

# Overseas staff in the NHS – pre-employment checks



Prepared for the Auditor General for Scotland  
November 2007

# Auditor General for Scotland

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# Part 1. Summary

## Introduction

1. Security incidents in London and Glasgow earlier this year allegedly involved overseas staff working in the NHS, including the Royal Alexandra Hospital. Following these incidents the UK government requested a review of the arrangements for recruiting overseas staff to work in the NHS. In Scotland the Cabinet Secretary for Health and Wellbeing also asked for an examination of whether pre-employment screening of overseas staff working in the NHS in Scotland is in line with guidelines set out by the Centre for Protection of the National Infrastructure.<sup>1</sup> Appendix 1 sets out the different categories of overseas staff.
2. The work in Scotland has been carried out in two parts:
  - Audit Scotland has reviewed whether NHS boards are following their own procedures on pre-employment screening, and this work is the subject of this report.
  - The Scottish Government is revising its policy and guidance on pre-employment checks for overseas staff and plans to issue these in December 2007.

## Background

3. Healthcare professionals from outside the UK play an important role in providing care to people living in Scotland. NHS boards are expected to carry out a number of pre-employment checks on overseas staff to ensure they have the necessary qualifications, experience and authorisation to work in the UK. Policies and procedures previously issued by the Scottish Executive aim to assist NHS bodies in this; some are statutory and others reflect good employment practice. The guidance on pre-employment checks is limited to assessing an individual's suitability and capability to do the job and does not cover their ideological beliefs. As employers in their own right, NHS bodies can develop local procedures to supplement the statutory requirements. This means that procedures for recruiting overseas staff vary among NHS bodies, although all should comply as a minimum with recruitment policy and procedures for the NHS.

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<sup>1</sup> <http://www.cpni.gov.uk/>

## Key messages

- The NHS in Scotland does not have an accurate picture of the number of overseas staff employed. This means we are unable to give an assurance that the sample of personnel records we reviewed is representative. Our findings are therefore indicative only.
- Boards reported 1,161 overseas staff in NHS employment across Scotland at September 2007. However this is likely to be an underestimate as boards had difficulty identifying staff here on indefinite leave to remain. Of the overseas staff identified, boards estimated that 89 per cent of these were doctors or nurses.
- We did more detailed work on compliance with pre-employment checks for overseas staff in five NHS boards. These boards had similar procedures, and there is evidence of high compliance in the sample of personnel records we reviewed. However, because of uncertainty about the number of overseas staff it is not possible to place total reliance on these findings.

## About the study

4. Our review focused on staff recruited from outside the European Economic Area (EEA).<sup>2</sup> The objectives were to:
  - establish the number of overseas staff employed in NHS boards
  - assess whether NHS boards are following their pre-employment screening procedures for overseas staff.
5. In July 2007, the Scottish Government undertook an exercise to collect information from each NHS board about the number of overseas staff employed in the last 12 months. As part of this study we asked boards to provide the number, and type, of overseas staff currently employed (regardless of start date). We asked those boards unable to give a breakdown by type to provide an explanatory note.
6. We examined compliance with key pre-employment screening procedures at a sample of five NHS boards - Ayrshire and Arran, Grampian, Greater Glasgow and Clyde, Lanarkshire and Lothian. These

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<sup>2</sup> European Community law gives European Economic Area (EEA) nationals a right to live and work in the UK without requiring work permits for employment. The EEA consists of the EU countries plus Iceland, Norway and Liechtenstein. Nationals from Switzerland have the same rights as EEA nationals. See <http://www.ind.homeoffice.gov.uk/applying/eeaeunationals> for countries in the EEA.

boards were selected as they had the highest estimated number of non-EEA staff (84 per cent) according to the data provided to the Scottish Government. Specifically we:

- interviewed directors of human resources (HR) or their representatives, typically the HR staff responsible for recruitment
  - examined a total of 235 personnel files of overseas staff, sampling 44-54 files at each of the five NHS boards.
7. NHS boards should know the immigration status of all overseas staff at recruitment to ensure compliance with Home Office rules regarding authorisation to work in the UK, including work and other permits. We looked for evidence in each personnel file that the relevant checks had been carried out.
  8. We did not look at records of agency staff since agencies, rather than NHS boards, are responsible for carrying out the necessary pre-employment checks.
  9. We will review the systems and controls in the other boards, which were not part of the sample for detailed work in this review, as part of our ongoing audit work.

