



The UKHCA Code of Practice

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Part 1: Introduction and definitions

About this Code of Practice

1. United Kingdom Homecare Association Ltd (“UKHCA” and “the Association”) is the national representative association for member organisations providing care, including nursing care, to people in their own home. The mission of UKHCA is to represent, promote and support the sustainable provision of high standard homecare.

2. The Association aims to foster good practice, the exchange of information and ideas between members; to monitor developments in the UK and internationally which may be of interest to members; to form links with other organisations and individuals having similar or sympathetic objectives where co-operation will benefit members and recipients of homecare and to provide information on the running of a homecare organisation.

3. The UKHCA Code of Practice provides guidelines to enable an organisation providing homecare to operate in such a way that:

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- the highest standards of care are provided;
- the rights and welfare of service users are paramount;
- the rights and welfare of careworkers are protected.

4. All UKHCA member organisations agree to be bound by this Code of Practice and to comply with it. Member organisations will ensure that their staff meet the requirements of the Code. This enables a member organisation to publicise that it is “working to UKHCA’s Code of Practice standards”. A copy of this Code may be given to careworkers, service users and their representatives, according to the provisions of paragraph 89.

5. Whilst membership of UKHCA obliges members to comply with the Code, UKHCA cannot itself guarantee that members are in compliance with the Code, but UKHCA will investigate complaints against member organisations in accordance with this Code and the Association’s Complaints Policy and Procedure.

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- 6.** UKHCA constantly seeks to address contemporary issues in social care. New services are being created that enable people to remain independent in their own home. These services do not necessarily incorporate an element of 'personal care' or meet current criteria for statutory regulation. However, UKHCA members operating such services are expected to work to a standard that complies with this Code and any relevant legislation or regulatory provisions.
- 7.** UKHCA's membership is drawn from the four nations of the United Kingdom. The Association takes the view that the principles in this Code transcend specific national rules set by each UK administration.
- 8.** This Code does not permit UKHCA members to operate at a lower standard than that required by prevailing legislation, regulations or national standards. However, there may be occasions when this Code expects a higher standard than the minimum requirements specified in applicable regulations or national standards.

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Interpretation and further information

9. The Association may from time to time publish advice or guidance on matters of interpretation of this Code of Practice. These will be available from the Internet at: www.ukhca.co.uk/members/codeofpractice.aspx. Such updates can also be obtained by post on request from UKHCA. Members will be obliged to keep up to date with such guidance.

10. In any dispute regarding the interpretation and/or application of the Code, the decision of the UKHCA Board will be final.

Definition of terms used in this Code

11. UKHCA member and **member organisation** means an organisation in current membership with the United Kingdom Homecare Association Ltd, according to the Association's Articles of Association from time to time.

12. Homecare and **homecare service** means a social, personal care, nursing or domestic service delivered outside of an institutional setting, usually in the service user's home.

13. Careworker means either (a) a person engaged by a member organisation to provide a homecare service to a service user, or (b) a worker introduced by a member organisation acting as an employment agency, where the agency does not have direct control over the careworker during the period of their employment by a service user or client.

14. Manager means a person responsible for the organisation, arrangement or supervision of a homecare service for a UKHCA member organisation, and those responsible for the selection, recruitment and training of careworkers. This definition applies not only to the manager(s) registered with a statutory regulator, but to those people with a responsibility for ensuring that the homecare service operates efficiently and effectively.

15. Service user means an adult or child who receives a homecare service from a member organisation.

16. Carer means a person who provides care to a service user by virtue of a personal relationship. Carers may include

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representatives, family members, friends or neighbours, but this term excludes careworkers.

17. Family member means a person related to the service user by blood, marriage or other significant personal relationship.

18. Representative means a person who acts on the service user's behalf. This can be with the formal consent of the service user under an Enduring Power of Attorney in relation to financial matters or a Lasting Power of Attorney under the provisions of Section 9 of the Mental Capacity Act 2005 (MCA) in relation to both financial and welfare matters, or who has otherwise been attributed such rights. In situations where the service user has a lack of mental capacity the representative is a person with a legal entitlement to act on the service user's behalf, for example a Receiver, Deputy or an Independent Mental Capacity Advocate appointed by the Court of Protection or under the MCA or otherwise. Representatives are most likely to be members of the service user's family and friends, or paid or voluntary advocates. In the case of children, representatives are most likely to be a parent or legal guardian. The

term 'representative' in this Code excludes commissioners.

