LETTER OF UNDERSTANDING
Between
Health and Safety Executive
and
Healthcare Improvement Scotland

Introduction

1 This letter of Understanding (LOU) is intended to facilitate effective working relationships between the Health and Safety Executive (HSE) and Healthcare Improvement Scotland (HIS) on areas of mutual interest. The overall aim is to improve standards of health and safety, infection control, and care of the elderly in NHS and in independent healthcare establishments, by using respective resources and expertise effectively.

2 Health and safety is a reserved matter under the terms of the Scotland Act 1998 and it is not the intention of this protocol to transfer regulatory responsibility between either party.

3 The LOU and associated arrangements aim to assist staff in the respective organisations by clarifying roles and responsibilities and setting out protocols for liaison and sharing of information.

Roles

Healthcare Improvement Scotland (HIS) which includes the Healthcare Environment Inspectorate (HEI)

4 In June 2011, the Cabinet Secretary for Health, Wellbeing and Cities Strategy announced that Healthcare Improvement Scotland (HIS) would carry out a new programme of inspections. These inspections are to provide assurance that the care of older people in acute hospitals is of a high standard. HIS will measure NHS Boards’ performance and compliance with Clinical Standards for Older People in Acute Care.

5 The Healthcare Environment Inspectorate (HEI) which is part of HIS was established in April 2009 to undertake at least one announced and one unannounced inspection of all acute hospitals across NHS Scotland every 3 years.

6 HIS does not undertake inspections under health and safety legislation and has no remit for staff health and safety. There will be areas of overlap between infection control and health and safety. In these circumstances HIS will only cover infection control aspects and through existing arrangements may pass any health and safety concerns to HSE.
7 HIS’ focus is to reduce the healthcare associated infection (HAI) risk to patients, to improve the care of elderly patients and to regulate Independent Healthcare Services, through an inspection framework which:

- provides public assurance and protection, to restore public trust and confidence
- contributes to the prevention and control of HAI
- contributes to improvement in infection control and the broader quality improvement agenda across NHS Scotland
- ensures that older people are being treated with compassion, dignity and respect while they are in an acute hospital.

8 HIS inspections are conducted against: the Healthcare Associated Infection Standards (HAI) published by NHS Quality Improvement Scotland (NHS QIS) in March 2008; Clinical Standards for Older People in Acute Care published by the Clinical Standards Board for Scotland (CSBS) in October 2002; associated national requirements for the prevention and control of infection; and other standards, guidance and best practice that are relevant to older people in acute care. These include, for example, Health Department/Chief Executive Letters (HDL/CEL), Chief Medical Officer (CMO) and Chief Nursing Officers (CNO) letters, and National Care Standards.

9 HIS assesses performance both by considering self-assessment data and inspecting acute hospitals within the NHS board area to validate information and discuss related issues. In addition, HIS inspects independent healthcare services regularly to make sure that they are complying with necessary standards and regulations. HIS uses a range of audit tools to assist in the assessment of the physical environment and practices by noting compliance against a variety of areas including:

- environment and facilities
- handling and disposal of linen
- departmental waste handling and disposal
- safe handling and disposal of sharps
- patient equipment
- hand hygiene
- ward/department kitchen
- clinical practice
- antimicrobial prescribing
- dementia and cognitive impairment
- falls prevention and management
- nutritional care and hydration
- preventing and managing pressure ulcers and
- caring behaviour
10 HIS do not:

- investigate complaints;
- investigate the cause(s) of outbreaks of infection; and
- enforce health and safety legislation e.g. employee safety

Health and Safety Executive (HSE)

11 The Health and Safety Commission (HSC) and Health and Safety Executive (HSE) were established by the Health and Safety at Work etc Act 1974 (HSWA) as two separate non-departmental public bodies. In 2008 they merged into a unified HSE which is the single national body responsible for regulating health and safety at work.

12 HSE is responsible for the enforcement of HSWA and relevant statutory provisions made under it in NHS and independent healthcare establishments throughout Great Britain (GB).

