed regularly (for instance your activities may be affected by specific legal provisions which apply to you if you are on guardianship and as part of this are required to take part in particular education or employment projects).
- 9** You know that the staff are trained to listen to people living in the care home.
- 10** Young children who come to visit you will have somewhere safe to play and be looked after.

Supporting communication

Standard 18

You have help to use services, adaptations and equipment for communication, if your first language is not English or if you have any other communication needs.

- 1** Your communication needs are regularly assessed and reviewed by an appropriately qualified professional, for example a speech and language therapist or a clinical psychologist.
- 2** Where you need special assistance to communicate, staff will ensure that your needs are assessed by someone who is qualified to do so and that you will receive whatever training, adaptations or equipment are necessary.
- 3** You can ask family, friends, carers or other people to support your key worker and staff in communicating with you in ways that suit you and at your own pace.
- 4** You can prepare for important events (for example, reviews and hospital appointments) and have time to communicate feelings, views and answers.
- 5** Your family members receive support from staff to keep in contact with you. Where you choose, your family receive information on your social wellbeing and health and events in your life that are important to you and to them. This takes account of your right to privacy.
- 6** If at all possible, your family are offered overnight accommodation when they have to travel a long way to visit you.

Support and care in dying and death

Standard 19

You are confident that the staff will be sensitive and supportive during the difficult times when someone dies.

- 1** You are confident that any death in the care home will be handled with dignity, sensitivity and discretion.
- 2** If you lose someone close to you, you will be fully supported. You will have the opportunity to say goodbye or go to the funeral if you want. The staff will be available to help and support you.
- 3** If you wish, you can say what you want to happen and who should be informed about your physical, personal and spiritual care in dying, death and funeral arrangements. You can be confident that your wishes will be carried out.
- 4** The staff will make sure that your bereaved relatives, friends and carers can spend as much time with you after your death as they need to. They will support your relatives and friends through the formal processes relating to death, such as arrangements about your belongings.

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Moving on

20 Moving on

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Moving on

Introduction to standard 20

Moving on should be a positive experience. You should be able to choose where you move to, and be ready to accept your responsibilities. You should be confident about using the knowledge and skills you learnt while living in the home.

If the move is to be successful, you must be able to take your time. As you did when you first moved into the care home, you can expect that you, your family members and 'circle of support' will be involved in all the planning stages related to moving on. You should have up-to-date and accurate advice about independent living options, including direct payments.

Moving on

Standard 20

You are involved in plenty of time in planning and discussing how best to prepare for you to move on. The planning and discussion also involve your carer or representative (or both), and the staff at the home.

- 1** You can visit the place you are moving to and keep your current accommodation while you make a decision about moving.
- 2** You have the opportunity to keep up friendships.
- 3** You are involved in assessing the possible risk for yourself or others if you move.
- 4** You and your relatives receive social and emotional support during and after the move. You have regular contact with the same worker throughout and after the move.
- 5** If you have to leave because the home can no longer provide for your needs or has to close, the move will involve the least amount of risk and disruption to you.
- 6** Your records are passed on to your new service provider as soon as possible. They will be complete and up-to-date, and will have been put together with your involvement and agreement.
- 7** You have a representative and family support to help you make the move.

When you move from a children's service to an adult service

- 8** You are supported by a named worker throughout the move and you will have regular contact with that person.
- 9** Staff in your old and new homes will work closely together to make sure the move goes smoothly.
- 10** You are involved in all meetings in relation to your move and future.
- 11** You have an independent representative, family support and 'circle of support' to help you make the move.
- 12** You are provided with clear and co-ordinated information that you can understand on what will happen to you during the move.
- 13** Staff from your new care home are involved in the discussion about your future plans and are made aware of how the change will affect you emotionally.

Annex A

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Annex A

Glossary

Advocate or Advocacy

Someone who helps you to say what you need and to make your own decisions, and who acts as your representative.

Carer

A person who supports or looks after family, partners or friends who need help because they are ill, frail or have a disability. The care they provide is unpaid.

Circle of support

A group of friends who support you.

Citizen advocate

An unpaid volunteer who is independent of the services that you receive. This advocate represents your needs and supports you to make sure you get your rights.

Complaints process

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

Communication passport

A communication passport is a folder of information about things like what you want to be called, food preferences and so on. You must take it wherever you go. Sometimes this can be in the form of a tape.

Format

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

Infection control

Programmes of disease surveillance, generally within healthcare facilities designed to investigate, prevent and control the spread of infection and the micro-organisms which cause them.