19. Client means a person, other than a commissioner, organising or purchasing homecare for a service user. In many instances, the client may be the service user themselves or a member of the service user's family, or their representative.

20. Commissioning body and Commissioner means a Local Authority, Primary Care Trust, Health and Social Services Trust, or a similar body with a statutory responsibility to organise or purchase homecare services for a service user or, as the case may be, an insurance company or a registered charity purchasing services from UKHCA members.

21. Statutory regulator means the primary statutory regulator of homecare services in the jurisdiction in which the member organisation is operating. The regulators are listed in Appendix A.

22. Workforce regulator means the primary statutory regulator for people working in social

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care settings. The regulators are listed in Appendix B.

23. Mental capacity means the ability of an individual to make a decision for themselves in relation to a matter at the material time. Lack of mental capacity means the inability to make such decisions because of an impairment or disturbance in the functioning of the mind or brain.

24. MCA means (in England and Wales) the Mental Capacity Act 2005.

The principal objective of homecare

25. The principal objective of homecare is the provision of support to enable service users to be cared for in their own home for as long as possible, or to enable them to return to their own home from hospital or accommodation elsewhere, thereby promoting real choice in practice between care at home and residential care.

26. UKHCA members are required to recognise diversity in relationships, beliefs and cultures of service users, their family members and friends.

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Member organisations should therefore aim to provide an appropriate, sensitive service that achieves positive outcomes for individual service users.

27. The aim of the member organisation is to provide the necessary and appropriate care to achieve this objective. The care provided should take into account the needs and wishes of the service user and should maximise their independence, with their physical, spiritual and emotional welfare being of paramount importance. Member organisations must consider the differing and sometimes conflicting needs and wishes of service users and family members, in order to ensure that the care provided is appropriate.

28. UKHCA members shall always assume that a service user has mental capacity unless the contrary can be established and will take all practical steps to help the service user to make their own decisions about all elements of their care. The wishes and involvement of the service user should be paramount. Even in the event of a lack of mental capacity, a service user's prior wishes and beliefs should be respected in

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coming to any decision on their behalf, and such decisions should always be made whilst taking into account their best interests.

29. Where the homecare service is purchased by a commissioner, it remains the commissioner's responsibility to ensure that a proper assessment of the service user's needs has been carried out and communicated to the member organisation. It is not the member's responsibility in these circumstances (unlike where the service user or their family purchase homecare independently) to complete a formal needs assessment, nor is a member organisation responsible for the provision of services beyond those which it has identified as being required to meet such needs as the commissioner has assessed. Members must carry out careful assessments of what resources are needed to meet the assessed needs and should not agree to meet the assessed needs unless the commissioner agrees to fund the service levels required.

Part 2: Service users' rights

Dignity and value

30. The dignity and value of every service user must be recognised and respected. In particular, where decisions are being made on behalf of the service user, they should restrict that person's rights and freedom of action as little as possible and should take into account any known wishes and beliefs of the individual.

Personal choice

31. UKHCA members must encourage each service user to exercise his or her full potential for making personal choices related to opportunities and lifestyles. Account should also be taken of the needs and rights of family members and carers to lead their lives without unreasonable demands or stress. Member organisations should ensure that the service user (or where appropriate, their representative) is consulted directly in decisions over the provision, extent and timing of any care planned, as well as over the withdrawal of any care or service.

32. Where, due to lack of mental capacity, the service user is unable to participate fully in

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planning care, consideration should nevertheless be given to his or her wishes insofar as these are expressed and are achievable. Attention should be focused on whether the service user has fluctuating mental capacity. Where a decision made on their behalf can be delayed until such time as they can be more fully involved, the process should be postponed until the service user can fully participate. In all cases the best interests of the service user should be given paramount consideration, and UKHCA members should refer to mental capacity legislation and related codes of practice for further guidance.