13 HSE’s mission is to “prevent death, injury and ill health to those at work and those affected by work activities”.

14 HSWA sets out general duties, which employers, the self employed and people in control of premises have towards employees and others who could be affected by work activities.

15 HSE undertakes health and safety inspections and investigations of accidents and complaints covering occupational health, safety and welfare risks to employees as well as health and safety risks to members of the public arising from work activities.

16 HSE inspectors are warrant holders, which affords them legal rights to enter premises and to talk to relevant staff during inspections and investigations. They have a variety of enforcement tools in order to secure immediate and sustained compliance with the law. These enforcement tools range from the provision of advice to the serving of enforcement notices and the reporting of offences to the Procurator Fiscal as necessary.

HSE’s role in patient health and safety

17 HSE has a well established role in regulating risks to healthcare workers. Where appropriate and occasionally in circumstances where others compel it, HSE also has a role in protecting the health and safety of patients and those in care, by virtue of Section 3 HSWA.

18 Whilst Section 3 HSWA allows HSE to consider the prevention and control of risks arising from Healthcare Associated Infections (HAI), HSE recognises that HEI, now part of HIS, was set up specifically for this purpose and is better placed to do so. Moreover, HSE sees the two roles as complementary with arrangements in place to ensure that concerns
over patient safety, whether they are related to HAI or other risks such as legionella, are promptly reported to the lead organisation for that risk.

19 As far as reactive work is concerned, such as HAI incidents, complaints, outbreaks etc in Scottish Health Boards and independent healthcare providers, HSE will inform HIS at the earliest opportunity of being notified. HSE will only intervene where public interest demands that appropriate powers be used so that those failing in their duties can be subject to rigorous examination including recourse to criminal proceedings. Any decision to become involved in an investigation will only be authorised by senior HSE staff and HIS will be informed.

**Work Planning**

20 HIS and HSE will so far as practicable co-ordinate inspections to reduce the burden on healthcare providers. Where HSE and HIS are satisfied that such sharing of information serves a positive health and safety purpose, and provided that the Data Protection Act 1998 is complied with, both organisations will share work planning at least bi-annually on announced inspections in areas of mutual interest namely:

- NHS Scotland acute hospitals
- Independent healthcare providers (e.g. independent hospitals and hospices)

21 The areas of mutual interest will be reviewed annually.

**Sharing Documents**

22 As HIS is not a prescribed body for disclosure under Section 28 HSWA, the section 28(3) exemption from restrictions on the disclosure of relevant information by HSE does not apply.

23 HSE will disclose information such as inspection reports to HIS where it considers that this will serve a positive health and safety purpose and provided that such disclosure complies with the law referred to in paragraph 26 below and S28 HSWA.

24 HEI inspection reports are published online by HIS.

25 Any disclosure by HIS of these reports prior to publication or any other relevant documents will be in accordance with paragraph 26 below.

26 All information sharing shall only take place in accordance with the law, including the Data Protection Act 1998, the Freedom of Information Scotland Act 2002, the Environmental Information (Scotland) Regulations 2004, the Human Rights Act 1998 and the common law of confidentiality.

**Liaison Arrangements on matters of evident concern**

27 Arrangements for liaison on matters of evident concern noted during inspections are covered in the document “Liaison arrangements between the Health and Safety
Executive (HSE) and Healthcare Improvement Scotland (HIS) for matters of evident concern (MECs) noted during the course of inspections” and its Annexes A and B.

28 HIS will disclose relevant information to HSE on matters of evident concern as detailed in Annex A.

29 HSE will disclose relevant information to HIS on matters of evident concern as detailed in Annex B.

30 So far as is practicable both organisations will inform the healthcare provider of their concerns and their intention to notify the other organisation during the inspection.

Review of Letter of Understanding

31 HSE and HIS will endeavour to ensure that their staff are aware of this LOU and the working arrangements that should apply. The LOU should be reviewed annually and any amendments must be agreed by all parties to ensure that it remains relevant and up to date. The letter will also be reviewed following the reporting of the Vale of Leven Hospital Inquiry to the Scottish Cabinet Secretary for Health, Wellbeing and Cities Strategy in 2012.

