

Safer Recruitment for Safer Services

A report on the quality of recruitment
practices in registered care services

November 2008



HAPPY TO TRANSLATE

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foreword

Above all, our work is about improving the quality of care in Scotland and keeping people safe. It's therefore vital that recruitment into care services is done carefully and properly.

People who use services, their families and carers want to know that the many organisations who provide care take recruitment seriously. They want to be assured that employment history, references, qualifications and disclosure checks are always done thoroughly. Getting the right people into the right jobs is about much more than that, but people using care services can be very vulnerable, so it's particularly important to get the basics right.

Care services must provide the high quality of service set out in Scotland's National Care Standards. We know that their ability to do so depends largely on employing the right staff.

Our aim in this report was to ensure that those who provide care services are fulfilling their legal responsibilities in relation to safer recruitment. We found that the large majority were recruiting in a safe and effective manner, but a significant minority, of just over one in five services sampled, need to improve.

I am particularly concerned that we had to make so many requirements about checking applicant references in care services.

We will continue to follow up those services where improvement is needed and encourage everyone involved to make sure that recruitment into this vital sector is done carefully and well. Whatever your interest in care, I hope you share this goal and find this report useful and informative.



Marcia Ramsay
Director of Adult Services Regulation (Acting)

All care providers are responsible for making sure that all employees and volunteers are recruited by a safe system to protect the people who use the care service.



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summary

About us

We regulate around 15,000 care services, which care for around 320,000 people across Scotland. Services include fostering and adoption, care homes for children, young people and adults, private hospitals, hospices, care at home and housing support services, childminding (generally provided by a single individual) and accommodation services for offenders.

About safer recruitment

Safer recruitment describes practices that care services should follow when recruiting staff. The practices reflect requirements set by law, by national guidance and the Scottish Social Services Council's Code of Practice for Employers of Social Service Workers.

They are designed to make sure that care services recruit people who have the right skills, qualifications, experience and appropriate physical and mental health to do the job they are being recruited for.

About this report

We inspected safer recruitment because:

- evidence from our inspections indicated it was a problem in some care services
- concerns about the quality of staffing in some services arose from our investigations into complaints
- our sister organisation, the Scottish Social Services Council (SSSC), had also expressed concern, as a result of its regulatory work, about the need for improved systems for recruiting staff in care services.

The report is based on inspections of 4,434 of the services registered with us. This is a large sample, representing around 60% of the services who employ staff and therefore where safe recruitment is vital.

Our aim was to make sure that:

- the individuals and organisations who provide care are fulfilling their legal responsibilities for safer recruitment
- services make improvements where they are needed.

What we found

This is a summary of findings; section 2 of the report explains them in detail:

- Over three-quarters of services in the sample (78%) were recruiting employees in a safe and effective manner, but a significant minority (22%) were falling short of what the law requires.
- We demanded that services take action to improve by making 1,683 requirements. Most services had only one or two requirements; less than 1% had more four or more.
- The most common failures that arose were about:
 - taking up and checking references
 - carrying out checks with Disclosure Scotland (which provides information about criminal convictions and investigations)
 - confirming applicants' fitness to do the job they've applied for (this covers mental and physical fitness as well as skills, qualifications and experience)
- Of particular significance was the finding that just over 600 requirements were made about applicants' references across all services; 82 of these were in care home services.

We have concluded that:

- the majority of care service providers adopt and implement safe systems to recruit their employees
- one in five of the care services that we sampled needed to improve their systems for recruiting staff so that service users are safeguarded and to meet their legal responsibilities as providers of care
- the quality of existing practice varies across different types of care services and within the public, private and voluntary sector
- we have evidence that care services are improving practices as a result of our inspections.

We recommend that care service providers:

- take immediate action where we have made requirements to improve the care service
- ensure they have robust recruitment policies and practice
- follow National Care Standards, Regulations, the Regulation of Care Scotland Act, the SSSC Codes of Practice and good practice guidance.
- regularly review and update their recruitment policies and practices
- involve the people who use care services in recruitment

We recommend that care service staff:

- ensure that when they are employed that they are subject to requests for appropriate references etc.
- challenge providers where inappropriate practices occur
- provide appropriate information to their prospective employers

What we will do to make sure this happens:

- We have been following up with the services who needed to make significant improvements and will continue to do this.
- We plan a further round of inspections of safer recruitment practices and intend reporting on what we find in 2011.
- We have inspected and taken action where service providers do not have appropriate and effective safeguards in place; we will continue to do so.
- We will continue to promote safer recruitment practice information to support improvement, for example SSSC Codes, Scottish Government guidance.

What others may consider doing:

- The Scottish Social Service Council considers:
 - promoting the 'Preparing for practice' tool; this is practical guidance for employers on staff induction (appendix 3 includes SSSC contact details)
 - promoting its codes of practice to people who use care services, and to carers.
- The Scottish Government considers:
 - as part of its review of the National Care Standards in 2009/10 that standards on management and staffing are reviewed, taking into account the findings of this report.
- People who use care services consider:
 - asking us, or the service provider, for the latest inspection report
 - asking service providers about their recruitment practices and, in particular, how they handle references
 - finding out what they should be able to expect by reading the national care standards and the SSSC's codes of practices for employers and employees
 - talking to the care service manager if they are concerned about the recruitment of any member of staff
 - getting involved in the recruitment of staff at their care service if they wish to.

section 1

background to this report



This section has three parts:

1. About this report
2. How we regulate services
3. Why and how we researched the report

1. About this report

What the report is about

As Scotland's national regulator of care, each year we identify areas of care that come to our attention through our activities, such as inspecting how care services are being run. We investigate these in depth and publish what we find to show a national picture about the quality of different aspects of care services.

