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| **Overview** | This standard identifies the requirements when supporting compliance through use of legal procedures or enforcement. It includes the inspector’s role in the decision to take legal action necessary to secure compliance to ensure positive outcomes for individuals and the role of the inspector in supporting that process. It includes gathering and presenting evidence about outcomes for individuals for appeal or tribunal processes. Legal action may include civil or criminal procedures. It includes taking steps to cancel, vary or impose new conditions of registration during the process. |

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| **Performance criteria**  *You must be able to:* | **Assess risk to individuals whilst undergoing legal action**   1. provide a clear explanation of breaches of the law to the service provider 2. clarify the implications of the breach to the service provider according to procedures 3. assess whether the **service** can still deliver positive **outcomes** for individuals whilst legal action is being processed 4. assess **risk and impact of harm** to **individuals** within the service whilst legal action is being processed 5. establish with **appropriate others** how assessed risk to individuals within the service provision should be managed   **Support legal action process**   1. gather evidence from a **range of sources** where the registered person fails to comply in accordance with legal procedures 2. coordinate legal action process with **appropriate person** 3. prepare any legal notices required according to **procedures** 4. use appropriate procedures while collecting evidence, interviewing witnesses and recording evidence 5. provide information required for legal proceedings 6. present verbal evidence to the court as required 7. support statement with **material evidence** as required 8. take **appropriate action** following the court decision according to legislation and regulatory authority procedures 9. inform **relevant people** of further action following court decision |
| **Knowledge and understanding**  *You need to know and understand:*  *You need to know and understand:*  *You need to know and understand:*  *You need to know and understand:*  *You need to know and understand:*  *You need to know and understand:*  *You need to know and understand:*  *You need to know and understand:*  *You need to know and understand:*  *You need to know and understand:* | **Rights**   1. legal and work setting requirements on equality, diversity, discrimination and rights 2. your duty to address any acts or omissions that could infringe the rights of individuals   **Your practice**   1. legislation, including capacity and rights legislation, statutory codes, standards, frameworks and guidance appropriate to the organisation's operations and activities and its interpretation. 2. your own roles, responsibilities and accountabilities with their limits and boundaries 3. your own background, experiences and beliefs that may have an impact on your practice 4. **other agencies** that may impact on the work of your organisation, including their responsibilities, statutory powers, organisational priorities and staffing arrangements 5. principles of working in partnership with **individuals** and other agencies 6. the meaning of person-centred/child centred approaches and the importance of knowing and respecting each person as an individual 7. meaning of dignity for individuals 8. how to work with other agencies, establishments and other bodies to gather **positive outcomes** for individuals 9. how to create a culture that promotes openness, creativity and problem solving 10. principles of strategic planning and what a strategic plan should cover 11. principles of quality assurance, quality control and the distinction between them 12. evidence based research relating to provision of services 13. identified lessons learnt from government reports and enquires 14. how to access sources of expert advice in relation to health and social care, health and safety, building regulations, financial security and company law. 15. how to recognise areas for improvement against regulations, standards and best practice and how to respond 16. when to use authority and the exercise of regulatory power rather than partnership 17. how to implement, monitor and evaluate systems, practices, policies and procedures 18. difficulties with capture of data and data problems   **Communicating with individuals and organisations**   1. the importance of individuals contributing to inspection and scrutiny activities 2. participatory practice including techniques that can be used to engage with individuals 3. the role of independent representation and advocacy for individuals 4. methods to promote effective communication and enable others to communicate their views and preferences 5. the importance of language in communication, the impact of bilingualism and how to work with it 6. the purpose of working with other professionals and agencies 7. the ethos of organisations and how different organisations work 8. methods to promote effective communication within and between organisations 9. how to convey potentially difficult or unwelcome information 10. how to engage in professional dialogue and provide clear feedback which could contribute to the development of an organisation   **Theory**   1. theories and models of regulation, inspection, scrutiny and frameworks used to evaluate scrutiny and regulation 2. theories about **leadership** and **management** 3. principles of organisational behaviours and cultures 4. factors that may affect the health, wellbeing and development of individualsin health and social care or children and young people’s settings   **Health and Safety**   1. legal and statutory requirements for health and safety 2. organisational policies and practices for monitoring and maintaining health, safety and security in the work environment   **Safeguarding**   1. the responsibility that everyone has to raise concerns about possible harm or abuse, poor or discriminatory practices 2. legislation and national and local policy relating to the safeguarding and protection of children, young people and adults 3. early indicators of potential abuse which may include, patronising attitudes to adults and children, restrictive practices including unnecessary locking of doors, restriction of positive opportunities, lack of respect in relating to individuals 4. indicators and signs of potential harm or abuse 5. how to respond to concerns about harm and abuse   **Handling information**   1. legal requirements, policies and procedures for the security and confidentiality of information 2. protocols and best practice governing the exchange of information with other individuals and agencies   **Report writing**   1. how to record written information with accuracy, clarity, relevance, an appropriate level of detail including reference of sources of evidence 2. legal and work setting requirements for recording information and producing reports within timescales   **Risk management**   1. principles of **positive risk-taking** and the relation to inspection and scrutiny activities 2. principles of risk assessment and principles of risk management 3. how to critically evaluate principles and frameworks of risk assessment and risk management   **Specific to this NOS**   1. the identified standards against which organisations are assessed 2. principles of analysis of outcomes based approach 3. how to verify the validity and reliability of evidence including triangulation 4. how to measure the impact of non-compliance on individuals 5. how to recognise and respond to potential conflicts of interest between inspectors and organisations subject to inspection or scrutiny activities 6. how to recognise potential breaches of regulations or legislation and how to respond 7. range of options available to deal with non-compliance and which is most appropriate for any given situation 8. the difference between criminal and civil law and the implications for evidence gathering |  |

