

The meta ethics of regulation and guidance

1st International ICE Observatory
Future of Ethics in Care and 16th
Nursing Ethics Conference

18th July 2015



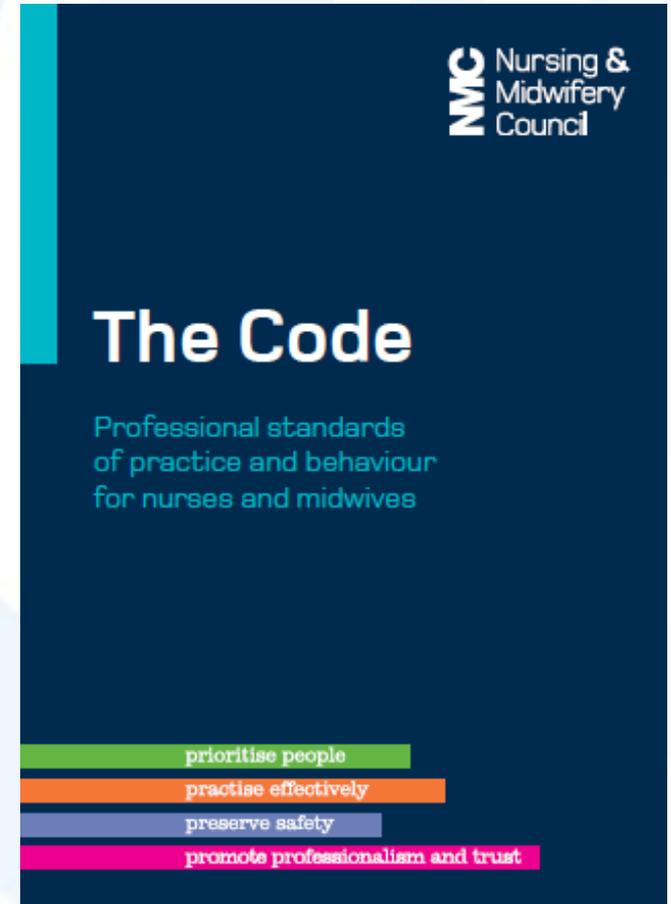
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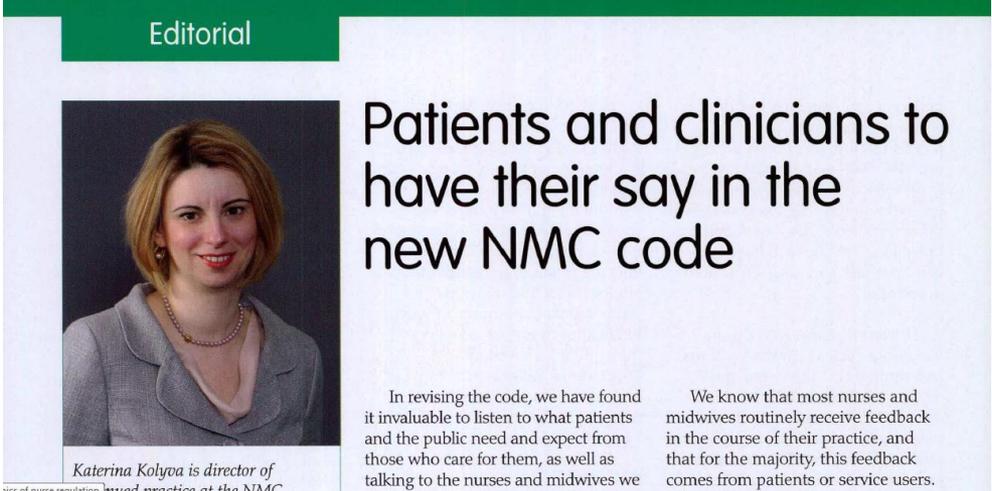
A whistlestop tour, but three problems with the UK Code

- **Level**
- Language (and what it means) (should and must)
- Directive power



Editorial in the Journal of Community Nursing

Date



Editorial



Patients and clinicians to have their say in the new NMC code

In revising the code, we have found it invaluable to listen to what patients and the public need and expect from those who care for them, as well as talking to the nurses and midwives we

We know that most nurses and midwives routinely receive feedback in the course of their practice, and that for the majority, this feedback comes from patients or service users.