This report considers safer recruitment, which describes how care services examine a prospective employee's skills, experience, and qualifications as well as their physical and mental suitability for the job.

We selected safer recruitment as a focus in 2006-07 because evidence from our inspections indicated that it was a problem in some care services. The results of complaints that we investigated also highlighted where there were concerns about the quality of staffing in some services.

In addition, the Scottish Social Service Council (SSSC), in its work in registering individual workers, had raised concerns with us about the quality of recruitment practices in care services. The SSSC was keen that we examine this on their behalf as part of our statutory responsibility to take account of the SSSC's Codes of Practice for social service workers and employers in our regulation of care services. The Code of Practice for Employers sets out what actions employers are expected to take to ensure safe and effective recruitment of staff.

Every care service – large or small, local or national – and each service provider, is responsible for making sure that recruitment policies and practices are safe and effective across their organisations.

We know from previous focused inspections that when we identify and promote an area that we are going to inspect, it drives up quality and improves care services as services pay closer attention to the area.

Our inspections took account of requirements set down by:

- the Regulation of Care (Scotland) Act 2001 and its associated regulations
- the National Care Standards, which are published by Scottish Ministers and set out what people who use care services should expect; all of the National Care Standards mention the appropriate recruitment of staff
- the SSSC's Code of Practice for Employers.

The appendices to this report have further information about these.

Important developments which affect safer recruitment:

The Care Commission is working with the Scottish Government to support the introduction of the Protection of Vulnerable Groups (Scotland) Act 2007. The Act introduces a new vetting and barring scheme which will replace the need, in most instances, for enhanced disclosure certificates. The Scottish Government published guidance in March 2007 called Safer Recruitment through Better Recruitment which provides guidance for social care and social work employers to support use and development of recruitment and selection processes which help to ensure only staff suitable to work with service users are employed.

Who the report is for

We have published the report to inform the people who use care services, their carers and other interested people about what we have found. We also want services to make improvements where they are needed, and to promote good practices revealed by our findings.

2. How we regulate services

Our core activities

To assess how good care services are, we consider a range of indicators that give a picture of quality: no one component should be considered on its own.

We have four core processes for regulating care services. We:

- register services
- inspect them
- investigate complaints
- enforce standards of care.

Our work is framed by the Regulation of Care (Scotland) Act 2001, regulations made under it and the National Care Standards. For example, when we register and inspect a service we make sure it meets the requirements of the 2001 Act and we take into account the care standards that apply to the service.

During our work we collect a great deal of information about each service and use this evidence to evaluate the quality of care.

After we inspect a service we let the person or people who provide it know what we have found by highlighting strengths and areas they need to develop or improve. We follow this up by writing a report about our findings for the service. Inspection reports are available on our website www.carecommission.com.

Actions we can take to improve the quality of care services

Recommendations: If we find a service is not meeting a National Care Standard we can make a recommendation, which we will record in our inspection report. Recommendations are measures we consider that a service should take to improve standards of care. We can, and do, check to make sure that services act on our recommendations.

Requirements: If we find that a service is not complying with an aspect of the Regulation of Care (Scotland) Act 2001 or one of its associated regulations, we can make a requirement. This is a statement setting out what the service must legally do – within a timescale agreed with us – to comply with the Act, with regulations, or with both.

When we make a requirement it means the service has failed to meet the regulation to an extent that we are concerned about the impact this has on the people using the service.

Enforcement action: Enforcement action is legal action that we will take to make sure a service improves and, if necessary, to close it down. We will take enforcement action if:

- a service does not demonstrate that it is improving in line with a requirement we have made
- we have serious concerns that the care being provided is not safe or good enough.

3. Why and how we researched the report

What we set out to achieve

We wanted to build a national picture of the quality of recruitment practices in care services. This would enable us to promote safer recruitment practices and identify and deal with unacceptable, poor or even dangerous practices.

Our purpose was to test how care service providers:

- meet legal and regulatory requirements
- advise potential applicants of the employer's commitment to the safety and welfare of vulnerable people
- can be sure that candidates have shown they are suitable for the post they are applying for
- are satisfied as far as possible at each stage of selecting and recruiting staff that each candidate is safe to practise
- make sure at each stage that they have chosen the best candidate, or candidates, to progress to the next stage

- verify the candidate's identity, qualifications and registration status; for example, registration with the Nursing and Midwifery Council (NMC) or Scottish Social Services Council (SSSC).

Which services we inspected

We looked at all services that employed staff. The only registered care service we did not examine was childminding because childminders rarely employ staff.

The services were:

- care homes and day services for children and adults
- care at home services
- housing support services
- nurse agencies
- childcare agencies
- fostering and adoption agencies
- school care accommodation services
- offender accommodation services
- independent hospitals and voluntary hospices.

What our inspectors did

The Care Commission officers (CCOs) who inspected the services:

- examined services' policies for recruiting staff
- considered what information services held about how staff had been recruited
- spoke to staff about their own experience of recruitment and cross-checked the information against the relevant records.

We directly examined the following features of safer recruitment:

- Policy statements on recruitment and selection.
- Application processes.
- References: making sure these were requested, were from appropriate sources and appropriate in content.
- The processes providers use for gaining and analysing Disclosure Scotland checks. (These provide potential employers with information about whether job applicants have criminal convictions or are being investigated.)
- How employers ensure that candidates are mentally and physically fit to do the job they apply for.
- Records of candidates' skills, qualifications and experience.
- Checks with the appropriate professional registers (for example, the Nursing and Midwifery Council, Scottish Social Services Council).

