Employing nurses in local authorities

RCN guidance
Acknowledgements

The RCN wishes to thank the following for their involvement and support in the development of this publication:

Jon Sutcliffe and colleagues at the Local Government Association

Public Health England’s Nursing and Midwifery Directorate: Viv Bennett, Director of Nursing Department of Health & Public Health England and Joanne Bosanquet, Deputy Director of Nursing & Midwifery

Julie Bolus, NHS England

Kathryn Rowles, Public Health England

Barrie Brown, Unite

Gary Kirwan, RCN Employment Relations Adviser

Helen Donovan, RCN Public Health Adviser

Sheila Marriott, Regional Director RCN East Midlands.

This publication is due for review in September 2015. To provide feedback on its contents or on your experience of using the publication, please email publications.feedback@rcn.org.uk
# Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>4</td>
</tr>
<tr>
<td>Employer’s responsibilities</td>
<td>5</td>
</tr>
<tr>
<td>Accountability</td>
<td>6</td>
</tr>
<tr>
<td>Confidentiality</td>
<td>7</td>
</tr>
<tr>
<td>Appraisals</td>
<td>7</td>
</tr>
<tr>
<td>Continuing professional development (CPD)</td>
<td>7</td>
</tr>
<tr>
<td>Clinical governance and leadership</td>
<td>8</td>
</tr>
<tr>
<td>Indemnity insurance legislation</td>
<td>9</td>
</tr>
<tr>
<td>Transfer scheme list</td>
<td>10</td>
</tr>
<tr>
<td>NMC revalidation</td>
<td>11</td>
</tr>
</tbody>
</table>
Introduction

This guidance has been developed by the RCN in collaboration with colleagues from the Local Government Association (LGA) in order to support nurses employed in local authorities and those employing them. For employers, this guidance should assist in supporting the effective recruitment and retention of nurses, particularly where they may not previously have employed nurses.

Nurses represent the largest clinical workforce and work in, and for, a variety of organisations, including local authorities. The numbers employed in this way through public health teams with the local authorities has increased significantly since the introduction of the Health and Social Care Act in 2013.

There are hundreds of nurses and health visitors now working across local authorities in England. The future employment of nurses in local authorities is largely unknown; however, the increasing public health role of local authorities and the integration agenda with health and social care mean that it is likely the numbers will increase.

It is therefore important that local authorities’ staff are aware of the accountability and employment needs of nursing staff. The responsibility for professional public health nursing leadership rests with Public Health England’s (PHE’s) Nursing and Midwifery Directorate. PHE will work with the LGA and others to support nurses employed directly by local authorities as required.

This publication outlines the key principles for consideration for nurses working within local authority teams and for those employing them and providing line management, clinical support and supervision. It is specifically relevant where a local authority is seeking to recruit a person with a current and active nursing registration that is identified as being an essential or desirable part of the person specification for the post.

The RCN has a membership of around 415,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nursing cadets. It is the voice of nursing across the UK and the largest professional union of nursing staff in the world. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the government, the UK parliaments and other national and European institutions, trade unions, professional bodies and voluntary organisations.
Nursing as a profession has been moving towards all nurses being educated to degree level since 1990. However, not all nurses currently in practice will have degrees. Nurses are regulated by the Nursing and Midwifery Council (NMC) which is the regulatory body for all 670,000 registered nurses in the UK. Nurses will usually start their careers in the NHS, where pay and terms and conditions of service are covered under Agenda for Change arrangements. The starting grade/band for a newly-qualified nurse in the NHS is a Band 5. In local authorities, this covers a range from £21,388-£27,901 excluding London and fringe allowances. This range is covered roughly by scale points 24-33 on the local government spinal column (after the 2014 pay proposals) and may cover three or four grades in local structures.

Details of the pay scales are available on the NHS careers web site.

**Employer’s responsibilities**

When employing nurses employers should:

- check that the nurse’s registration with the NMC is current and valid. This should be part of the pre-employment checks and be done annually
- consider what clinical attributes a nurse will bring to the particular post
- consider how the individual can maintain regulation and receive clinical support and supervision. This may not be immediately available within the team so is there someone in a partner organisation who can provide this?
- it is important that lines of accountability are identified for employment and clinical support
- in most local authorities pay grading may depend amongst other factors on the number of staff the post holder has to manage. Nurses may not have to supervise anyone, and the banding needs to recognise they are being employed for their professional expertise and knowledge, similar to, for example, solicitors employed by the councils.

For more advice on employing nurses please go to at [www.rcn.org.uk](http://www.rcn.org.uk), the NHS Employers’ website at [www.nhsemployers.org](http://www.nhsemployers.org) and the NMC [www.nmc-uk.org](http://www.nmc-uk.org)
Accountability

Accountability is integral to any professional practice. Health service providers are accountable to both the criminal and civil courts to ensure that their activities conform to legal requirements. In addition, employees are accountable to their employer to comply with their duties under their contract of employment. Registered practitioners are also accountable to their regulatory body (RCN, 2011). For registered nurses this is the Nursing and Midwifery Council (NMC) whose core role is:

• to safeguard the health and wellbeing of the public

• to set standards of education, training, conduct and performance so that nurses and midwives can deliver high quality health care consistently throughout their careers

• to ensure nurses and midwives keep their skills and knowledge up to date and uphold its professional standards

• to investigate nurses and midwives who fall short of its standards.