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March 2012      March 2012
Liaison arrangements between the Health and Safety Executive (HSE) and Healthcare Improvement Scotland (HIS) for matters of evident concern (MECs) noted during the course of inspections

1 During the course of inspections, HIS staff may come across health and safety issues in hospitals, which due to the seriousness of their nature, would warrant a report being made to the HSE. Likewise, HSE inspectors may come across infection control and care of the elderly issues in hospitals which HIS would wish to be made aware of.

2 Matters of Evident Concern (MEC), whether they be health and safety, care of the elderly or infection control concerns, are those that create the potential for a serious personal injury or ill health either to staff or patients and which are observed (i.e. self-evident) or brought to the attention of HIS/HSE inspectors.

4 Attached to this note are two annexes. Annex A provides guidance for HIS staff on potential areas for injuries and ill health to staff and patients and aims to provide sufficient information to help in making a decision about when to inform HSE. More detailed and comprehensive information can be found on HSE’s website at www.hse.gov.uk. Annex B provides guidance for HSE inspectors on potential areas for failure to control infection and similarly aims to help HSE inspectors decide when to inform HIS. Guidance on potential areas relating to care of the elderly is currently being developed and will be added to Annex B later. Further information about HIS can be found on the Healthcare Improvement Scotland website at http://www.healthcareimprovementscotland.org/home.aspx

5 Important note: It is not the intention of these arrangements that each individual instance of failure is reported, as this would not be good use of either organisation’s resources. It is only where inspectors come across deficiencies which appear to be indicative of systemic failings by a hospital or Health Board, for example, repeated deficiencies across a number of wards/departments suggesting a lack of central management of the issue.

Liaison Arrangements

6 If HIS staff wish to report MECs they should contact the nominated Regional Inspector in Healthcare Improvement Scotland staff who will assess the information and contact the appointed HSE lead, if considered appropriate to do so.

7 If HSE inspectors wish to report MECs they should contact the nominated HSE staff who will assess the information and contact the appointed HIS lead, if considered appropriate to do so.
Annex A

Matters of Evident Concern for Healthcare Improvement Scotland (HIS) to report to HSE

1 The main potential areas for serious injuries and ill health to either staff or patients in healthcare are:

- Workplace transport
- Manual Handling
- Slips and trips
- Falls from height
- Legionella
- Scalding /burning risks
- Needlestick injuries
- Bedrails
- Latex allergy

2 The following paragraphs on each of the areas aim to provide HIS staff with sufficient information to help in making a decision about when to inform HSE. More detailed and comprehensive information can be found on HSE’s website at www.hse.gov.uk.

3 Workplace Transport

Workplace transport is the second biggest cause of fatal accidents in HSE enforced premises. Most of these accidents are caused by people being struck by a vehicle, which means that for hospitals this is a very real risk. Each hospital should have: well defined traffic routes free from obstruction and with firm and even surfaces. Every effort should be made to separate pedestrians from vehicles using barriers where necessary. There should be pedestrian crossing points and traffic routes should be designed to avoid the need for larger vehicles to reverse. Examples of matters of evident concern are:

- Pedestrians and vehicles sharing the same route particularly where lighting is poor and the flow of pedestrians is high
- Reversing large vehicles in busy pedestrian areas
- Doors from hospitals opening out onto busy traffic routes without any additional protection including barriers, signage etc
- Unsuitable service vehicles (e.g. linen or waste collection) using pedestrian routes without adequate controls (e.g. low speed, warning sounds/lights, segregation where possible)