Our CCOs asked these questions:

- Is there a system to ensure the safe recruitment of both paid staff and volunteers?
- Are there two references?
- Is one reference from the candidate's immediate previous employer?
- Do the references record the name, position of the referee, date completed and are they signed?
- Does the application form, or letter have a declaration from the candidate about their medical fitness?
- Is there a system to record that the employer has checked skills, experience and, where appropriate, qualifications?
- Are there Enhanced Disclosure Scotland checks for all employees and volunteers? (Disclosure Scotland has three levels of checks; enhanced is the highest). These are expected for all employees and volunteers with access to service users.
- Is there a system to check the registration status of new and existing staff?

(Further details on these questions, the law, national care standards, the Codes of Practice, the evidence that we looked for, and best practice can be found at the back of this report).

The way we inspected

For larger organisations that held all their recruitment information at one or more central locations, we carried out a specific safer recruitment inspection visit. We reported what we found on that visit in the inspection report for each of the services the organisation provided.

This meant that all the organisation's services recorded the same issues and requirements. But as each service made the improvements required as a result of our inspection, we reflected these improvements in later inspection reports. It was important to reflect progress in the services as time passed, and to ensure that our approach was fair. Providers had to prove through evidence that they had made the required improvements.

Other care service providers, both large and small, held information about recruitment within each care service. In these cases we considered safer recruitment as part of our inspection of the service, and recorded what we found in the inspection report.

section 2

our findings



This section has five parts:

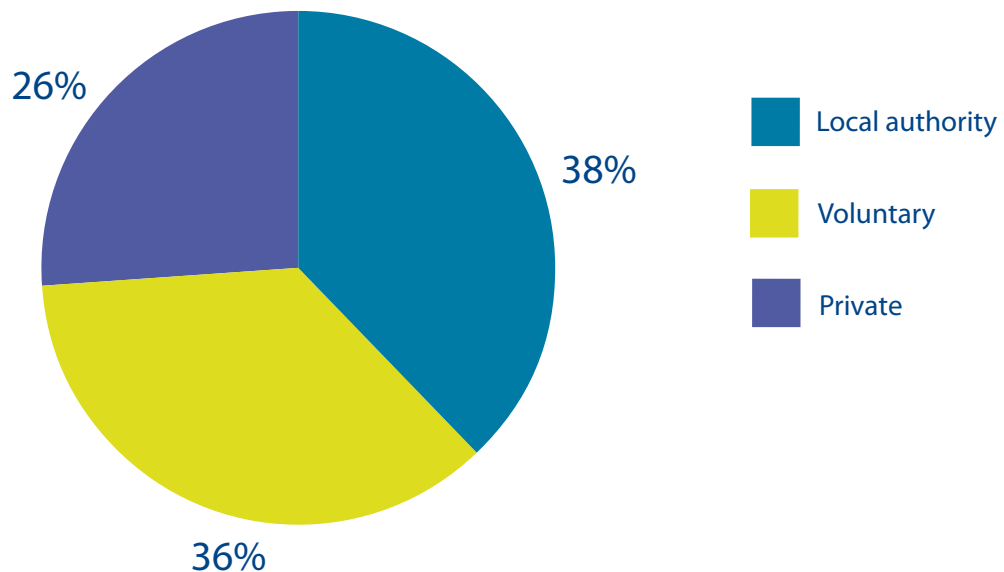
1. Overall findings
2. Detailed findings
3. Examples of good practice
4. Requirements we made as a result of poor practice

1. Overall findings

We looked at 4,434 registered care services. This sample represents 60% of all active registered services where staff recruitment takes place and therefore is relevant. The sample was spread across local authority, voluntary and privately run services.

The total did not include childminders, services proposing to cancel their registration, or services that we classify as inactive, which means that they were not providing care at the time of the inspection.

The balance of services we sampled were from the following sectors:



Encouragingly, 78% of services met the legal standards and we did not make any requirements.

However, our inspections of the remaining 22% (976) services resulted in one or more requirements, which is of some concern. We issued a total of 1,683 requirements. Most services had one or two requirements; but 1% of the sample (33 registered care services in the sample), had four or five requirements.

The best performers in recruitment practices were childcare agencies and nurse agencies, with no service in the sample having more than two requirements or recommendations.

This endorses the Scottish Government's decision in 2006 to extend the minimum period between inspections for these types of services. Evidence from regulating these care services suggested that they were generally run in a safe and effective manner and to a high standard.

We are confident, due to the size of the sample, that our findings and the issues they raise are very significant, both overall and to each type of care service.

2. Detailed findings

How different types of services are performing:

Table 1 lists the types and number of services we inspected. It also shows the percentage of each service type.

Table 1: The type and number of services we inspected

Type of care service	Total active registered services	Registered services in our sample	Percentage of active services inspected
Day care of children	3,879	2,275	59%
Support service	1,028	624	61%
Housing support service	727	523	72%
Care home service	1,514	847	56%
Other services*	273	165	60%
Local authority	2,605	1,669	64%
Voluntary	2,550	1,597	63%
Private	2,253	1,162	52%
NHS	13	6	46%
Total	7,421	4,434	60%

* 'Other services' in the sample were childcare agencies; adoption services; fostering services; school care accommodation services; secure accommodation services; offender accommodation services; adult placement services; nurse agencies; independent healthcare services.