**Additional Information**

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| **Scope/range related to performance criteria** | The details in this field are explanatory statements of scope and/or examples of possible contexts in which the NOS may apply; they are not to be regarded as range statements required for achievement of the NOS    Note: Where an individual finds it difficult or impossible to express their own preferences and make decisions about their life, achievement of this standard may require the involvement of advocates or others who are able to represent the views and best interests of the individual    Where there are language differences within the work setting, achievement of this standard may require the involvement of interpreters or translation services    **Appropriate action** may include:   * Recommendation for no further action * Action to monitor and safeguard welfare of individuals including their removal or withdrawal of service by placing with authority, relative, carer or social care worker * Informing other individuals and agencies, including commissioning authority * Action to ensure a co-ordinated and consistent approach to follow up * Further legal procedures   **Appropriate others** may includeindividuals and their representatives, social workers, child protection, adult protection, police, senior managers, registered providers, civil or criminal courts, other regulatory organisations, and service commissioners  **Appropriate person** may include senior authorised officer, other regulatory authority departments, colleagues and team members  The **individual** is an adult, child or young person who uses services  **Material evidence** may include records, reports, notes taken, action plans  **Outcomes** are the changes or differences that individuals or care services are trying to achieve. Hard outcomes are changes that are clear and obvious, or those that involve a visible change in people's behaviour or circumstances. Soft outcomes are changes that are less easy to observe and measure, or those that involve more subtle changes inside people such as a change in someone’s attitude, sense of well-being or how they see or feel about themselves.  **Procedures** may includelegal and organisational requirements for inspection and scrutiny activities, health and social care standards, codes of practice / conduct  **Range of sources** could include from other colleagues, other agencies and organisations, individuals and their families, records and reports, general public, media  **Relevant people** may include individuals, their families and carers, staff and volunteers, other professionals, lay assessors, experts and other specialists.  **Risk and impact of harm** may include abuse, physical, mental or chemical restraint, failure to promote dignity, failure to protect, denial of rights, potential or actual harm, neglect and lack of care  **Services** are those within the remit of the organisation and include registered and unregistered services. It may include local authorities, social work, education, statutory service, health, large departments or organisations, whole services, voluntary and independent organisations as well as local level services |

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| **Scope/range related to knowledge and understanding** | The details in this field are explanatory statements of scope and/or examples of possible contexts in which the NOS may apply; they are not to be regarded as range statement required for achievement of the NOS.  **All knowledge statements must be applied in the context of this standard.**  **In relation to all knowledge statements you need to know and understand the specified areas of knowledge and be able to critically apply the knowledge and understanding in your practice**  The **individual** is an adult, child or young person who uses services  **Other agencies** may include other regulatory organisations, commissioners, local authorities, standard setting bodies  **Leadership** is the ability to provide strategic direction and a sense of purpose. Effective leaders create a sense of trust, confidence and belief, inspiring people to adopt the values and behaviours they promote. They are innovative, creative and motivating  **Management** is the ability to set the operational direction and organise the effective running of the service provision to meet the overall service needs including ethical, legislative, regulatory and organisational requirements. Effective managers facilitate and organise resources in order to optimise the performance of others, allowing them to carry out tasks and achieve goals efficiently and effectively. They provide clarity and accountability that enable teams to meet their objectives  **Positive Outcomes** may include health and safety, wellbeing, achievement of personal goals and ambitions, self esteem  **Positive Risk Taking** is a risk based approach that promotes the taking of risks as a deliberate and planned strategy designed to enhance health, welfare and educational outcomes. It represents best practice for professionals in health care, social work and educational settings in terms of promoting dignity, autonomy, and respect when working with children and adults at risk of harm. | |
| **Values** | Adherence to codes of practice or conduct where applicable to your role and the principles and values that underpin your work setting, including the rights of children, young people and adults.  Inspection and scrutiny activities will enhance these rights which include the rights:  To be treated as an individual  To be treated equally and not be discriminated against  To be respected  To have privacy  To be treated in a dignified way  To be protected from danger and harm  To be supported and cared for in a way that meets needs, takes account of choices and also protects  To communicate using preferred methods of communication and language  To access information about themselves  All aspects of inspection and scrutiny activity should seek to build on these underpinning values and should:  Be transparent  Be accountable  Be proportional  Be consistent  Be targeted  Be impartial  Enable providers |

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| Status | Original |
| Originating organisation | Skills for Care and Development |
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| Relevant occupations | Inspectors/Senior Inspectors/Regulators of Health, Social Care and Children’s Services |
| Suite | Inspectors of Health, Social Care, Children and Young People’s Services |
| Key words | Children and young people’s settings; compliance; health and social care; legal proceedings; risk of harm |