33. Where a service user's care is purchased by a commissioning body, the service user's personal choices and preferences will be met to the widest extent possible within the commissioner's specification. With the service user's agreement (or where appropriate, with the agreement of their representative) member organisations will advise commissioners of situations where a service user's personal choices are limited by the commissioner's specification.

34. Based on the intimate nature of personal care, and with reference to paragraph 48 (below) service users may request care workers from a similar cultural, ethnic or religious background, or request a care worker who is of the same sex. Such requests should only be granted where the member organisation is satisfied that there is a genuine occupational requirement for the care worker to be of the sex, culture, ethnicity or religion requested and that this does not contravene anti-discrimination law.

35. Discrimination can arise both in the relationship with the service user and with the careworker. Members are at risk of both legal action and adverse publicity where issues of discrimination arise. Legal advice on such issues should be sought promptly.

Information

36. Each service user and their representative has a right to a detailed explanation of the service being offered. Except where care is purchased by a commissioner, the arrangements between the member organisation and the service user should be set out in a clearly

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drafted contract or service users' guide (in an accessible format) which includes:

- a. full details of the organisation, including their trading status;
- b. the contractual relationship between the member organisation, the service user and the care worker(s)
- c. an exact specification of the service to be provided and how any changes to that service will be arranged and the circumstances and procedures for withdrawing care;
- d. any arrangements for holiday and sickness cover;
- e. any costs payable by the service user or the client, and how the costs for late cancellations, temporary absences, or unforeseen events are to be dealt with;
- f. reference to the member organisation's complaints procedure, the relevant statutory regulators, this Code of Practice and the member organisation's legal status and details;
- g. any contractual obligations to be undertaken by the service user or their representative.

With reference to paragraph 32, service users should indicate their acceptance of the above terms with their signature or other evidence of explicit agreement obtained in advance of care commencing.

37. In all cases, the member organisation should advise the service user of the nature of their contractual relationship with the careworker(s).

Service delivery

38. Service users are entitled to receive the care specified in their agreed care plan and for records (including timesheets, invoices, care plans and medication charts) to accurately reflect the care delivered. Subject to the provisions of the Data Protection Act 1998, such records may be requested by and sent to their representative.

39. Changes affecting cancellation, the start time, the duration of a planned visit, or a change of the rostered careworker should be communicated to the service user, or their representative (where appropriate) without delay.

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Privacy and confidentiality

40. The rights of service users, their families and carers to privacy and confidentiality must be safeguarded. Information kept about service users, their families and carers should be made available to those individuals on request, in compliance with data protection legislation and should only be given to other agencies as required by law, in exceptional circumstances to prevent harm to the service user or, with the permission of the service user or (where appropriate) their representative.

41. Member organisations will have appropriate written policies on confidentiality that are binding on staff. A copy of this policy should be made available to service users and their representatives at their request.

Comments and complaints

42. The rights of service users and their representatives to make complaints about the services they receive from member organisations must be honoured.

43. Member organisations should ensure that careworkers are fully aware of their right to make a complaint to the member organisation about action which the member organisation has taken or is contemplating taking in relation to him or her.

44. Member organisation should have an effective “whistle blowing” policy in place to ensure that careworkers disclosing information regarding criminal offences, failures in respect of legal obligations, miscarriages of justice, health and safety or the environment are protected.

45. Member organisations must ensure that they have an effective procedure for recording and dealing with comments and complaints, including advising service users and their representatives of their right to make their complaint directly to the statutory regulator. In addition, reference should be made to the possibility of referring complaints to UKHCA, once other avenues have been exhausted. Written details of the member organisation’s complaints procedure must be given to all service users and their representatives.

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46. Member organisations should assist service users and their representatives to refer unresolved complaints to the most suitable organisation. This is generally the statutory regulator.

47. UKHCA will investigate complaints about member organisations where, in the opinion of UKHCA:

- a. the complaint relates to a breach of this Code of Practice, **and**:
 - i. the complainant has exhausted the member organisation's complaints procedure, **and**:
 - ii. (where a commissioning body has purchased the service user's care) that the commissioner's complaints procedure has been exhausted, **and**:
 - iii. there is no statutory regulator to investigate the complaint,

or:

- b. the actions or omissions of the member, if proved, could bring the Association into disrepute.