- In the care services noted below we found evidence that a significant minority needed to improve practice in safer recruitment. There are many registered care services of these types. These services are:
 - day care of children
 - support services, which include day services and care at home which are mostly used by adults
 - housing support services
 - care homes for both adults and children.
- The findings also suggested that a significant minority of the ‘other services’ detailed above needed to improve. However, it is important to say that the number of services involved put this into an appropriate perspective; for example, of all the healthcare services we inspected (32), only two were subject to requirements which were about the national focus on safer recruitment.

The requirements we issued, and their implications:

- Increasing numbers of requirements suggest more serious failures by those providing the services. 13 services had five or more requirements.
- Of all of the sampled services, 787 services had one or two requirements.

If a service is subject to one or two requirements or recommendations, this may not be a symptom of poor general practice. It does not mean that the people who use these services are necessarily at risk. However, performing poorly against one aspect of safer recruitment can increase the chances of employing someone who is unsuitable to work with people who might be at risk of abuse or exploitation.

Table 2 lists the number of requirements we made of services and the number of services with no requirements or with one or more requirements.

Table 2: Sampled services with different numbers of requirements

Number of requirements	5 or more	4	3	2	1	1 or more	None	Sample total
Number of services with requirements	13	20	156	338	449	976	3,458	4,436
% of services in sample	0.3%	0.5%	4%	8%	10%	22%	78%	100%

In a number of the services, such as day care of children, care homes or fostering services managed by local authorities or large independent organisations, the recruitment of staff is managed centrally. In these cases improvements need to be made by the central recruitment function in conjunction with the service managers.

Table 3: Proportion of sampled services with one requirement or more

Registered service	Sample number of registered services	Services with at least one requirement	% of service sample with at least one requirement
Day care of children	2275	576	25%
Child care agency	22	1	5%
Adoption service	22	11	50%
Fostering service	35	12	34%
School care accommodation service	17	4	24%
Secure accommodation service	3	1	33%
Offender accommodation service	4	1	25%
Support service (day services and care at home services)	624	101	16%
Housing support service	523	102	20%
Care homes for adults	743	140	19%
Care homes for children and young people	104	19	18%
Nurse agency	38	2	5%
Independent healthcare service	24	6	25%
Total	4,434	976	22%

Table 4 shows which specific areas of recruitment practice led to our making formal requirements. Its findings reinforce our concern about the scale of problems in major service areas.

Table 4: Total number of requirements and the areas they related to

Type of service	Recruitment policy	Applicant references	Prospective staff interviews	Disclosure Scotland checks	Disclosure Scotland follow up failure	Fitness checking
Day care of children	72	382	3	208	25	345
Childcare agency	0	0	0	0	0	0
Adoption service	0	8	0	7	1	4
Fostering service	0	8	0	6	2	4
School care accommodation	0	2	0	1	0	4
Secure accommodation	0	0	0	0	0	1
Offender accommodation	0	0	0	0	0	0
Support service	13	53	0	45	5	35
Housing support service	11	63	2	57	2	53
Care home service	33	82	5	75	11	45
Nurse agency	1	1	0	0	0	0
Independent healthcare service	1	3	0	3	0	1
Total	131	602	10	402	46	492

The areas in the table reflect those we inspected. For example, 'Disclosure Scotland checks' cover requirements stating that care services must check applicants with Disclosure Scotland. 'Disclosure Scotland follow up failure' covers requirements which resulted from the care service failing to follow up with their potential staff the Disclosure Scotland certificates that detail convictions.

- Major concerns across services relate to:
 - taking up references that are from appropriate sources and appropriate in content, and therefore reliable; for example, a reference could come from an applicant's peer rather than their manager, or the content may leave questions unanswered or be very vague
 - completing Disclosure Scotland check procedures; this included services failing to explore, with job applicants, the result of checks showing they had previous convictions.
 - the care services failure to check applicants' fitness to be employed in a care service ('fitness' here includes physical and mental fitness, skills, qualifications and experience).

These checks are vital to ensure the safety of people who use the care service. For example, appropriate references are important as the referee needs to be able to comment on the applicant's suitability for the post they have applied for.

- Most providers of care homes for adults and children work to safer recruitment procedures and practices. However, again reflecting our general findings, 19% (159) of these services had at least one requirement. This is a significant minority of care homes that provide care for the most vulnerable people in society.
- A very small number of requirements were linked to prospective staff interviews. (For example no record of an interview was held so it was unclear if an interview had taken place).
- We found that some services should pay more attention to developing their recruitment policy, particularly day care of children, day services for adults and support services - care at home, housing support services and care homes. This is generally because their present policy does not provide enough guidance to staff about which systems they should have in place and the actions they should take routinely to ensure safe recruitment practices.
- We found shortcomings in the quality of recruitment practices in all sectors – private, voluntary and local authority. All need to make improvements.

We also saw evidence in a range of care services, across all sectors, of references being obtained and not verified. Examples included references being provided by a colleague rather than the applicant's most recent manager. Other issues included care service providers accepting open references, which do not specifically refer to the post being applied for, so are less reliable.

Our conclusions

We have concluded that:

- the majority of care service providers adopt and implement safe systems to recruit their employees
- one in five of the care services that we sampled need to improve their systems for recruiting staff so that service users are safeguarded and to meet their legal responsibilities as providers of care
- the quality of existing practice varies across different types of care services and within the public, private and voluntary sector
- we have evidence that care services are improving practices as a result of our inspections.