# Part 2. Number of overseas staff

## **There are a number of routes to working in the NHS**

10. There is no single route for overseas staff to be authorised to work in the NHS; for example, non-EEA citizens may work in the UK if they:

- have a work permit, usually given for hard-to-fill vacancies; or
- started work with the NHS before 1 April 2006 on a permit-free basis; or
- are part of the Highly Skilled Migrant Programme; or
- are part of the Fresh Talent: Working in Scotland Scheme; or
- are asylum seekers (in special circumstances only); or
- have indefinite leave to remain.

11. There are also special rules for dependents.

## **The NHS in Scotland does not have an accurate picture of the total number of overseas staff**

12. NHS boards had difficulty in providing accurate numbers of overseas staff for a variety of reasons:

- People with indefinite leave to remain do not need to maintain an up-to-date work permit. NHS boards may not therefore maintain a specific list of staff in this category.
- Ethnic origin and country of origin are requested by NHS boards at the time of appointment but are not necessarily the same as nationality.
- Not all staff information is held centrally, and manual records are sometimes held by the line manager at the place of work.

13. Electronic records enable information to be available both centrally and to local managers. They also offer an opportunity for consistent standards across the NHS and within boards. The health service has introduced the Scottish Workforce Information Standard System (SWISS) to support the consistent collection of staff information, but it is clear from our review that this does not yet provide

comprehensive information on all staff. SWISS includes fields for nationality, work permit and residence permit data but their use is not mandatory. In addition, there is currently no way of identifying immigration status, such as an indefinite leave to remain. In order to ensure only overseas staff with the appropriate permissions to work in the UK are employed by the NHS, SWISS should be developed to include all categories of immigration status. This information, along with work and residence permit data, should be recorded, and could be used to generate automatic reminders when permits need renewing. This could be available both centrally and to local line managers, who may be responsible for ensuring permits are kept up-to-date.

## **Most of the overseas staff identified have work permits or are on the Highly Skilled Migrant Programme**

14. NHS boards reported that 1,161 overseas staff were employed by the NHS in Scotland at September 2007 (Exhibit 1), although these figures must obviously be treated with caution in the light of the difficulties outlined above. The largest reported group of overseas staff are here on a work permit or on the Highly Skilled Migrant Programme (945 or 81 per cent). The biggest difficulty for boards was in identifying those people with indefinite leave to remain. Of the five sample boards, only NHS Lanarkshire has a separate list that enables it to easily identify staff with indefinite leave to remain.



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## Exhibit 1

### Estimated number of overseas staff (non-EEA) by NHS board

In the majority of boards, most overseas staff are here with a work permit or on the Highly Skilled Migrant Programme.

|                             | Work permit/Highly Skilled Migrant Programme | Permit free training/Fresh Talent working in Scotland | Asylum seeker | Indefinite Leave to Remain | Other/unidentified immigration status | Total        |
|-----------------------------|--|---|---------------|----------------------------|---------------------------------------|--------------|
| NHS Ayrshire & Arran        | 61   | 5   | 1             | 4                          | 0                                     | 71           |
| NHS Borders                 | 31   | 2   | 1             | 5                          | 0                                     | 39           |
| NHS Dumfries & Galloway     | 34   | 1   | 2             | 1                          | 0                                     | 38           |
| NHS Fife                    | 53   | 1   | 0             | 25                         | 30                                    | 109          |
| NHS Forth Valley            | 1  | 0   | 0             | 0                          | 7                                     | 8            |
| NHS Grampian                | 128  | 0   | 0             | 0                          | 0                                     | 128          |
| NHS Greater Glasgow & Clyde | 135  | 0   | 0             | 0                          | 0                                     | 135          |
| NHS Highland                | 38   | 1   | 0             | 0                          | 0                                     | 39           |
| NHS Lanarkshire             | 117  | 10  | 1             | 34                         | 0                                     | 162          |
| NHS Lothian                 | 215  | 30  | 0             | 6                          | 0                                     | 251          |
| NHS Orkney                  | 0  | 0   | 0             | 4                          | 0                                     | 4            |
| NHS Shetland                | 8  | 0   | 0             | 0                          | 0                                     | 8            |
| NHS Tayside                 | 121  | 22  | 0             | 13                         | 8                                     | 164          |
| NHS Western Isles           | 3  | 0   | 0             | 2                          | 0                                     | 5            |
| <b>Total</b>                | <b>945</b>                                   | <b>72</b>   | <b>5</b>      | <b>94</b>                  | <b>45</b>                             | <b>1,161</b> |

