

**HUMAN RESOURCES DIRECTORATE
PAY AND EMPLOYMENT UNIT**

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Dear Colleagues

**ISSUE OF ALERT LETTERS FOR HEALTH CARE PROFESSIONALS UNDER
INVESTIGATION BY HSC EMPLOYERS**

1. The guidance set out in the Annex to this Circular covers the issue of alert letters for health care professionals that come under the Regulatory bodies listed in Appendix 1 and employed in HSC. These arrangements have been agreed by the relevant trade unions. The Department has Directed that this scheme should be adopted by all Health and Social Care bodies. This guidance does not apply to the independent sector but it is recommended that independent contractors should incorporate this scheme into their own procedures.

Summary

2. An alert letter is the way in which all HSC employers are made aware of a health professional whose performance or conduct could place patients, staff or the public at serious risk. They cover situations where health professionals who pose a hazard to patients, staff or the public may move from their present HSC employer to work elsewhere in a health or social care setting in any capacity, whether or not requiring registration, before their regulatory body has had the

¹ The Health and Social Care Board, HSC Trusts, the Public Health Agency, the Business Services Organisation, the Northern Ireland Blood Transfusion Service Agency, the Northern Ireland Guardian ad Litem Agency, the Northern Ireland Practice & Education Council for Nursing, Midwifery & Health Visiting (NIPEC), the Northern Ireland Social Care Council (NISCC), the Patient & Client Council, the Northern Ireland Regulation and Quality Improvement Authority and the Northern Ireland Medical and Dental Training Agency (NIMDTA)

chance to consider interim suspension or other measures. Even where such measures are in place, alert letters are intended to reduce the risk of inappropriate employment in any capacity.

3. It is also a way in which all HSC employers are made aware of a health professional who may reasonably be considered to pose a serious potential or actual risk to patient care, staff safety or the public because their performance or conduct seriously compromises the effective functioning of a clinical team.
4. Alert letters are not intended to be issued in every case where an individual's performance or conduct is being considered by their HSC employer. An alert letter is intended to cover situations where an individual under investigation moves on or could move on before the assessment process is completed.

Action

5. HSC employers are required to implement these arrangements for the issue of alert letters with immediate effect.

Enquiries

6. Enquires about the contents of this Circular should be directed to the Pay and Employment Unit of the Human Resources Directorate, Room D1.4, Castle Buildings, Upper Newtownards Road, Belfast, BT4 3SJ, telephone 028 90522832, email; p&e@dhsspsni.gov.uk.
7. Employees should direct personal enquiries to their employer.

Further Copies

8. Copies of this Circular can be obtained from the Department's extranet site at <http://extranet.dhsspsni.gov.uk>.

Diane Taylor

DIANE TAYLOR
Deputy Director

MAINTAINING HIGH PROFESSIONAL STANDARDS

SCHEME FOR THE ISSUE OF ALERT NOTICES
FOR HEALTH CARE PROFESSIONALS IN HEALTH & SOCIAL CARE
IN NORTHERN IRELAND

THE ISSUE OF ALERT NOTICES FOR HEALTH CARE PROFESSIONALS

Summary

1. The DHSSPS has strengthened the current arrangements for the issue and revocation of alert notices for health care professionals in Northern Ireland.
2. The system is described in the attached scheme. This requires Health and Social Care (HSC) bodies to request alerts in line with the requirements contained within this system.

SCHEME FOR THE ISSUE OF ALERTS REGARDING HEALTHCARE PROFESSIONALS IN NORTHERN IRELAND

Introduction

1. The issue of an alert is a way by which HSC bodies and professional organisations, as listed in Appendix 1, can be made aware of a registered healthcare professional whose performance or conduct gives rise to concern that patients, staff or the public may, in future, be at risk of harm either from inadequate or unsafe clinical practice or from inappropriate personal behaviour. It is also a means of ensuring that HSC organisations are made aware of healthcare professional that may pose a threat to patients, staff, or the public because their conduct seriously compromises the effective functions of a team or delivery of service.
2. The alert system is intended to cover those situations where an HSC employer considers that a member of their healthcare staff may pose a threat to patient safety if they worked in that professional capacity. The alert system is not part of either the HSC employees' disciplinary process or statutory regulatory framework. It is an integral part of the system for pre-employment checks. It is intended as a means of alerting prospective employers to check that the applicant's employment record is complete and appropriate references are obtained and that information relevant to safe employment is known in advance of an appointment being made.
3. Employers should always undertake comprehensive checks on registration, qualifications and references and carry out Enhanced Disclosure Certificates by AccessNI, Criminal Records checks and occupational health checks in accordance with normal recruitment policies.
4. This guidance requires HSC bodies to implement and manage the alert scheme in accordance with the steps described within this scheme. These requirements are mandatory for HSC bodies.
5. In developing this system, consideration has been given to human rights issues, as they affect the employer/employee relationship. In making decisions careful adherence to the procedures contained within this scheme will ensure that the rights of those who are subject to an alert are respected. Of particular importance is the need to ensure that alerts are regularly reviewed so that they can be revoked as soon as there is evidence the alert should no longer remain live. However, an alert will not be revoked solely on the basis of an assurance from the individual unless