3. Examples of good practice

This part of the findings illustrates some of the good practice we saw on inspection.

Private care home service

We inspected a private care home where the provider had a comprehensive staff recruitment policy to ensure that it safely selected new staff. The recruitment information about staff was well organised and easy to follow. The information we examined included:

- signed and dated application forms
- copies of references
- checks with professional registers
- confirmation of employees' vocational qualifications
- records of interviews and reference numbers and dates for enhanced Disclosure Scotland checks.

The service provider had also evaluated information in Disclosure Scotland checks to confirm whether the candidate was fit to be employed.

Voluntary sector service

We inspected a combined housing support and care at home service which a national housing association provides for people who have a range of disabilities. As the service holds recruitment information centrally we examined this on one

visit to the care service provider. Systems and practices were very good. When we inspected the services locally, we verified with staff that they had been fully involved in the recruitment process and this was confirmed in the inspection report for each registered care service during the year.

Local authority inspection for a range of care services

A local authority had a very clear policy about recruiting all staff and made sure that staff were asked to do all the appropriate checks, such as Disclosure Scotland checks; checking appropriate references; checking qualifications and registration, for example with professional bodies. Care Commission officers checked that the policy was being put into practice in each service during local inspections. This was found to be the case.

Local authority housing support service

A local authority's housing support services had been required to make some improvements and it had put these in place. There was evidence on file of improvements in recruitment and selection processes, and the information had been well organised and consistently recorded. The local authority was also undertaking best practice by beginning to carry out Disclosure Scotland checks on staff employed before 2002. This was the point when the law first required such checks to be undertaken.

The appendices to this report give more guidance about where to find information on improving recruitment practices.

4. Requirements we made as a result of poor practice

This part of the findings presents examples of where we made requirements as a result of poor or dangerous practices:

Private care home service

We inspected a care home. The first visit was unannounced. We examined staff recruitment and found that the service was not seeking two references for staff they wished to employ. It was also routinely accepting 'to whom it may concern' references. This meant that the reference would not comment on the specific post and the applicant's suitability for it – and could have been written by anyone. We made a requirement about this.

We inspected the care home again a few months later. This was announced. As part of the visit we followed up the previous inspection, which had led to the requirement. Care Commission officers examined information about ten staff who had been recruited and found that the service provider had not improved procedures for getting references.

We again made a requirement that the service provider should obtain two references before employing staff; we asked the provider to make the improvement immediately. The provider also used a recruitment agency and felt this was responsible for doing the checks. We told the provider that they must satisfy themselves about the suitability of individuals coming to work in their service.

We inspected the service again in 2007 and found that practices had improved significantly. In 2008 this care service has received a grading of 'very good' for staffing and management.

Private care home service

We initially inspected a smaller care home in July 2006 and were concerned about several aspects of the quality of care, including recruitment practices. The recruitment issues were about having a clear recruitment policy that set out the actions that managers need to take to recruit staff safely. This includes for example, how to handle and store Disclosure Scotland checks and information.

The service was also failing to get two appropriate references for each staff member recruited and had not undertaken enhanced Disclosure Scotland checks on staff who had direct contact with the adults in the care home. We gave the care service provider approximately two months to complete these improvements.

When Care Commission officers returned to follow up the inspection they found the service had not met the requirement. They repeated the requirement and applied a shorter timescale, due to the serious nature of these and other issues in the care service.

We inspected the service more frequently during this time and when the provider continued to fail to make improvements we took enforcement action. This legally required the care service to improve or be closed. We have since notified the care service provider that we propose to cancel their registration and they will no longer be able to operate. In the meantime, no-one lives in the care service, so people are not at risk.

Local authority inspection for a range of care services

We inspected a local authority which was undertaking Enhanced Disclosure Scotland checks with all staff who had direct access to vulnerable people and children. However Care Commission officers found that the local authority had not followed up checks that had disclosed convictions.

This meant the local authority needed to improve its policy so that managers or human resources staff knew what they needed to do about this information. They also needed to keep evidence of what they had done when they received Disclosure Scotland's returns that detailed convictions or other concerns.

It is important to note that a conviction in itself would not necessarily bar a person from working with vulnerable people: this would depend on the nature of the conviction.

Voluntary sector service

We inspected a school care accommodation service. The care service provider did not carry out appropriate aspects of recruitment in two services, because of internal promotions. The service provider and managers assumed that, because they knew the people, no further checks were needed. However staff need to be assessed for the job that they are going to do, so updated references from appropriate sources are important to verify qualifications and experience.

section 3

what has happened
since our inspections?



These inspections took place in 2006-07 and it is important to say what has changed since.

Following inspections where we had significant concerns, we went back to see if care services had made the appropriate improvements. We took action on a service-by-service basis and individual inspection reports include any actions that were taken. For example:

- We made requirements at two independent hospitals, which have since made the necessary improvements. (You can find out more about this in our report about 'the quality of care in private hospitals and voluntary hospices in Scotland 2006-07', which is available through our website www.carecommission.com).
- We carried out a follow-up inspection of a large national voluntary sector care service provider. We audited the safer recruitment policies and procedures and found them satisfactory. The service provider had acted on the inspection report's recommendation to review their recruitment procedure to ensure they kept evidence of staff fitness in terms of their health; and introduced a health assessment questionnaire for job applicants.

All inspection reports can be found on our website www.carecommission.com

Feedback from the Scottish Social Services Council indicates that they have had more requests for advice about safer recruitment during and following our inspection activity. This suggests that service providers are keen to improve their practices.