Source: NHS board returns to Audit Scotland September 2007

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## Most overseas staff are doctors or nurses

15. At a Scotland-wide level doctors are reported to make up 65 per cent of non-EEA staff and nurses a further 24 per cent, although there are differences among boards (Exhibits 2 and 3). But the numbers reported for overseas doctors do not fit with other NHS data, which identify the number of medical and dental staff by country of qualification.<sup>3</sup>

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<sup>3</sup> NHS Scotland Workforce Statistics, Table B7 Hospital, Community and Public Health Services medical and dental staff by country of qualification, Information Services Division of NHS National Services Scotland.

## Exhibit 2

### Overseas staff (non-EEA) by type of staff and immigration status

Sixty-five per cent of overseas staff are doctors.

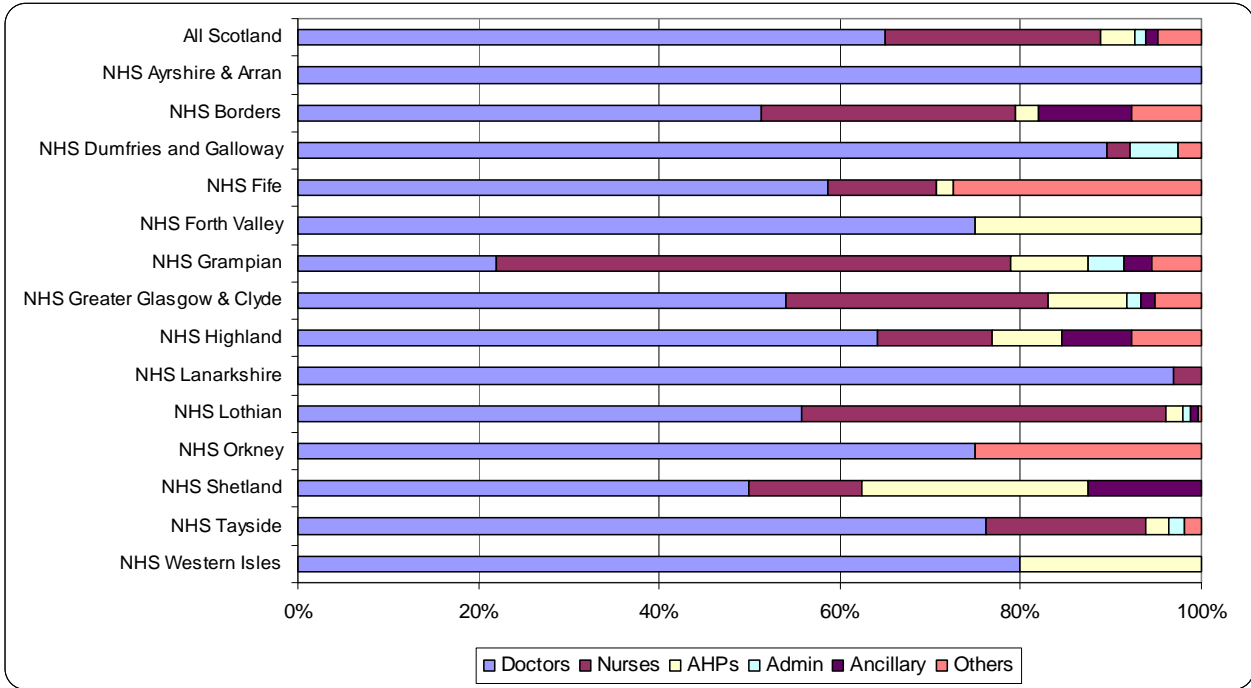
|   | Doctors      |  |   | Nurses     | Allied Health Professionals | Administration | Ancillary | Others    | Total        |
|---|--------------|--|---|------------|-----------------------------|----------------|-----------|-----------|--------------|
|   | Career grade | Specialty trainees/Fixed-term specialty trainees | Foundation house officer (year 1, year 2) |            |                             |                |           |           |              |
| Work permit/Highly Skilled Migrant Programme          | 152          | 397  | 39  | 267        | 40                          | 11             | 14        | 25        | <b>945</b>   |
| Permit free training/Fresh Talent working in Scotland | 1            | 10   | 60  | 1          | 0                           | 0              | 0         | 0         | <b>72</b>    |
| Asylum seeker   | 0            | 2  | 2   | 1          | 0                           | 0              | 0         | 0         | <b>5</b>     |
| Indefinite Leave to Remain                            | 48           | 29   | 8   | 5          | 1                           | 0              | 2         | 1         | <b>94</b>    |
| Other/unidentified immigration status                 | 2            | 3  | 1   | 0          | 0                           | 0              | 0         | 39        | <b>45</b>    |
| <b>Total</b>  | <b>203</b>   | <b>441</b>                                       | <b>110</b>                                | <b>274</b> | <b>41</b>                   | <b>11</b>      | <b>16</b> | <b>65</b> | <b>1,161</b> |