this is binding on their permission to practice (e.g. an undertaking to the professional regulatory body or a court).

Who is covered by the alert system?

6. The alert system covers any healthcare professional currently subject to statutory regulation by one or more of the bodies listed in Appendix 1.

Triggering an alert

7. An alert may only be issued by the Chief Professional Officer, DHSSPS and only where it is considered that an individual poses a significant risk of harm to patients, staff or the public and intends or may intend to seek permanent or temporary work in the NHS/HSC in that capacity, and there is a pressing need to issue an alert notice. Other bodies may also request the issue of an alert (see paragraph 17-18).
8. Concerns may arise about the conduct and performance of a healthcare professional in a number of different ways, including concerns raised by other staff, findings arising from internal investigations, the disciplinary process, information from the regulatory bodies, complaints, police investigations, appropriate bodies outside the UK and information arising from the audit and inspection process. The issue of an alert is a serious step and should only be considered where a significant risk of harm to patients, staff or the public has been identified. It is important that investigations are brought to a conclusion, even when employees have left the HSC body, both to safeguard future patients and staff elsewhere and in the interests of the individual (who may otherwise be left with an unresolved alert).
9. An alert may be issued where the regulatory body has not yet decided to take action to make an interim suspension order or take other measures. Where the regulatory body has taken interim measures, the alert should remain live as it is intended to reduce the risk of inappropriate employment in any capacity. This will enable the HSC body to provide a full reference if requested by a prospective employer.
10. An alert should not be issued in circumstances where an individual's performance or conduct is being considered by their HSC employer.

Other staff and bogus professionals

11. In exceptional circumstances a situation may arise in which a member of staff not covered by paragraph seven may pose a threat to public safety and is likely to seek employment elsewhere (e.g. a staff member who falsely holds himself out to be a healthcare professional and is seeking work in the NHS/HSC in that capacity). In

such circumstances, it would be a proportionate response to take action based upon the principles contained within this scheme to safeguard public protection.

Who in the DHSSPSNI should issue an alert?

12. Alerts must be issued on behalf of the DHSSPS by the Chief Professional Officer in the DHSSPS. The Chief Professional Officer is formally responsible for assessing whether or not an alert should be issued and remains in place, and for formally revoking an alert when appropriate. The Chief Professional Officer must ensure that appropriate professional advice is taken before an alert is issued.
13. The Chief Professional Officer must delegate responsibility for occasions when they are not available to issue an alert personally. Such occasions may arise during periods of annual leave, sickness absence or other planned absences. The Chief Professional Officer retains overall responsibility for overseeing the process for issuing and revoking alerts and should be notified of all alerts issued in his or her absence on returning to work.

The role of the employing/referring body

14. There will be circumstances when information comes to light that suggests that a particular individual, who may be a current or former employee, poses a significant risk of harm to patients, staff or the public and intends or may intend to seek permanent or temporary work in the NHS/HSC or elsewhere in that capacity.
15. Responsibility for requesting the issue of an alert must be made at Chief Executive or Executive Board member level. Employers may wish to seek their own legal advice in complex cases or those in which there is any doubt about the incidents or behaviour which gave rise to the concerns. The request must contain the name and last known address of the individual who is the subject of the notice. It must also contain a summary of the circumstances which gave rise to the request including a summary of all relevant information, an assessment of the relevant risks and any advice taken. The request must also explain what action the HSC body has already taken in respect of the individual to the relevant health regulatory body and must state the gender and ethnic origin of the individual, if known.
16. An assessment of the degree of risk should be based on the circumstances of each individual case taking into account the advice of the Director of the professional group in the HSC body. Other sources of advice include the regulatory body and other professional organisations. Where relevant professional advice is not available within the HSC body, advice may be obtained from an appropriate source in another HSC body. The National Patient Safety Agency has developed an

incident decision tree that may help evaluate whether incidents, which gave rise to initial concern, raise doubts about the conduct or performance of a particular individual. In all cases, the employing/referring body should consider carefully what other measures could be taken, other than issuing an alert notice, to ensure the protection of the public. In the particular case of midwives, this should include referral to the local supervising authority.