A meeting we held with the SSSC and local authority human resources managers also confirmed that, as a result of our inspection activity, they had examined and, where needed, were working to improve recruitment practices.

We have taken enforcement action in response to serious failings which care service providers have not addressed appropriately.

What happens next?

The inspections that this report is based on set a benchmark against which the quality of safer recruitment systems and practices can be measured against. So it is important that we examine what improvements have been made and report on what we find.

We will therefore be inspecting recruitment practices on a national basis again in 2009/2010 and will report on our findings in 2011.

We will revisit the areas of concern and ensure that improvements continue to be made. We will take action where they are not.

appendix 1



This appendix sets what the law, regulations, codes of practice and national care standards stipulate about recruitment issues relevant to this report. It considers:

1. The Regulation of Care (Scotland) Act 2001
2. Scottish Statutory Instrument 2002 number 114
3. SSSC Codes of Practice for social service workers, and for employers of social service workers
4. The National Care Standards

1. The Regulation of Care (Scotland) Act 2001

29 Regulations relating to care services

- (1) Regulations may impose, in relation to care services, any requirements which the Scottish Ministers think fit for the purposes of this Act and may in particular make any provision such as is mentioned in subsection (2), (7) or (9) below.
- (2) Without prejudice to the generality of subsection (1) above, regulations may-
 - (a) make provision as to the persons who are fit to provide, or act as manager in relation to, a care service;
 - (b) make provision as to the persons who are fit to be employed in the provision of a care service;

2. Scottish Statutory Instrument 2002, number 114 (statutory instruments are regulations)

Fitness of managers:

- 7 (1) A person shall not act as a manager in relation to a care service unless the person is fit to do so.
- (2) The following persons are not fit to act as a manager in relation to a care service-
 - (a) any person to whom regulation 6(2)(a) applies;
 - (b) any person to whom regulation 6(2)(b) applies;
 - (c) a person who is not physically and mentally fit to manage the care service;

- (d) a person who does not have the skills, knowledge and experience necessary for managing the care service;
- (e) a person who, in order to perform the duties for which the person is employed in the care service, is required by any enactment to be registered with any person or body and is not so registered.

Fitness of employees

- 9 (1) A provider shall not employ any person in the provision of a care service unless that person is fit to be so employed.
- (2) The following persons are not fit to be employed in the provision of the care service -
- (a) a person who is not physically and mentally fit for the purposes of the work for which the person is employed in the care service;
 - (b) a person who does not have the qualifications skills and experience necessary for the work that the person is to perform; and
 - (c) any person to whom regulation 7(2)(e) applies.

3. SSSC Codes of Practice for social service workers, and for employers of social service workers

Every social service worker and employer in Scotland should have a copy of these Codes of Practice, which are contained in one booklet. You can download a copy www.sssc.uk.com or contact the SSSC at 0845 60 30 891 to order a free copy. The SSSC is required to publish the codes by the Regulation of Care (Scotland) Act 2001 and the Act requires the Care Commission to take account of the codes in its inspection of care services.

In relation to safe recruitment of social service workers, the SSSC Code of Practice for Employers states:

- 1. As a social service employer you must make sure people are suitable to enter the social service workforce and understand their roles and responsibilities.**

This includes:

- 1.1 Using rigorous and thorough recruitment and selection processes focused on making sure that only people who have the appropriate knowledge and skills and who are suitable to provide social services are allowed to enter your workforce;

- 1.2 Checking criminal records, relevant registers and indexes and assessing whether people are capable of carrying out the duties of the job they have been selected for before confirming appointments;
- 1.3 Seeking and providing reliable references;
- 1.4 Giving staff clear information about their roles and responsibilities, relevant legislation and the organisational policies and procedures they must follow in their work; and,
- 1.5 Managing the performance of staff and the organisation to ensure high quality services and care.

4. The National Care Standards

There are National Care Standards for all types of care service and these are detailed below:

Childcare agencies

Standard 5: Management and staffing arrangements

You can be confident that the childcare agency provides a consistent standard of service.

You can be confident that the childcare agency interviews and selects child carers, volunteers and office staff through a process that takes account of safe recruitment practices and the codes of practice issued by the Council.

These include:

- enhanced disclosures from Disclosure Scotland;
- medical references;
- checks with previous employer;
- taking up references;
- verification of relevant qualification certificates where these are held;
- cross referencing to the register of the Scottish Social Services Council or other professional organisations;
- verification of the right work, checked in line with relevant legislation; and
- international criminal records checks, where possible.

Early education and childcare up to the age 16

Standard 12: Confidence in staff

Each child or young person receives support and care from staff who are competent and confident and who have gone through a careful selection procedure.

You can be confident that the service recruits and selects staff and volunteers through a process which takes account of safe recruitment practices.

These include:

- enhanced disclosures from Disclosure Scotland;
- checks with previous employer;
- taking up references; and
- cross-referencing to the register of the Scottish Social Services Council or other professional organisations.

Foster care and family placement services

Standard 13: Management and staffing

You can be confident that the management and staff of the agency have the professional training and expertise they need to provide an effective service.

You know that the agency managers, staff and volunteers are recruited and selected through a process that takes account of safe recruitment practices.

This includes:

- criminal record checks;
- checks with previous employers;
- taking up references; and
- cross-reference to the registers of the Scottish Social Services Council, or other professional organisations.

Hospice care

Standard 6: Staff

You can be confident that your care will be provided by a multi-professional team of staff and volunteers who are suitably qualified and/or skilled for that job.