Non-discrimination

48. Member organisations must not discriminate against service users on the grounds of race, nationality, religion or similar philosophical belief, age, sex or sexual orientation, marital or civil partnership status, disability or social standing, nor may they discriminate between service users who pay directly for the service and those who do not.

Assessment

49. Service users have a right to be involved in, and comment on, a careful and thorough assessment and regular review of their needs and wishes and capacity. Where a member organisation believes that an assessment completed by a commissioning body is inaccurate, incomplete or out of date, they will make these concerns known to the commissioning body without delay.

Freedom from abuse

50. Service users have the right to remain safe and free from physical, psychological and financial abuse and neglect by careworkers, family members, friends, representatives,

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carers and health or social care workers. Member organisations will operate policies and procedures for the prevention and reporting of abuse. These policies and procedures will be consistent with local arrangements for the prevention, investigation and management of adult and child abuse made by the appropriate statutory body.

The right to take risks

51. UKHCA members acknowledge the rights of service users to make informed decisions that carry an element of risk to themselves. They also agree that service users do not suffer a lack of mental capacity simply because they choose to make an unwise or “eccentric” decision. However, where the member organisation considers that such a decision is contrary to the best interests of the service user, they should notify and consult with any relevant representative or other interested party (such as a medical practitioner or social worker also responsible for the service user’s care) regarding any proposed course of action.

52. While aiming to help service users exercise their right to take risks, member organisations

are required to maintain the safety of their careworkers. They may not always be able to comply with, or support, the full range of choices made by service users.

Part 3: Operation of the service

Standards of management

53. The management of member organisation must be undertaken on a sound business and financial basis in order to meet contractual obligations. Member organisations must recruit appropriately trained and skilled careworkers and managers to provide a user-focused service that responds flexibly and responsibly to changing needs, circumstances and demands.

54. Professional standards of management should be demonstrated throughout the organisation.

Registration and regulation

55. Member organisations will obtain and maintain registration with the statutory regulator where legally required to do so, and will provide evidence of such if requested by UKHCA.

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Member organisations will comply with any restrictions placed on their registration by the statutory regulator.

56. Where the organisation is acting as an employment agency or an employment business, they will obtain copies of any relevant qualifications or authorisations from the careworker and offer to provide copies to the service user. They will also agree with the careworker that the references obtained may be disclosed to the service user and will offer to provide copies of the references to the service user.

57. Member organisations will comply with their obligations as employers under any code of practice issued by the national Social Care Council for the jurisdiction in which they operate and will require compliance by their careworkers and take steps to assist their careworkers to achieve compliance.

Health and specialist social care

58. Member organisations are able to provide a wide range of services, but providers must be realistic about their ability to meet specialist

needs. Member organisations must ensure that each careworker assigned to carry out a task is adequately trained, experienced and supported for that task.

Recruitment and vetting procedures

59. Member organisations must take proper precautions when recruiting and selecting management staff and careworkers. Written references must be obtained from at least two sources and, wherever possible, at least one of these must be from the current or most recent employer. References should be checked as to their validity and open references must not be accepted. All potential careworkers must be personally interviewed by a suitably trained member of staff.

60. Where entitled to do so, member organisations will conduct checks against criminal records and barring lists operating in the jurisdiction in which they operate. The member will comply with prevailing codes of practice and guidance applicable to criminal record checks.

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Registration of workers

61. Where required to do so by law, member organisations will supply only careworkers who are registered with the applicable workforce regulator, listed in Appendix B.

Training

62. Induction training must be given to all managers and (except where the member organisation is acting as an employment agency) to careworkers. Further training appropriate to the duties to be performed should be provided where necessary.

63. Member organisations will encourage their careworkers and managers to develop their skills through training. They will comply with regulatory requirements for induction training, specialist skills training, supervision and vocational qualifications.

Matching

64. Careworkers must only be offered assignments commensurate with their training, experience and competence.

65. When matching careworkers with service users, member organisations should take into consideration personality, temperament, skills, capabilities and knowledge. Member organisations will not make illegal discriminatory decisions on behalf of service users.