Requests for alerts from other bodies

17. Where an education provider considers that an alert should be issued in respect of a professional in training, he or she should seek advice from the Chief Professional Officer in the DHSSPS.
18. There may be instances where another body (e.g. a non - HSC employer) considers that an alert should be issued in respect of a healthcare professional that they employ or have previously employed. In such cases they should contact the Chief Professional Officer in the DHSSPS to discuss the details of the case, so that he/she can decide whether to issue an alert. The Chief Professional Officer in the DHSSPS may issue an alert notice in any circumstance considered appropriate provided that having taken appropriate advice, he/she is satisfied that a healthcare professional (or person holding himself out to be a healthcare professional) poses a significant risk of harm to patients, staff or the public and may seek work in the NHS/HSC in that professional capacity.

The role of the DHSSPS

19. When the Chief Professional Officer in the DHSSPS has considered the request from the referring body, he/she should consult with relevant senior professional colleagues.
20. If, in light of all the information presented to the DHSSPS, the Chief Professional Officer agrees that the individual concerned may pose a significant risk of harm to patients, staff or the public and may seek work in the NHS/HSC/Private Sector in that professional capacity and there is a pressing need, he/she may issue an alert. The DHSSPS must advise the referring body whether or not an alert will be issued, and the reasons behind the decision. The DHSSPS must issue an alert to the bodies listed in the footnote² and to the individual concerned.

² The Health and Social Care Board, HSC Trusts, the Public Health Agency, the Business Services Organisation, the Northern Ireland Blood Transfusion Service Agency, the Northern Ireland Guardian and Litem Agency, the Northern Ireland Practice & Education Council for Nursing, Midwifery & Health Visiting (NIPEC), the Northern Ireland Social Care Council (NISCC), the Patient & Client Council, the Northern Ireland Regulation and Quality Improvement Authority and the Northern Ireland Medical and Dental Training Agency (NIMDTA)

Action following the decision to issue an alert notice

21. If the DHSSPS issues an alert, the referring body must refer the case to any relevant statutory regulatory body or professional body with disciplinary powers as a matter of urgency, if this has not been done already (see paras 36-37). There may be exceptional circumstances when immediate referral might not be appropriate, for example when investigations are ongoing to gather evidence to support a referral to the regulatory body. In such circumstances referral must be made at the earliest possible opportunity. If investigations conclude that a referral to a regulatory body is not warranted, the referring body should ask the DHSSPS to revoke the alert without delay. In the case of midwives, the NMC and the local supervising authority should be informed of the issue of the alert and notify the DHSSPS of any action it takes.
22. Once an alert is issued, the individual concerned must be notified by the DHSSPS within seven days (in writing to their last known home address and, where appropriate, their registered address). He/she should be given a summary of the DHSSPS reasons for this action. He/she may ask the DHSSPS to review its decision.
23. If, for whatever reason the DHSSPS is satisfied that h/she does not in fact represent a threat to patients, staff or the public, the alert must be formally revoked. This should be notified to the individual concerned and the referring body, by the DHSSPS as soon as is practicable.

Circulation of alerts

24. The alert will be issued in the form of a letter by the Chief Professional Officer, DHSSPS to the Chief Executives of all Health and Social Care Bodies listed in footnote 2, the Chief Professional Officers for Scotland, Wales and England and the regulatory body which regulates the profession or purported profession of the individual to whom the letter relates. The notification [see Appendix 2 for a model] will ask them to contact a named officer at the referring body for a written reference, if the individual concerned contacts them with a view to obtaining employment.
25. The Chief Professional Officer in the DHSSPS may also send copies of the alert notice to other organisations which provide services to the HSC and which, in the opinion of the DHSSPS, may be approached by the subject of the alert notice with a view to seeking work. The Chief Professional Officer should carefully consider the degree of risk posed by the subject of the alert and the interest of the third party in obtaining the information.

26. Alerts are strictly confidential and should be marked 'alert system in confidence'. They should only be shared within an organisation on a strict 'need to know' basis, and should be stored securely. An alert should be part of the employment record of the referring body. The same procedure and circulation list should apply when an alert is revoked.

Action to take on receipt of an alert

27. If an employing body becomes aware that an employee or prospective employee or an applicant for inclusion on its list is the subject of a current alert, then they should contact the referring body, as set out in the written notification.
28. Where contact is made by telephone, care must be taken to ensure that information is provided in a fair and consistent matter. Details should be based on the factual information provided to the DHSSPS or other facts that have subsequently emerged.
29. The employing body should then review the information provided by the individual in their application forms in the light of the information provided by the referring body, and take any appropriate action to ensure that the safety of patients and the public is maintained.