You know that all recruitment and selection to the hospice follows a clearly written recruitment and selection policy. The hospice checks the qualifications and current registration status of staff and (where appropriate) volunteers and all necessary records, including criminal records checks, before they start work and, if necessary, on a regular basis.

Adoption agencies

Standard 32: Providing a good quality service

You experience good quality support from the agency. This is provided by management and staff whose professional training and expertise allows them to meet your needs.

1. You know that the agency managers, staff and volunteers are recruited and selected through a process that takes account of safe recruitment practices.

This includes:

- Criminal records checks;
- Checks with previous employers;
- Taking up references; and
- Cross-reference to the registers of the Scottish Social Services Council or other professional organisations.

Care homes for older people

Standard 5: Management and staffing arrangements

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 necessary legal requirements and best-practice guidelines.

You know that the home's staff, managers and volunteers are all recruited and selected through a process which includes:

- equal opportunities procedures;
- Disclosure Scotland checks;
- Taking up references; and
- Cross-reference to the registers of the Scottish Social Services Council, UKCC or other professional organisations, where appropriate.

Care homes for people with mental health problems

Standard 5: Management and staffing arrangements

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.

You know that the home's staff, managers and volunteers are all recruited and selected through a process which includes:

- criminal records checks;
- taking references; and
- cross-reference to the registers of the Scottish Social Services Council, United Kingdom Central Council for Nurses, Midwives and Health Visitors or other professional organisations, where appropriate.

Care homes for people with physical or sensory impairment

Standard 5: Management and staffing arrangements

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.

You know 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 Scottish Social Services Council register, Nursing and Midwifery Council or other professional organisations where appropriate.

Care homes for children and young people

Standard 7: Management and staffing

You experience good quality care and support. This is provided by managers and staff whose professional training and expertise allows them to meet your needs. Your care is in line with the law and best-practice guidelines.

1. You know that the care home staff, managers and volunteers are recruited and selected through a process that takes account of safe recruitment practices. This includes:

- criminal records checks;
- checks with previous employers;
- taking up references; and
- cross-reference to the registers of the Scottish Social Services Council, or other professional organisations.

Care homes for people with drug and alcohol misuse problems

Standard 4: Management and staffing arrangements (for services in a care home)

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.

You know that the home's staff, managers and volunteers are all recruited and selected through a process which includes:

- Taking up references
- Criminal records checks, where appropriate; and

- Cross-reference to the registers of the Scottish Social Services Council, Nursing and Midwifery Council or other professional organisations, where appropriate.

Care homes for people with learning disabilities

Standard 5: Management and staffing arrangements

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.

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.

Housing support services

Standard 3: Management and staffing arrangements

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

You know that the provider's staff and managers are all recruited and selected through a process which includes:

- taking up references;
- criminal records checks where required; and
- cross reference to the registers of the Scottish Social Services Council, the United Kingdom Central Council for Nurses, Midwives and Health Visitors (UKCC), or other professional organisations, where appropriate.

Support services

Standard 12: Management and staffing arrangements

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.

You know that the support service's staff, managers and volunteers are all recruited and selected through a process which includes:

- taking up references;
- criminal records checks where required; and
- cross-reference to the registers of the Scottish Social Services Council, United Kingdom Central Council for Nurses, Midwives and Health Visitors (UKCC), or other professional organisations, where appropriate.

Adult placement services

Standard 5: Management and staffing arrangements

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

You know that adult placement service staff and adult placement carers are all recruited and selected through a process which includes:

- taking up references;
- criminal records checks; and
- cross-reference to the registers of the Scottish Social Services Council, Nursing and Midwifery Council (NMC) or other professional organisations, where appropriate.

Independent hospitals

Standard 10: Staff

You can be confident that the hospital and its staff provide a safe and secure environment to support the delivery of professional standards of healthcare.

You know that the hospital has the required procedures for recruitment of all staff, including checking their qualifications, skills and training.

You know that the hospital's recruitment and selection follow a clear written policy which complies with all relevant legislation.

You know that the hospital checks the qualifications and all necessary records of all staff before they start work, including criminal record checks, where required.

You know that the hospital has a procedure in place for checking the registration of professional staff, in line with the requirements of their regulatory bodies. Other records are checked in line with current legislation and guidance.

If the hospital has contracting arrangements with a nurse or medical agency, you know that they make sure that the agency makes all relevant checks on staff.

Nurse agencies

Standard 4: Management and staffing arrangements

The service provides a consistent standard of care, delivered by nurses who are competent to work in the service area.

You are confident that the nurse agency places nurses who are registered with the Nursing and Midwifery Council (NMC) and work within the NMC Code of Professional Conduct.

The nurse agency's staff and managers are all recruited and selected through a process which includes:

- criminal records checks;
- taking up references; and
- cross-reference to the registers of the NMC, Scottish Social Services Council or other professional organisations, where appropriate.

School care accommodation services

Standard 7: Management and staffing

You experience good quality care and support. This is provided by managers and staff whose training and expertise allows them to meet your needs. Your care is in line with the law and best-practice guidelines.

You know that the school or hostel staff, managers and volunteers are recruited and selected through a process that takes account of safe recruitment practices. This includes:

- Disclosure Scotland checks;
- Checks with previous employers;
- Taking up references; and
- Cross-reference to the registers of the Scottish Social Services Council, or other professional organisations.

Support services: care at home

Standard 4: Management and staffing

You experience good quality care at home. This is provided by management and the care staff who have the skills and competence to carry out the tasks you require. The service operates in line with all applicable legal requirements and best-practice guidelines.