Informed choice

Where a person is told about the nature, purpose and likely effects of any actions before they make a decision.

Intervention

Action that will benefit the person who is receiving a service.

Key worker

The person (who may be a nurse for people receiving nursing care) who is responsible for co-ordinating your personal plan, monitoring its progress and staying in regular contact with you and everyone involved.

Legislation

Laws passed by Parliament.

Named worker

see Key worker

NMC

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

Personal assistant

The personal assistant (or PA for short) is a worker who provides support with day-to-day activities such as dressing, bathing, eating and getting around – in other words, the kind of basic tasks which you may need help with to live an active life. You employ him or her so you decide how and when you need help.

Personal care

Help with the day-to-day physical tasks and your needs, including helping you to remember to do things such as eating and washing.

Personal plan

A plan of how the support and care service will be provided, agreed between you (and your representative) and the service provider.

Policy

A statement of what will happen in a given situation.

Primary care team

GPs and other health professionals who provide healthcare in the community.

Procedure

The steps taken to fulfil a policy.

Provider

The owner or manager of a care home or service.

Representative

A person acting on your behalf who may be an independent citizen advocate, friend or relative.

Restraint

Control to prevent a person from harming themselves or other people by using:

- physical means (actual or threatened laying on of hands on a person to stop them carrying out a particular action);
- mechanical means (for example, wrapping someone in a sleeping bag or strapping them in a chair);
- environmental means (for example, using cot sides to prevent someone from getting out of bed); or
- medication (using sedative or tranquillising drugs for the symptomatic treatment of restless or agitated behaviour).

Risk management

A systematic approach to the management of risk, to reduce loss of life, financial loss, loss of staff availability, safety, or loss of reputation.

Strategy

A long-term plan.

Usable floor space

Space which is available to use for furniture, personal belongings and daily living.

Whistle-blowing

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

Annex B

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Annex B

Useful reference material

Legal

The Adults with Incapacity (Scotland) Act 2000

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

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

The Children (Scotland) Act 1995

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

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

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

The Community Care (Direct Payments) Act 1996

This came into force in 1997. It allows local authority social work departments to give disabled people a Direct Payment to enable them to buy the community care services they have been assessed as needing.

The Data Protection Act 1998

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

The Disability Discrimination Act 1995

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

Fire Precautions (Workplace) Regulations 1997 (as amended)

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

The Health and Safety at Work etc Act 1974

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

The Human Rights Act 2000

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

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

The Mental Health (Care and Treatment) (Scotland) Act 2003

This Act sets out how a person can be treated if they have a mental illness and what their rights are.

The Misuse of Drugs Act 1971

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

The Police Act 1997

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

The Public Interest Disclosure Act 1998

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

The Race Relations Act 1976

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

The Race Relations (Amendment) Act 2000

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

The Regulation of Care (Scotland) Act 2001

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

You can visit these websites for information:

- Regulation of Care (Scotland) Act 2001
www.scotland-legislation.hmso.gov.uk/legislation/scotland/acts2001/20010008.htm
- Regulation of Care (Scotland) Act 2001 Statutory Instruments
www.scotland-legislation.hmso.gov.uk/legislation/scotland/s-200201.htm

The Rehabilitation of Offenders Act 1974

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

The Sex Discrimination Act 1975

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

Policy

Aiming for Excellence: Modernising Social Work Services in Scotland 1999

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

Our National Health 2000

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

Renewing Mental Health Law 2001

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Annex C

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Annex C

What is personal assistance?

Personal assistance has been developed by disabled people as a more flexible way of obtaining help with day-to-day activities such as dressing, bathing, eating, getting around, cooking, cleaning – in other words, the kind of basic tasks which you may need help with to live an active life. Personal assistance can also help you to do a paid job or attend college courses.

What makes personal assistance different is that it is you who employs the worker providing support (the personal assistant or PA for short) rather than an agency, a voluntary organisation or the local authority. This means that it is **you** who decides:

- **what** tasks the PA does – i.e. what's in the job description and what you need help with at any given moment.
- **when** you need help – e.g. getting up and going to bed when it suits **you**;
- **who** provides the assistance – **you** recruit, interview and appoint the PAs you want to work for you;
- **where** you need assistance – e.g. you might want help going to an evening class, meeting a friend for lunch, or going away on holiday; and
- **how** help is provided – as you are the employer, it is easier for you to get help provided in a way you feel most comfortable with.

Most people who employ PAs find that being the employer creates a better relationship that allows them to receive the help they need in a flexible way. Of course, along with the added choice and flexibility comes extra responsibility. For this reason, PA schemes do not suit everybody. However, if needed, help is often available with activities such as applying for funding, recruiting workers, managing staff on a day-to-day basis, or administering payroll and other paperwork.