Source: NHS board returns to Audit Scotland September 2007

### Exhibit 3

#### Overseas staff (non-EEA) by NHS board

While most overseas staff are doctors, there is some variation among boards.



Source: NHS board returns to Audit Scotland September 2007

## Recommendations

The Scottish Government should amend SWISS to include a field to record categories of immigration status.

NHS boards should:

- Prioritise the wider use of electronic personnel records to support better management information.
- Once the immigration status fields in SWISS are in place, ensure that these along with work and residence permit fields are completed routinely.

# Part 3. Compliance with pre-employment checks

16. All five boards in our sample included the following pre-employment checks in their policies and procedures for recruiting overseas staff:

- identity, to verify candidates against photographic evidence provided (eg passport)
- reference, to gain information and opinions about employment history, experience, quality of work and suitability for the position
- appropriate qualifications and regulatory checks, to verify that the candidate is registered with the relevant professional body and has the right qualifications
- Disclosure Scotland, to disclose criminal history information about individuals
- work permit or Highly Skilled Migrant Programme approval or permit-free training status, to ensure that the individual has valid authority to work in the UK
- residence permit, to ensure that an individual is authorised to stay in the UK.

17. To examine compliance with key pre-employment checks, we reviewed a sample of 235 records (44-54 records in each of the five sample boards) and looked for evidence that these checks had been completed. Not all checks are relevant for all prospective employees; for example, people here on the Highly Skilled Migrant Programme do not need a standard work permit.

18. The timing of this review was difficult for the five sample boards because of particular challenges arising from the implementation of Modernising Medical Careers. In particular the timescale for carrying out pre-employment checks on overseas doctors had been tighter than in previous years because of a more centralised approach in managing the application and recruitment process of applicants to training programmes.

19. We did not include agency staff working in boards in our sample. Recruitment agencies operate under national contracts, organised by NHS National Services Scotland (NSS), and these contracts stipulate the checks to be carried out on agency workers. These include the key checks covered in this review (paragraph 16). NSS can also audit agencies' compliance with these checks if it has any concerns. Following the security incident in Glasgow, NSS received statements of assurance from all agencies regarding their compliance with this checking process.

## Boards have similar procedures for key pre-employment checks

20. All five sample NHS boards had similar procedures for the key checks, although there is some variation among and within boards in the documentation filed with the personnel record. Some of the personnel records we reviewed had copies of documentation such as references and qualifications; others had a tick sheet which indicated whether the relevant documents had been reviewed. For the purposes of this exercise the tick sheet was accepted as compliance although it does not provide full assurance that the relevant documents have been checked.