1. You can be assured that the provider has policies and procedures which cover all legal requirements, including:

- staffing and training.

2. You know that the provider's staff 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, United Kingdom Central Council for Nurses, Midwives and Health Visitors, or other professional organisations, where appropriate.

Short breaks and respite care services for adults

Standard 5: Management and staffing arrangements

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

You know that those providing your care and support are all recruited and selected through a process which includes:

- taking up references
- criminal records checks, where appropriate; and
- cross-reference to the registers of the Scottish Social Services Council, NMC or other professional organisations, where appropriate.

Services for people in criminal justice supported accommodation

Standard 5: Safety and security

You know that, where required, police checks are made on staff and volunteers.

appendix 2



The questions we asked and evidence we looked for

Safer recruitment – focused inspection – key questions

Key question	Act/Regulations/Standards/ Best practice guidance
<p>Question 1:</p> <p>Is there a system to ensure the safe recruitment of staff and volunteers?</p> <p>Confirmed by randomly checking for: appointee is physically and mentally fit; Enhanced Disclosure Scotland checks undertaken; professional register SSSC/NMC etc checked; evidence of skills and experience and, if appropriate, qualifications; application form/letter/CV completed (nb application form not required but is good practice).</p>	<p>SSI 2202/114: Regulation 6 Fitness of provider; Regulation 7 Fitness of manager; Regulation 8 Notification of unfitness; Regulation 9 Fitness of employees and 19 Records (2)(a-e). SSI 2002/113 The Regulation of Care (Applications and Provisions of Advice) (Scotland) Order 2002 – 11(a-f) paragraphs 13 and 14.</p> <p>National Care Standard – Management and Staffing</p> <p>SSSC Code of Practice – Employer: – Make sure people are suitable to enter the workplace: Using rigorous and thorough recruitment and selection processes; Check criminal records and relevant registers; Seeking and providing reliable references. SSSC Code of Practice – Employee: - Being honest and trustworthy.</p>
<p>Question 2:</p> <p>Are there appropriate references?</p> <p>Confirmation: Two references are requested and returned; is one reference from the candidate's immediate previous employer? Is the person giving the reference from the employer a suitable person in the company – eg, manager? Do the references have the name, position of the referee, date completed and signed – recorded on the reference?</p>	<p>SSI 2002/114 Regulation 9 (1) Fitness of employees</p> <p>SSSC Code of Practice – Employer: - make sure people are suitable to enter the workplace; use rigorous and thorough recruitment and selection processes.</p>

Question 3:**Is the candidate physically and mentally fit?**

Does the application form/CV/Letter have a declaration from the candidate re their medical fitness?

SSI 2002/114 Regulation 9 2(a) Fitness of employees: - Record of a declaration is required practice. Lack would result in a requirement (N.B. declarations verbal or written need to be evidenced). Use of an occupation health service is good practice.

Question 4:**Is there a system to record skills and experience and, where appropriate, qualifications checks?**

SSI 2002/114 Regulation 19 (2)(a) Records

Question 5:**Are there Enhanced Disclosure Scotland Checks for all employees and volunteers?**

Secure recording system should have the person's name and their D/S reference number, and when check undertaken; good practice is updated checks; record of action when check is unsatisfactory.

Care Commission policy – paid staff working directly with people using services must be subject to an Enhanced Disclosure Scotland check. SSSC Code of Practice – Employer: - make sure people are suitable to enter the workplace; criminal records and relevant register checks.

SSI 2002/114 Regulation 9 (1) Fitness of employees: - Requirement if no evidence of Enhanced Disclosure Scotland check; re-checking of Enhanced Disclosure Scotland is good practice.

Question 6:**Has employer checked professional register SSSC/NMC etc?**

Recording system that the employer has checked professional registers, and system is in place for the service to check prospective staff?

SSI 2002/114 Regulation 9 2(c) Fitness of employees: Regulation 19 (2)(d) Records

SSI 2002/114 Regulation 13(b) Care homes providing nursing.

SSSC Code of Practice – Employer: - check criminal records and relevant registers; defined registration requirements to practice for identified titles of staff.

appendix 3



Sources of further information

Care Commission (including the National Care Standards)
www.carecommission.com; or telephone: 01382 207100
(Lo-call 0845 603 0890)

OPSI: for link to the Regulation of Care (Scotland) Act 2001
www.opsi.gov.uk/legislation/scotland/acts2001/asp_20010008_en_1

Scottish Social Services Council (including the Codes of Practice for Employers and Employees): **www.sssc.uk.com**; or telephone: 01382 207 101
(Lo-call: 0845 60 30 891)

Central Registered Body in Scotland: **www.crbs.org.uk**;
or telephone: 01786 849777

Disclosure Scotland: **www.disclosurescotland.co.uk**;
or telephone: 0870 609 6006

Chartered Institute of Personnel & Development: **www.cipd.co.uk**;
or telephone: 0208 612 6200

Safer recruitment through better recruitment
www.scotland.gov.uk/Publications/2007/03/13154149/0

PIN safer pre and post employment checks: Policy for NHS Scotland
(PIN = Partnership Information Network)
www.show.scot.nhs.uk/publications/j9227/j9227-02.htm

Safer Recruitment and Selection for Staff Working in Child Care - A Tool Kit
www.scotland.gov.uk/library3/social/srsreport.asp

Protection of Vulnerable Groups: what the law says
www.scotland.gov.uk/Topics/People/Young-People/children-families/pvglegislation

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