



National Health Service in Scotland  
Management Executive

St. Andrew's House  
Edinburgh EH1 3DG

23 October 1995

Dear Colleague

**SECURITY IN THE NHS: MANAGEMENT  
SUPPLEMENT TO THE 1992 NHS SECURITY MANUAL:  
SECURITY IN NHS MATERNITY UNITS**

**Summary**

1. This letter provides colleagues with a copy of 3 documents published recently by the National Association of Health Authorities and Trusts (NAHAT). They are:-

- NHS Security Manual: Management Supplement 1995;
- Safe and Sound: Security in NHS maternity units;
- Safe and Sound? A questioning framework for risk assessment in NHS maternity units.

2. The Supplement takes account of developments in this field since the NHS Security Manual was last revised in 1992. It deals with managerial responsibility (including the need for a security policy), legal responsibility, training, reporting, access control and security audits. The publication "Safe and Sound" provides guidance and pointers to "good practice" and the "questioning framework" document aims to assist staff in maternity units analyse their own security systems and procedures for better risk assessment.

3. Also enclosed is an Appendix, which provides Scottish amendments to the Supplement. These amendments and the accompanying commentary reflect the organisation of and practice within the NHS in Scotland.

**Action**

4. The documents, together with the Scottish amendments, are recommended for use by the NHS in Scotland.

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**For information**  
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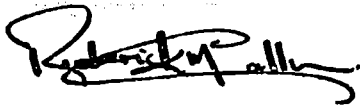
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5. The NHS Security Manual, produced by NAHAT was issued to colleagues on 21 July 1992 under cover of NHS MEL(1992)35.

Yours sincerely



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Director of Trusts

**SCOTTISH  
APPENDIX  
TO THE SUPPLEMENT  
TO THE NAHAT SECURITY  
MANUAL (LAST REVISED 1992)**

**Scottish Office  
NHS in Scotland  
Management Executive  
October 1995**

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**1. SECTION ONE: MANAGEMENT RESPONSIBILITY**

**Amendments**

**Paragraph 1.6**

Line 1: Substitute "Health Boards and GP Fundholders" for "Health Authorities and Health Commissions"

Line 3: Substitute "General Manager" for "Chief Executive".

**Paragraph 1.7**

Line 1: Substitute "Health Boards and GP Fundholders" for "Health Commissions"

**Paragraph 1.10**

Substitute "Health Boards" for "FHSAs" (after 1995 the new health authorities)

## **2. SECTION TWO: SECURITY AND THE LAW**

### **Revision**

#### **2.1 Legal responsibilities**

NHS Trust Boards must be aware of the law, and their own liability, pertaining to security. The law's role in the security of NHS premises is twofold.

- a. It defines a Health Board or Trust's duties and responsibilities to safeguard both its employees and those attending for treatment, and the consequences of failure to perform those duties sufficiently.
- b. It outlines the parameters within which an NHS body can address its security needs and the actions it can legally take to combat threats.

#### **2.2 The criminal liability for failure of security arrangements**

A hospital or other NHS body is criminally liable under the Health and Safety at Work Act 1974 if lapses of security lead to incidents which could be described as failing to provide a safe system of work. The Act includes within it the concept that security arrangements for staff and visitors should be provided up to a reasonable level. This includes the requirement for a written policy pointing out areas of risk and the safe procedure for dealing with them. It establishes that an organisation must provide:

- a safe system of work
- a safe working environment
- safe premises
- adequate training and instruction
- information which allows employees to ensure their safety at work

An employer is required to assess risks within the workplace and document what those risks are.

2.3 The policy should be communicated to all staff so that when an incident arises an effective response is made. It is not enough merely to set out a security policy for members of staff; there is a duty upon management to ensure that the policy is carried out. So staff must be properly trained and sufficiently informed so that they are able to react to security situations in an appropriate way.

2.4 In addition all employees have a duty under the Act to take reasonable care of their own health and safety and the health and safety of their colleagues. Employees too must co-operate with their employers in fulfilling their statutory obligations.

#### **2.5 Premises and property**

Under the Occupiers Liability (Scotland) Act 1960 an occupier has a duty to show towards a person entering the premises such care as is reasonable to see that that person will not suffer

injury or damage by reason of any dangers to the state of the premises or to anything done or omitted to be done on them and for which the occupier is in law responsible. This duty may extend to criminal acts by third parties if sufficient action is not taken to safeguard against them. Failure to take due care can lead to substantial awards of damages.