Monitoring and revocation of an alert

30. The DHSSPS must keep the alert notice under review to ensure it is regularly reviewed so it can be revoked as soon as there is evidence the alert should no longer remain live. A review should take place no later than six months from the last review. However, an alert should not be revoked solely on the basis of any undertaking unless this is binding on the practitioner (e.g. an undertaking to the regulatory body or a court). If new circumstances come to light that give rise to further concerns about the individual, the process to issue another alert notice should begin again.
31. The subject of the notice may at any time seek a review of the decision to issue an alert where new evidence or information comes to light. This should include the outcome of any proceedings by the police, the civil courts, regulatory body, disciplinary proceedings as appropriate or any information arising from the source of the concern which initially gave rise to the request for an alert to be issued. This will ensure that where information comes to light, which shows that the individual concerned does not pose a threat to the patients or staff, the DHSSPS can consider revoking the alert at the earliest opportunity. However, the DHSSPS will still need to

take account of all the circumstances that gave rise to the issue of an alert in the first place.

32. Each case must be considered on its merits and alerts should not remain in force any longer than is necessary to ensure the protection of patients, the public and staff. DHSSPS will therefore review decisions when any further information comes to light and carry out a review no later than six months from the last review. The review will be a proactive process during which the DHSSPS will contact the sources of the concern, which originally resulted in the issue of the alert notice, to establish whether there have been any changes in circumstances or any new information which should be taken into account in deciding whether the alert notice should remain in force. The individual concerned will be informed by the Chief Professional Officer when an alert has been revoked.
33. The Chief Professional Officer in the DHSSPS will maintain and keep up to date a secure list of all alerts that he/she has issued and, where applicable the date the alert was revoked. There is an obligation on the DHSSPS to hold up to date information in respect of the person who is the subject of the alert, as far as it is reasonably practicable to do so. The Chief Professional Officer in the DHSSPS will compile an annual statistical return for the Departmental Board and the Minister.
34. The Chief Professional Officer in the DHSSPS must keep details of the alert for five years after it has been revoked. The existence of a revoked alert would form an important piece of evidence should the same individual again be considered to pose a threat to patients or staff at a later date.
35. If having consulted the contact point named in the alert an employer wishes to appoint an individual who is currently subject to an alert (or include them on their list) the employer will need to consider what safeguards need to be put in place. The employer may also wish to notify the Chief Professional Officer which issued the notice so that he/she is aware that the practitioner is working in the NHS/HSC/or private sector. The Chief Professional Officer can then consider whether further action is required such as reviewing the notice or notifying the regulatory body of the subject of the alerts' continued employment in the NHS/HSC/or private sector. Where the Chief Professional Officer is made aware of such a decision he/she may wish to seek their own legal advice.

Liaison with the statutory regulatory bodies

36. Where an alert is issued the case should have been referred to the appropriate regulatory body by the referring body (or in the case of midwives, the local

supervising body) as a matter of urgency, unless there are exceptional circumstances. The purpose of doing this is for the regulatory body to consider whether any further action is required by it to protect patients, staff or the public.

37. If the regulatory body concludes its consideration of the case in terms that allow the individual concerned to remain in practice, either with or without conditions, the Chief Professional Officer will review the need for the alert to remain in place. It does not automatically follow that the alert will be revoked – there may be other good reasons for it to continue.
38. Prospective employers contacting a regulatory body regarding the registration status of an individual will also be informed if an individual is being considered formally under their fitness to practise procedures, in accordance with the appropriate rules governing disclosure of information to employers. This two-pronged approach strengthens protection for patients, staff and the public.

List of Regulatory Bodies:

The Nursing and Midwifery Council

The Health Professions Council

Standard contents for an alert notice

1. Always mark the covering letter “**ALERT NOTICE: MANAGEMENT IN CONFIDENCE**”
2. The notice must :
 - be addressed to the Chief Executive of the body
 - contain the subject’s full name, their national insurance number and/or date of birth if known and the name of the body where they work or where they formerly worked (normally the body which triggered the alert system)
 - include the registration number of the individual, if registered by one of the statutory regulatory bodies
 - explain in what capacity the subject formerly worked and in what specialty and in what other capacity they can work
 - state clearly the name, position, address and telephone number of the person to be contacted should the subject submit an application for employment

No further information about the individual or the case may be included in the alert notice.