If you are interested in employing personal assistants, try contacting your local disability advice organisation or social services department.

Annex D

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Annex D

What are direct payments (for self-directed care)?

Direct payments (cash) enable self-directed care, i.e. you direct and manage the care services you have been assessed as needing, instead of receiving services arranged by the local authority. They are one way of increasing the flexibility, choice, and control you have over the community care you receive, in order to help you live more independently. The social work department assesses you as needing care services, and you can decide to become responsible for buying some or all of the care that you need. This can make a real difference as you can decide who comes into your house to provide support, and the priority given to different tasks in any given day, such as when you go to bed at night. As long as the money is used to meet your assessed care needs, it is up to you how it is spent.

To be eligible to receive direct payments you must be:

- a disabled adult or child, or an older person aged 65+;
- assessed as needing community care or children's services;
- able to consent to arrangements; and
- able to manage direct payments, with or without assistance.

You cannot receive direct payments if you are:

- subject to certain mental health or criminal justice legislation.

You can use direct payments for the following:

- buying a homecare package from an agency or voluntary organisation;
- employing your own personal assistants (PAs);
- equipment and temporary adaptations;
- short respite breaks (there are limits on the length of respite that can be bought);
- children's services that your child may require if you are a disabled parent;

- housing support services; and
- local authority care services (your own local authority or a neighbouring one).

You cannot use direct payments to:

- employ certain categories of close relative; or
- purchase permanent residential care places.

Your local authority must be satisfied that:

- the arrangements you make will meet your assessed needs;
- you are in control of how the money is spent;
- appropriate records are being kept either by you or your nominated agent/s (for example a payroll service); and
- you are getting best value for the money you are spending.

If you want to know more about direct payments, there are people who can help. If you're already getting care, you can speak to your care manager or home care organiser. In addition, Direct Payments Scotland, SPAEN and the Scottish Helpline for Older People (see below) can offer independent advice and put you in contact with local support organisations which can offer practical help (e.g. pre-assessment support, a payroll service).

Direct Payments Scotland and UPDATE

27 Beaverhall Road

Edinburgh

EH7 4JE

Tel: 0131 558 5200

Fax: 0131 558 5201

Minicom: 0131 558 5202

Email: info@dpscotland.org.uk

Website: www.dpscotland.org.uk

Scottish Personal Assistant Employers Network (SPAEN)

Unit 9

Motherwell Business Centre

Coursington Road

Motherwell

ML1 1PR

Tel: 01698 250280

Fax: 01698 250236

Email: info@spaen.co.uk

Website: www.spaen.co.uk

The Scottish Helpline for Older People (SHOP)

Tel: 0845 125 9732 (open 10am to 4pm, Mon to Fri; calls are charged at local rate).

Textphone: 0845 226 5851

Annex E

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Annex E

Information on SSSC Registration

The Scottish Social Services Council (SSSC) has set the qualification requirements and the timescales for different groups of workers to be registered with the SSSC. This includes:

- registration of Heads of residential adult and day care services – commencing in December 2005; and
- registration of all adult residential care workers – commencing in 2006/2007.

Heads of residential and adult day care – are workers designated as the ‘Fit Person’ to act as a manager of a care service for the purposes of regulation of services by the Care Commission.

Adult residential care workers – since there are a wide range of job titles used in adult residential care the SSSC has categorised the parts of the Register for adult residential care workers on the basis of job functions. Therefore, there will be a part of the Register for each of the following categories of adult residential care workers:

Support workers are workers who have delegated responsibility for providing care and support to adults using residential care.

Practitioners are workers who provide care and who have responsibilities for co-ordinating the implementation of care plans. This may include holding key worker responsibilities.

Supervisors are workers who have responsibilities for supervising staff and for overseeing and monitoring the implementation of care plans.

The SSSC may register workers without the relevant qualification subject to the condition that they meet all other criteria for registration and that they gain the qualification within a specified period of time, normally the first three years of the registration period. Access to registration will have to be gradual in order to allow sufficient time for workers to access and achieve the required qualifications.

There is a range of qualifications that can meet the requirement for registration. To obtain a copy of the full list go to www.sssc.uk.com or telephone 01382 207101 or email enquiries@sssc.uk.com

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First published December 2001

Revised September 2005

This document is also available on the Scottish Government website:

www.scotland.gov.uk

RR Donnelley B57231 08/08

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ISBN 978-0-7559-4744-7