2.6 The concept which governs the duty is foreseeability. As violence and crime are foreseeable occurrences all healthcare bodies must employ all reasonable security measures to reduce the risk. This must be read too against a background of an increasing awareness and concern about safety and security in hospitals.

### 2.7 Warnings and disclaimer notices

An occupier may discharge the duty by giving a warning of any danger but it must be in a form to enable a visitor to avoid the danger. The mere fact that a warning is given may not be sufficient. Under the Unfair Contract Terms Act 1977 disclaimer notices excluding liability are ineffective in cases of death and personal injury and in other cases must be reasonable.

### 2.8 Criminal acts of staff

An NHS employer may be directly liable if it fails to sufficiently protect patients and other members of staff from the possibility of criminal acts by its employees. This is not to say that healthcare bodies are responsible for all criminal acts performed by staff while they are on the premises. In order for a victim and/or a relative or dependent to have a case against a Health Board or Trust it is for them to prove that:

- a. The NHS institution had a duty of care, a duty to attempt to prevent the criminal act occurring
- b. It did not perform that duty at all or to the requisite standard
- c. The victim has suffered some loss or damage
- d. This loss or damage was as a foreseeable result of the failure

Sufficient protection could be seen to be given by methods such as proper interview and selection of employees, as well as supervision of staff and a general awareness of the potential for criminal conduct. The thorough vetting of staff is something done more and more by private industry, and failure to do so by NHS bodies at best might lead to criticism and at worst huge compensation bills. Access to criminal records for those involved in the supervision of children and this might include security staff and medical records for all may help to identify those who pose a potential risk and allow for closer supervision if they are employed.

### 2.9 Action that can be taken

Members of the public, as with members of staff, cannot be searched without their prior consent. Members of a security team may be able to use the citizens right of arrest under common law in certain situations and the rights of arrest for the offences contained in Section

or on a building or premises in circumstances inferring intent to steal and being a convicted person found in possession or recent possession of equipment of theft) so it is essential that all members of staff involved in security are fully aware of, and properly trained in, the powers of arrest, the best procedures and acceptable methods to be used. If the powers of arrest are exceeded or ignored civil actions for assault and false imprisonment may follow.

## 2.10 Legislation and case law

The legislation and case law which applies to the NHS in regard to security is:

- Health and Safety at Work Act 1974
- Management of Health and Safety at Work Regulations 1992
- Occupiers' Liability (Scotland) Act 1960
- Dorset Yacht Co Ltd v Home Office (1970) AC 1004
- Civic Government (Scotland ) Act 1982, Section 59



## **2. SECTION TWO: SECURITY AND THE LAW**

### **Commentary**

Paragraph 2.3: NHS Trusts should also be aware that they need to encourage a culture which anticipates, recognises and appraises potential crime risks which lead to the initiation of pre-emptive action to remove or reduce the risks. Such action will prove more cost effective than simply waiting for situations to arise and then reacting to them.

Paragraph 2.9: A close working relationship with the local police force should allow Trusts and Health Boards to maximise the available support in achieving this particular objective.

### **General**

NHS Circular No 1989(GEN)22: "Protection of Children" explains (i) procedures for checking with the Scottish Criminal Record Office (SCRO) about any possible criminal convictions of NHS staff, volunteers and others seeking to work with children and (ii) procedures concerning subsequent convictions of existing staff in these categories. That part of the Children's Act dealing with the vetting of NHS staff working with children does not apply to Scotland.

### 3. SECTION FOUR: TRAINING

#### **Amendments**

Amendments: Paragraph 4.2: substitute "NHS Trusts Board Members" for "Board Members" where the former appears in Lines 1 and 4.

Paragraph 4.9 bullet point 2 substitute "NHS Trust" for "unit".

**4. SECTION NINE: ACCIDENT AND EMERGENCY DEPARTMENTS**

**Amendments**

Paragraph 9.6: Information for Staff and Visitors

Lines 6 to 8: delete these 2 sentences which are not applicable in Scotland as the Patient's Charter in Scotland does not refer to Accident and Emergency Waiting Times.

## 5. SECTION 10: NHS MATERNITY UNITS

### Commentary

#### Infant Abduction

Paragraph 10.13: Infant identification; there is no national Patient's Charter for Maternity services in Scotland and Trusts have their own individual charters. It is normal practice that infants are labelled shortly after birth.