## There was high compliance with the key checks in all five boards

21. We found that, in the majority of cases, the key pre-employment checks were being carried out in the five sample boards. Compliance results are shown in Appendix 2 and summarised in Exhibit 4.

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### Exhibit 4

#### Summary of compliance with the key pre-employment checks in the five sample boards

Most personnel files have evidence of pre-employment checks having been carried out.

| Type of pre-employment check     | Number of files where check is appropriate | Percentage of files with evidence of check on file |
|----------------------------------|--|--|
| Identity                         | 235  | 97   |
| Work references                  | 231  | 90   |
| Qualifications and Regulatory    | 220  | 99   |
| Work permit                      | 112  | 96   |
| Residence permit                 | 218  | 96   |
| Highly Skilled Migrant Programme | 104  | 98   |
| Disclosure Scotland              | 222  | 95   |

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*Source: Audit Scotland fieldwork, September-October 2007*

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22. Where we could not locate evidence on the files we discussed this with NHS board staff. They then had the opportunity to identify evidence on the files or provide evidence from another source such as data held electronically or in separate manual systems.

## Identity checks

23. The passport is the main method of identity check used for overseas staff although, in some cases, birth certificates are also used. We were able to identify evidence of a passport having been checked in 97 per cent of our sample. Evidence was either a copy of the page in the passport where personal details and photograph are held, or copies of the residence permit held within the passport. In a small number of cases it was only a tick sheet indicating that the passport had been seen.

## Reference checks

24. We were able to identify evidence of reference checks being completed in 90 per cent of cases. Some NHS boards expect copies of references to be placed on file, others accept a tick sheet to indicate that references have been seen.

## Qualification and regulatory checks

25. Regulatory checks ensure that the employee has the correct qualifications or belongs to the appropriate professional body. Professional bodies such as the General Medical Council carry out checks on qualifications prior to admitting applicants to their professional body. We found evidence of regulatory checks in 99 per cent of those cases where it was required. Not all posts (particularly ancillary posts) require regulatory checks.

## Work permits and residence permits

26. Most overseas staff will require a permit enabling them to work and live in the UK. There was evidence of work permits for 96 per cent of staff in our sample who required them and 98 per cent of those requiring Highly Skilled Migrant Programme permits. Evidence was available for 96 per cent of those requiring residence permits.

## Disclosure Scotland

27. There are three types of Disclosure Scotland checks – basic, standard and enhanced. Enhanced Disclosure Scotland checks are required for recruits who will be working with children or vulnerable adults. There was evidence that checks had been carried out, where required, in 95 per cent of cases.

28. Disclosure Scotland works under UK legislation and has no jurisdiction to obtain criminal history information from other countries. However, boards can check an individual's criminal history with police authorities in other countries. The Criminal Records Bureau provides guidance on how employers can obtain criminal records or other relevant information from authorities in a number of overseas countries, the majority of which are within the EEA.<sup>4</sup> Although we found that some of the personnel records had evidence of these checks, this is not done routinely.

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<sup>4</sup> The Criminal Records Bureau is an Executive Agency of the Home Office.

## Recommendations

NHS boards should:

- In line with good practice, keep copies of all relevant documentation rather than use a tick sheet to indicate documents have been reviewed.
- Ensure consistent practice in record-keeping across the board area.

The Scottish Government should:

- Ensure the centralised approach to Modernising Medical Careers allows enough time for NHS boards to complete the relevant pre-employment checks.
- In its revised guidance, ensure that boards follow the procedures outlined by the Criminal Records Bureau in obtaining overseas criminal record history.