4 Manual handling

The moving and handling of patients while caring for them is a major cause of injuries, both to staff and patients. The provision of suitable lifting and handling equipment and training of staff in its use is vital. Examples of matters of evident concern are:
• Patients are routinely being manually handled or lifted without the use of any lifting aids
• There is a lack of lifting aids to handle patients with mobility difficulties e.g. lack of hoists, electric profiling beds, slide sheets, stand-aid hoists, hand rails, slings
• Inappropriate lifting equipment/accessories are used to handle patients, e.g. no consideration given to the patient’s condition/weight/dignity; etc
• Lifting aids/equipment appear to be poorly maintained, for example, tears to slings, out of date (or lack of) thorough examination report stickers
• Staff have received inadequate or no manual handling training. No evidence of participation in the NHS Scotland Manual Handling Passport and Information Scheme

5 Slips and trips:

Slips and trips are the main cause of major injury to staff in the health services. Accidents to patients and visitors to hospitals are also frequent. Examples of matters of evident concern are:

• Obstructed/cluttered walkways e.g. accumulation of trolleys, wheelchairs, medical equipment, waste, trailing cables, floor sockets, etc
• Uneven surfaces e.g. worn/torn floor coverings, holes, unmarked ramps, etc
• Contaminated floor surfaces either due to water/other fluids or due to dry floor contamination e.g. talcum powder. This may be due to a number of factors including spillages or leaks not being cleared up promptly; water being trailed in from outside due to inadequate/no entrance matting, wet cleaning in progress while pedestrian access is permitted etc
• The floor is slippery even when free from contamination
• Lack of non slip floors in wet areas (e.g. bathrooms, kitchen areas)

6 Falls from height

The issue of people in hospitals and social care premises falling from windows continues to be a problem. Windows that are accessible to vulnerable patients, which can be opened and are large enough to allow people to fall out a distance likely to cause harm, e.g. above ground level, should be restrained sufficiently to prevent such falls. The size of the opening should be restricted to no more than 100 mm. Examples of matters of evident concern are:

• A first floor ward or above with children where there are no means of restricting the size of the window opening
• A first floor ward or above with vulnerable patients such as those suffering from senility, dementia, reduced mental capacity or illness or the effect of drink and drugs where there are no means of restricting the size of the window opening
• An open window or fire escape door on any first floor level ward or above with vulnerable patients
• Vulnerable patients having access to balconies

7 Legionella
Legionella are bacteria that are common in artificial water systems, e.g. hot and cold water systems (storage tanks, pipework, taps and showers). Legionnaires’ disease is a potentially fatal form of pneumonia which can affect anybody, but which principally affects those who are susceptible because of age, illness, immunosuppression etc. Infection occurs by inhalation of water droplets (aerosols) infected with the bacteria.

There are a number of different methods of controlling legionella in water systems but the most common method is temperature control. Avoidance of stagnant water within water systems is also a key preventive measure. Examples of matters of evident concern are:

- Infrequently used showers or outlets where there is no regime for regular flushing through
- Showerheads that have a build up of scale and dirt
- Hot or cold taps with the heads removed (sometimes done to avoid risk of scalding). This creates stagnant water in the pipework to both taps
- Taps where there is no thermostatic mixer valve and the water from the taps is between 20°C and 50°C after running for more than one minute
- Showers that have been capped off
- Lack of monitoring of water storage and distribution temperatures

8 Scalding and hot surface risks:

Scalding risks from hot water

The main principle is to prevent scalding injuries to vulnerable hospital patients (e.g. children, the elderly, people with reduced mental capacity, reduced mobility, etc) from high water temperatures during bathing and showering. Examples of matters of evident concern are:

- Baths and showers, which are accessible to patients in the above high risk groups, with no thermostatic mixing valves to ensure that water is delivered at less than 44°C

Burning risks from hot surfaces

High temperatures of circulating water in heating systems put patients at risk. Where there is a risk of a vulnerable patient sustaining a burn from a hot surface (e.g. radiator or pipe) then the accessible surface should not exceed 43 degrees C. Examples of matters of evident concern are:

- Hot pipes and radiators (above 43 deg C) in areas where vulnerable patients may come into contact with them (e.g. next to bed, in bathrooms) and are not covered or otherwise protected