The NMC is the main reference for nurses in terms of professional direction. Nurses are therefore both professionally and legally accountable for their actions. The NMC Code of conduct, standards and ethics for nurses and midwives is described as the foundation of good nursing and midwifery practice and is a key tool in safeguarding the health and wellbeing of the public. The code makes it clear that it is the individual nurse, regardless of their employment situation or geographical location, who is responsible for their actions. Every nurse, and employer of nurses, should be familiar with the contents of the code, using it to guarantee the best possible care for patients.
Confidentiality

Confidentiality is a fundamental part of professional practice that protects human rights. This is identified in Article 8 (Right to respect for private and family life) of the European Convention of Human Rights.

This is entrenched in the NMC (2008) Code of conduct where nurses are obliged to respect the confidentiality of patient health information. It is a fundamental part of the nurse and patient relationship. A breach of confidence by a nurse may render them liable to legal action and disciplinary proceedings by the NMC.

Every practice should have a policy covering the confidentiality of health information and patient records, including the procedures in place to maintain security of information and patient records.

Appraisals

It is important that all staff, not just nurses, are taken through an appraisal process in the workplace. This should ideally be an annual process. Appraisals should be used to help demonstrate continued development and that individuals have the necessary skills and competence to perform their roles as well as to help identify areas for further development.

Continuing professional development

Continuing professional development (CPD) is fundamental to the role of any professional practitioner, it is the mechanism by which high quality services and patient care is identified, maintained and developed.

Employers of nurses have a duty to provide appropriate career prospects and development. They should also ensure that there are opportunities for nursing staff to extend their practice, become clinical champions therefore retaining staff in public health type roles.

Best practice acknowledges that six days (45 hours) per year of protected CPD time should be the minimum time granted to support practitioners, above existing statutory and mandatory training and formal study leave arrangements. This is a
realistic amount of time, and is in keeping with existing professional body regulatory requirements.

When defining CPD activities professional bodies advise:

• use a broad definition of CPD, in accordance with existing professional and regulatory body protocols (HPC, 2005; NMC, 2006), which encompasses a mix of formal and informal learning activities appropriate to individual and service needs

• exclude training required under The Health and Safety at Work Act (HSWA, 1974), and other mandatory employer training, from the protected time allocation.

Clinical governance and leadership

It is vital that there is proper governance and support within the local authority for peer support, with clear lines of accountability.

It is important for the local authority to have ensured that there is a clinical leadership process in place to provide direction, appropriate guidance and up to date practice and quality auditing and metrics. This could be done through ‘buddying’ systems with other organisations

This is similar to arrangements required for other professional groups, such as social workers employed by local authorities.

Appropriate policies and procedures should be in place to support the specifics of the role. However it is expected that local authorities may take guidance on particular nursing issues from the nursing directorate in Public Health England, in the first instance.
Indemnity insurance legislation

In line with EU legislation, during 2014 the NMC will require all nurses registered with them to confirm that there is an appropriate indemnity arrangement in place for their practice. All employers are vicariously liable for the actions of any nurse they employ under a contract of employment (and vicarious liability may extend beyond those employed under a contract of employment, to include, for example, agency or other staff). Claims of clinical negligence arising from the actions of nurse will ordinarily be directed against the employer because of its vicarious liability. Accordingly, the employer will need to take out appropriate indemnity or insurance to cover the risks of a claim in these circumstances.

What does this mean for nurses in local authorities?

• Local authorities will need to ensure that their insurance will cover them for clinical negligence under vicarious liability.
• Local authorities should not make the holding of personal indemnity insurance a condition of employment.
• Nurses will be required to complete a self-declaration for the NMC that they either have in place an appropriate indemnity arrangement (if already in employment) or will have an appropriate indemnity arrangement in place when they begin practise.
• Every nurse or midwife applying to join the register, renew their registration or seek readmission to the register, will be required to complete the self declaration.
• Nurses and midwives who are not able to complete the self-declaration will not be eligible for registration, renewal of registration or re-admission to the register.

The NMC may ask nurses and midwives to provide evidence that they have indemnity arrangements in place in order to confirm the accuracy of the self-declaration that they have previously made.

Fitness to practise action may in some cases, be taken by the NMC particularly where there is cause to believe that dishonesty has occurred as part of the self-declaration.

It is anticipated that most nurses will already satisfy the new requirement through their employer’s indemnity/insurance arrangements.
Transfer scheme list – Public health specialists or practitioners – pensions and access to NHS pension scheme, protected rights for nursing posts

An employee who meets the criteria set out in the following definition retains access to the NHS pension scheme (NHSPS) (they must have transferred on 1 April 2013 and be listed on a transfer scheme list) if they voluntarily move from one public health post to another within the same local authority.

“Members who are public health specialists or practitioners: whose job role involves them wholly or mainly undertaking public health practice or activity either in relation to prevention, health protection, health care public health, or health promotion programmes for individuals from particular population groups, or in relation to the whole population within a certain geography. They should be registered on one or more of the GMC, GDC, UKPHR, HCPC or NMC registers or be carrying out a public health role as defined by the Agenda for Change (AfC) role profiles.”

To see full details including protections for members of the 1995 section of the NHSPS nearing retirement, who move voluntarily to another role in the public health function in the local authority they transferred to 1 April 2013 please read Public health transfers from the NHS to local authorities pension provision update (July 2013) guidance available at www.local.gov.uk
NMC revalidation

The NMC is committed to developing and implementing an effective system of revalidation for nurses and midwives. Revalidation will require every nurse and midwife to confirm that they:

- continue to remain fit to practise by meeting the principles of the revised code
- have completed the required hours of practice and learning activity through CPD
- have used feedback to review and improve the way they work
- have received confirmation from someone well placed to comment on their continuing fitness to practise.

At the time of publication, the NMC is conducting a consultation on the process for revalidation and the consultation as a whole will also address revising the NMC’s code. For local authorities they will have a responsibility as employers to support any nurses to enable them to revalidate in accordance with the terms set out by the NMC after the consultation.