# Appendix 1. Categories of overseas staff

|  |  |
|--|--|
| Asylum seeker                            | Only a small number of asylum seekers are permitted to work in the UK while they await a decision on their claim. An Application Registration Card is issued by the Home Office to all new seekers. This card will state whether the holder is permitted to work.  |
| Dependents                               | Dependents of individuals who hold a work permit or who are working under Highly Skilled Migrant Programme can also be granted leave to enter or remain for a limited period of time.  |
| Fresh Talent: Working in Scotland Scheme | The Fresh Talent: Working in Scotland scheme, launched in June 2002, is part of the Scottish Executive's Fresh Talent Initiative. The scheme permits non-EEA nationals who have successfully completed an HND, degree course, Masters or PhD at a Scottish university and have lived in Scotland during their studies to apply to stay in Scotland for up to two years after completing their studies to seek and take work.               |
| Highly Skilled Migrant Programme (HSMP)  | This programme was launched in January 2002 to attract highly skilled individuals to work in the UK. Applications are made by individual migrant as opposed to a UK employer and applicants do not need to have a job offer prior to applying.   |
| Indefinite leave to remain               | Individuals with indefinite leave to enter or remain can work unrestricted and should be considered for employment in the same way as EEA candidates. Individuals who have spent five continuous years in the UK as a work permit holder will usually become eligible for indefinite leave to remain, subject to meeting all the relevant criteria.  |
| Permit-free training status              | Prior to April 2006, postgraduate doctors and dentists could do their training in the UK without applying for a work permit. Now all doctors and dentists from outside the EEA, who wish to work in the UK, must meet the requirements of an employment category, such as the work permit. Transitional arrangements were put in place for existing doctors and dentists who were in training programmes which extended beyond April 2006. |



|             |  |
|-------------|--|
| Work permit | <p>Most non-EEA national coming to the UK to work need a work permit. Applications can only be made by employers on behalf of the individual they wish to employ. The work permit is non-transferable between jobs and employers. Alongside the work permit, the employer must ensure the applicant has been given leave to enter or remain.</p> |
|-------------|--|

# Appendix 2. Compliance with key pre-employment checks in the five sample boards

|                             | Total records in sample | Identity                  |                              | Work references           |                              | Qualification and Regulatory checks |                              | Work permits              |                              | Residence permit          |                              | HSMP                      |                              | Disclosure Scotland       |                              |
|-----------------------------|-------------------------|---------------------------|------------------------------|---------------------------|------------------------------|-------------------------------------|------------------------------|---------------------------|------------------------------|---------------------------|------------------------------|---------------------------|------------------------------|---------------------------|------------------------------|
|                             |                         | Evidence of check on file | No evidence of check on file | Evidence of check on file | No evidence of check on file | Evidence of check on file           | No evidence of check on file | Evidence of check on file | No evidence of check on file | Evidence of check on file | No evidence of check on file | Evidence of check on file | No evidence of check on file | Evidence of check on file | No evidence of check on file |
| NHS Ayrshire & Arran        | 44                      | 43                        | 1                            | 39                        | 5                            | 42                                  | 0                            | 14                        | 1                            | 37                        | 2                            | 20                        | 1                            | 36                        | 5                            |
| NHS Greater Glasgow & Clyde | 45                      | 44                        | 1                            | 35                        | 7                            | 36                                  | 0                            | 31                        | 1                            | 42                        | 1                            | 12                        | 1                            | 42                        | 1                            |
| NHS Lanarkshire             | 54                      | 54                        | 0                            | 51                        | 3                            | 54                                  | 0                            | 20                        | 0                            | 50                        | 0                            | 24                        | 0                            | 54                        | 0                            |
| NHS Lothian                 | 44                      | 42                        | 2                            | 41                        | 3                            | 44                                  | 0                            | 21                        | 1                            | 38                        | 1                            | 22                        | 0                            | 40                        | 2                            |
| NHS Grampian                | 48                      | 45                        | 3                            | 41                        | 6                            | 41                                  | 3                            | 22                        | 1                            | 43                        | 4                            | 24                        | 0                            | 38                        | 4                            |
| <b>Total</b>                | <b>235</b>              | <b>228</b>                | <b>7</b>                     | <b>207</b>                | <b>24</b>                    | <b>217</b>                          | <b>3</b>                     | <b>108</b>                | <b>4</b>                     | <b>210</b>                | <b>8</b>                     | <b>102</b>                | <b>2</b>                     | <b>210</b>                | <b>12</b>                    |

Note: Not all checks are relevant for all overseas staff.

Source: Audit Scotland, September-October 2007

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