9 Bedrails

Bed rails, also known as cot-sides, are used extensively in health care to protect vulnerable patients from falling out of bed. There are several causes of injury involving bed rails, the most serious being as a result of entrapment by the head or neck. This
may lead to death from asphyxiation. Injuries also arise from a patient attempting to climb over the rails, or when a restless person strikes their head against the rails. Examples of matters of evident concern are:

- Poorly fitting bed rails that may result in parts of the body becoming trapped, e.g. between the mattress and the bedrail. This could arise from using a bed rail that is not designed for use with a particular bed type
- Poor bed rail design, for example very large spacing between the rails
- Movement of the bed rail away from the side of a divan mattress
- Use of mattress overlay, which reduces the effective height of the bed rail
- Use of an air mattress which is too light to keep the bed rail assembly in position on a divan bed
- Bed rails in poor condition

10 Needle-stick injuries:

The main principle is to prevent the exposure of workers to blood borne viruses (Hepatitis B, C and HIV) caused by needle-stick injuries. Examples of matters of evident concern are:

- Sharps are not immediately and safely disposed of into appropriate puncture proof sharps bins
- Sharps containers are overfilled
- Needles are re-sheathed

11 Latex allergy

Natural rubber latex (NRL) can be found in many products within healthcare. It has been extensively used in the manufacture of medical gloves.

As the use of such products has increased, particularly the increased use of single use gloves in infection control, NRL allergy and sensitisation have been identified as a problem.

Where NRL gloves are assessed as absolutely necessary, only single use NRL gloves, with low leachable protein, that are powder free, should be used. Examples of matters of evident concern are:

- Indiscriminate and widespread use of NRL gloves
- No alternative to NRL gloves
- The use of gloves or products, which contain NRL, where there is a sensitised patient. (All staff need to be made aware when a patient with NRL allergy is admitted)
Annex B

Matters of Evident Concern for the Health and Safety Executive (HSE) to report to Healthcare Improvement Scotland (HIS)

HEALTHCARE ASSOCIATED INFECTIONS

1 Infection prevention and control is an overarching term covering the measures taken to address all issues within a hospital that have the potential to cause harm to patients and staff from micro-organisms. The emphasis is on prevention through measures such as hand hygiene monitoring and clean environments. Surveillance systems to capture infection data and systems in place to inspect the condition of the fabric of the building are also essential. Infections do occur which is where the control aspect comes in and this is achieved through good isolation precautions and increased monitoring of practice and cleanliness.

Infection control can be broken down into discrete topics as follows:

- Policies & procedures
- Hygiene and cleanliness
- Waste management
- Fabric of the building
- Access arrangements
- Education and training

2 The following paragraphs on each of the topics aim to provide HSE inspectors with sufficient information to help in making a decision about when it is appropriate to inform HIS of concerns.

3 Management and policies

Policies and procedures have been developed by NHS Boards in relation to infection control, based on national recommendations and guidelines. A lack of implementation, monitoring and review of policies is an indicator of poor prevention and control. Examples are as follows:

- The organisation does not learn from all relevant experiences and applies lessons through the audit and review process.
- There is no effective management structure in place.
- There is no monitoring activity to measure compliance with polices and procedures.
- There is no surveillance in place to capture infection data, such as C difficile, MRSA, Surgical site infection, outbreaks and prescribing.
- There is a failure to follow standard infection control precautions. [http://www.hps.scot.nhs.uk/haiic/ic/standardinfectioncontrolprecautions-sicps.aspx](http://www.hps.scot.nhs.uk/haiic/ic/standardinfectioncontrolprecautions-sicps.aspx)
- The infection control manual is not readily accessible or is out of date.
- Staff cannot access or have restricted access to hospital/Board policies and procedures.
- Failure to isolate patients with known or suspected infections in line with the board policy.