Service user satisfaction

66. Member organisations should establish a quality assurance procedure that regularly monitors service users' satisfaction with the service they receive.

Part 4: Responsibilities in relation to careworkers

Employment status of careworkers

67. This Code of Practice recognises that the relationship between member organisations and careworkers may vary according to the employment status of the worker. However, so far as it is possible to do so, all member organisations must require their careworkers to comply with the standard of the UKHCA Code of Practice and the code of practice of their

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national Social Care Council or other appropriate workforce regulators.

68. Member organisations must provide careworkers with a statement of their terms and conditions in compliance with the statutory requirements relevant to the relationship they have with the careworker.

Working conditions

69. Member organisations must be fully aware of their obligations in relation to health and safety legislation. Member organisations must ensure that, as far as is reasonable, working conditions and practices secure the health, safety and welfare of their workers whilst at work.

70. The attention of service users, family members and representatives must be drawn to any potential risk to careworkers and to their general duty to provide a safe working environment.

71. Where a careworker will be required to work in a service user's home, member organisations must carry out a health and

safety risk assessment. The risk assessment must be discussed with the careworker before they are required to attend the service user's home. Member organisations should advise service users, their representatives, or where appropriate, the client or family members, of the need to consider any requirement for household insurance against any liability for loss suffered by, or accidental injury to, a careworker that might arise while he or she was in the service user's home.

Complaints against careworkers

72. In the event of a complaint being made by a service user, their representative, a family member or a commissioner about a specific careworker, the member organisation – so far as it is in its power to do so - has the responsibility to ensure that the careworker, irrespective of their employment status, has the right to a fair hearing and that careworkers are fully aware of that right.

Non-discrimination

73. Member organisations must not discriminate unlawfully against careworkers (or people

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applying for positions as careworkers) on the grounds of race, nationality, religion or philosophical belief, age, sex or sexual orientation, disability, marital or civil partnership status.

Confidentiality

74. A careworker's right to confidentiality must be preserved and confidential information relating to a work seeker must not be disclosed without his or her prior consent, except for the purpose of: seeking work for the careworker; for the purposes of any legal proceedings (including arbitration); to the professional body of which the worker or work seeker is a member; to the statutory regulator of the service in which he or she works or to a statutory body with responsibility for vetting or barring careworkers from positions in social care.

Briefing

75. A thorough risk assessment should be carried out at the service user's home and the relevant findings conveyed to the careworker prior to their attendance on any service user. In exceptional circumstances, the risk assessment

may be conducted immediately before the delivery of care. Careworkers should be given detailed and up-to-date information about the condition, circumstances and care needs of each service user they attend and, where applicable, details of risk assessments and the requirements of the commissioning body (where one exists). Regular contact between the organisation and its careworkers must be maintained to permit feedback of information about the service user's needs and continued support of the careworker.

Information about training

76. Where suitable training is available, member organisations have a responsibility to ensure that careworkers and managers are adequately informed and receive fair access to such opportunities.

Part 5: Legal and financial responsibilities

Legislation, regulation and legal advice

77. Member organisations must ensure that they are fully aware of their responsibilities with regard to all current relevant legislation

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and regulations. This may cover such matters as the regulation of domiciliary care or nurses' agencies, as the case may be; the regulation of employment agencies and employment businesses; health and safety regulations; company and charity law; customs and revenue law and practice; data protection and decisions made by the Office of Fair Trading.

78. In situations where member organisations are in any doubt about the application of legislation, they should take appropriate legal advice.

Adult and child protection

79. Member organisations will co-operate with local authorities, the police, and other statutory bodies empowered to co-ordinate child and adult protection investigations.

80. Member organisations will make appropriate referrals to adult or child protection registers or barring lists and to the appropriate social care council or professional body, where these are operational.

Insurance

81. Member organisations must ensure that they hold adequate insurance to cover their statutory responsibilities and liabilities to careworkers, service users, clients and other parties, and any other relevant risks to themselves or their business. Member organisations should take advice from competent insurance brokers on the level and nature of the cover they require.