4 Hygiene and cleanliness

A lack of good hygiene and cleanliness within the healthcare environment is a known cause of infection, for example, the transmission of bacteria MRSA and C difficile is aided by the dispersal of dust that builds up in an environment that is not cleaned effectively. Examples of poor practice are:

- Poor cleaning over a period of time, for example where equipment such as beds, linen, commodes, hoists, IV stands, chairs, tables and walking aids or patients show signs of contamination and/or a lack of cleaning.
- Uneven surfaces for example worn/torn floor coverings, holes, unmarked ramps, etc which cannot be cleaned effectively.
- Contaminated floor surfaces either due to body fluids/other fluids or due to dry floor contamination such as dust. This may be due to a number of factors including spillages or leaks not being cleared up promptly.
- Obstructed/cluttered ward areas, where access to allow cleaning is restricted for example accumulation of chairs, medical equipment, hoists etc.
- Equipment is poorly maintained for example tears to seating, exposed/bare woodwork on furniture, pitted/rusted surfaces which cannot be cleaned effectively.
- Repeated poor hand hygiene practices by healthcare staff, for example, where there is poor cleaning of hands on entering wards, poor practice on entering isolation rooms or poor hand hygiene between patients after providing patient care.
- Staff providing clinical care are not following the NHS dress code policy. This includes staff wearing jewellery, watches, long sleeves, long hair not tied back or staff not wearing a uniform. (Note, doctors do not wear uniforms)
- Access to hand washing facilities is blocked or restricted due to poor bed spacing.
- A patient in isolation does not have access to dedicated equipment. For example no dedicated commode, wash basin, stock of disposable wash clothes, towel, clothing and chairs etc.

5 Waste management

The management of waste in a healthcare organisation is essential not only to the health of patients and staff but also the general public. Within hospitals there are specific types of waste - domestic, clinical and special waste. Bins must be designated according to the type of waste they are to receive to prevent waste being disposed of incorrectly. Examples of poor waste management are:

- Sharps bins are more than 2/3 full.
- Sharp bins are not closed when not in use.
- Waste bins are overflowing on the ward (or in corridors).
- Ward bins are not foot operated.
- Large container bins are left open or overflowing.
After bins have been emptied the waste bags are stored securely before uplift in a locked container and/or locked room.
Dirty linen is not segregated from clean linen.

6 Fabric of the building and accommodation

The fabric and accommodation of a building is essential in the prevention and control of infection. If there is damage to floors and walls they cannot be cleaned effectively. Accommodation must be suitable for the control of infection with the correct use of isolation rooms, bed spacing and sink placement etc. The management of the patient environment is also essential including allowing suitable access for staff to carry out their duties and reduce the risk from infection. Examples of unacceptable conditions are:

- The fabric of the building is damaged to such an extent that it cannot be adequately cleaned. The indicators would include areas of impact damage, and broken wall surfaces which cannot be adequately cleaned in numerous locations.
- There is an apparent breakdown of procedure between the reporting of faults and the resultant resolution of the repairs.
- There are uneven surfaces for example worn/torn floor coverings, holes, unmarked ramps.
- There are obstructed and cluttered walkways near patient areas, for example by trolleys, wheelchairs, medical equipment.
- There is restricted access to wash hand basins.
- Bed spacing is inadequate (less than 2.7m bed centre to bed centre).

7 Access arrangements for visitors

Visitors to wards have a potential to cause an infection risk through non compliance with prevention and control precautions. The most common non compliance by visitors is lack of hand hygiene, too many visitors to a bed (large numbers of people around beds and ward appears crowded) and visitors visiting the hospital whilst ill. Examples of poor visitor access arrangements are:

- There are no information posters or similar in public areas and or at the entrance of the wards to advise visitors to wash their hands.
- There is a failure to display a notice to instruct visitors that a particular patient is in isolation.
- Patient visitor numbers are not controlled.
- There are no arrangements to inform patients/their visitors of the correct procedures for handling contaminated laundry at home.

8 Education and training

Education and training are a means by which an organisation can instruct its staff on the correct methods/techniques to use in a given situation. Education can be delivered through a variety of methods such as e-learning, face to face briefings and lectures. Examples of poor practice are:
- Staff have received no infection control training.
- Dedicated infection control staff have received no additional training to undertake their duties.
- There is no training strategy.
- Staff and their line managers are unable to locate training records or confirm that training has been received.