Part 6: General responsibilities

Fair trading

82. Member organisations must adhere to the highest standards of honesty in advertising, promoting and presenting their services and charges and at least comply at all times with the Code of Practice of the Advertising Standards Authority from time to time. Where, in addition to care, supplies of equipment, goods or other services are proposed, and the member organisation has a financial interest in those transactions, this must be declared to the service user.

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Inter-organisation co-operation

83. Member organisations must promote positive attitudes towards homecare generally and towards UKHCA members in particular.

84. Where abuse or serious poor practice by individual organisations or colleagues is suspected, this must be brought to the attention of the appropriate authorities immediately.

Providing information to UKHCA

85. Member organisations will inform UKHCA promptly about changes in their membership details to enable the Association to continue to promote their services to prospective service users, their representatives and commissioners and to ensure that UKHCA's information about the social care sector is presented accurately and correctly.

86. Member organisations will use reasonable endeavours to respond to requests for information to enable UKHCA to represent their views to policy makers and to undertake analysis of the homecare sector.

Use of UKHCA's name and branding

87. Member organisations acknowledge that all intellectual property rights, including, but not limited to, copyright in their publications and trade mark and common law rights in the UKHCA logo and brand belong to UKHCA. Members will only use the UKHCA branding and logo in its authorised format and with the approval of UKHCA. Branding must never be used in such a way as to imply endorsement of products and services by UKHCA without UKHCA's prior consent. Member organisations will immediately cease to reproduce the UKHCA logo and references to membership of the Association if their membership expires or is withdrawn by the Association, and will return or delete all documentation or other examples of use of the logo and brand at UKHCA's request.

88. Member organisations may not speak on behalf of the Association, nor make statements as to any policy position of the Association without the prior consent of the UKHCA, unless it is to make reference to the published position statements of UKHCA. Neither will members hold themselves out as a representatives of UKHCA

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without due authorisation from the UKHCA Board.

Right to reproduce this Code of Practice

89. Organisations in full membership of UKHCA may reproduce this Code of Practice in their publications, subject to the Code being reproduced in full and without any alteration to the text. Explicit reference must be made to the Code originating from UKHCA. All other reproduction of this Code is subject to the written authorisation of the UKHCA Chief Executive or a member of staff acting on his or her behalf.

Disrepute

90. Member organisations accept responsibility at all times to conduct themselves in a manner that will not bring either the homecare sector or the Association into disrepute.

91. UKHCA membership may be withdrawn by the Association where continued membership would be detrimental to the reputation of the Association, or for any other reason which

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the Board of UKHCA, acting reasonably, may determine.

This Code of Practice may be amended and adapted from time to time as necessary.

Appendix A. Statutory Regulators (amended May 2009)

The statutory regulators at the time of writing are:

- **In England:** The Care Quality Commission (CQC). For the purposes this Code, reference to the “statutory regulator” in paragraph 47.a.iii. will be interpreted as meaning the Local Government Ombudsman, once they are empowered to investigate complaints.
- **In Wales:** The Care and Social Services Inspectorate Wales (CSSIW), previously The Care Standards Inspectorate for Wales until April 2007.
- **In Scotland:** The Care Commission (The Scottish Commission for the Regulation of Care).
- **In Northern Ireland:** The Regulation and Quality Improvement Authority (RQIA), which begins regulation of homecare services on or after April 2007.

Appendix B. Workforce Regulators

The workforce regulators at the time of writing are:

- **In England:** The General Social Care Council (GSCC).
- **In Wales:** The Care Council for Wales (CCW).
- **In Scotland:** The Scottish Social Services Council (SSSC).
- **In Northern Ireland:** The Northern Ireland Social Care Council (NISCC).

At the time of writing, homecare workers were not legally required to register with the workforce regulators listed above. Additionally, provisions may exist that exempt some workers from registration with one of the above bodies where they are already registered with another applicable workforce regulator.

Information contained in Appendices A and B may be updated from time to time, before the next full revision of the Code of Practice.

If you have particular needs which make it difficult for you to read this document, please contact 020 8288 5291 or accessibility@ukhca.co.uk and we will try to find a more suitable format for you.

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Next review: February 2012

UKHCA member organisations can order copies of this Code of Practice from the address below.

Copies can be downloaded from the Internet without charge from www.ukhca.co.uk/codeofpractice.aspx.

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