Katerina Kolyva is director of
services of nurse education, clinical practice at the NMC

[The Code] sets out the fundamental standards of nursing and midwifery practice, explaining **exactly** what nurses and midwives **must** do to justify the trust that patients place in those who care for them.

The Code

[...] commitment to professional standards is **fundamental to being part of a profession**. We can take action if registered nurses or midwives fail to uphold the Code. In serious cases, this can include removing them from the register.

Imagine a 'scale of nurse quality'



excellent

good

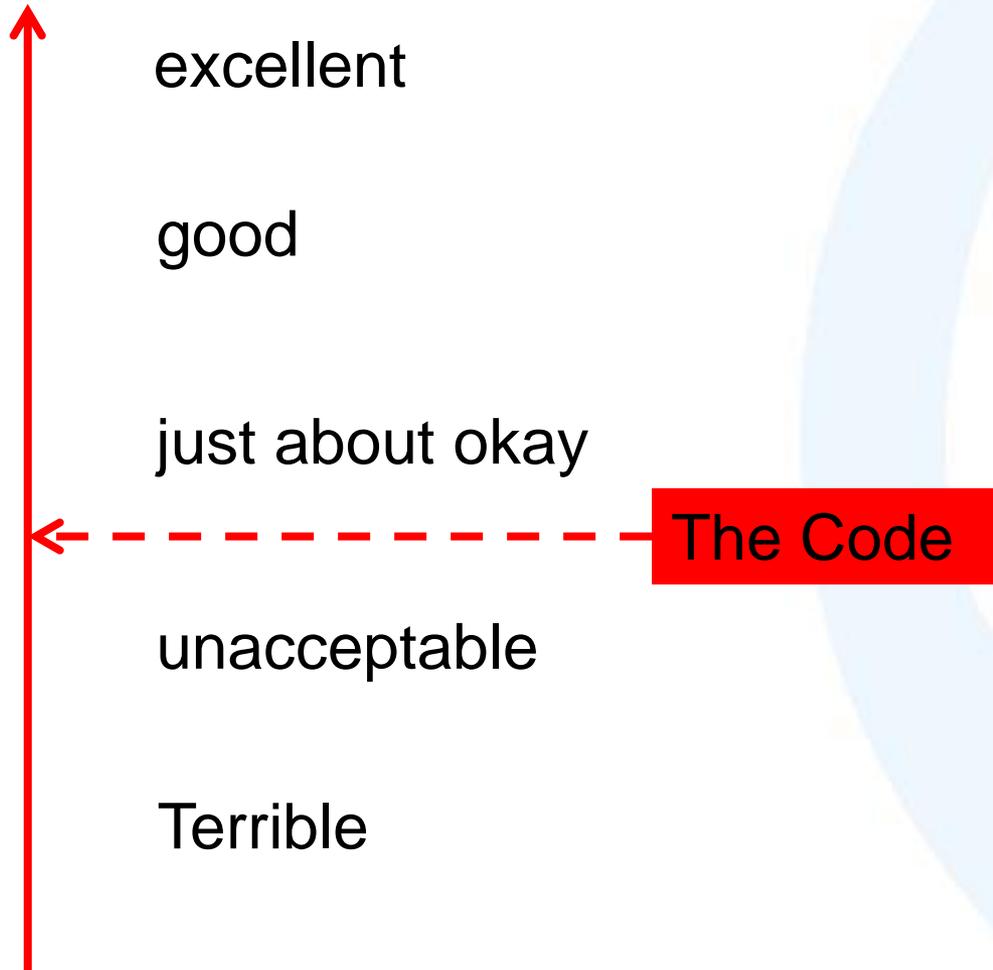
just about okay

unacceptable

Terrible



Imagine a 'scale of nurse quality'



the Code is **not an 'aspirational' document** but a clear statement of the professional standards everyone should be able to expect from a nurse or midwife.

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20.8 act as a role model of professional behaviour for students and newly qualified nurses and midwives to aspire to

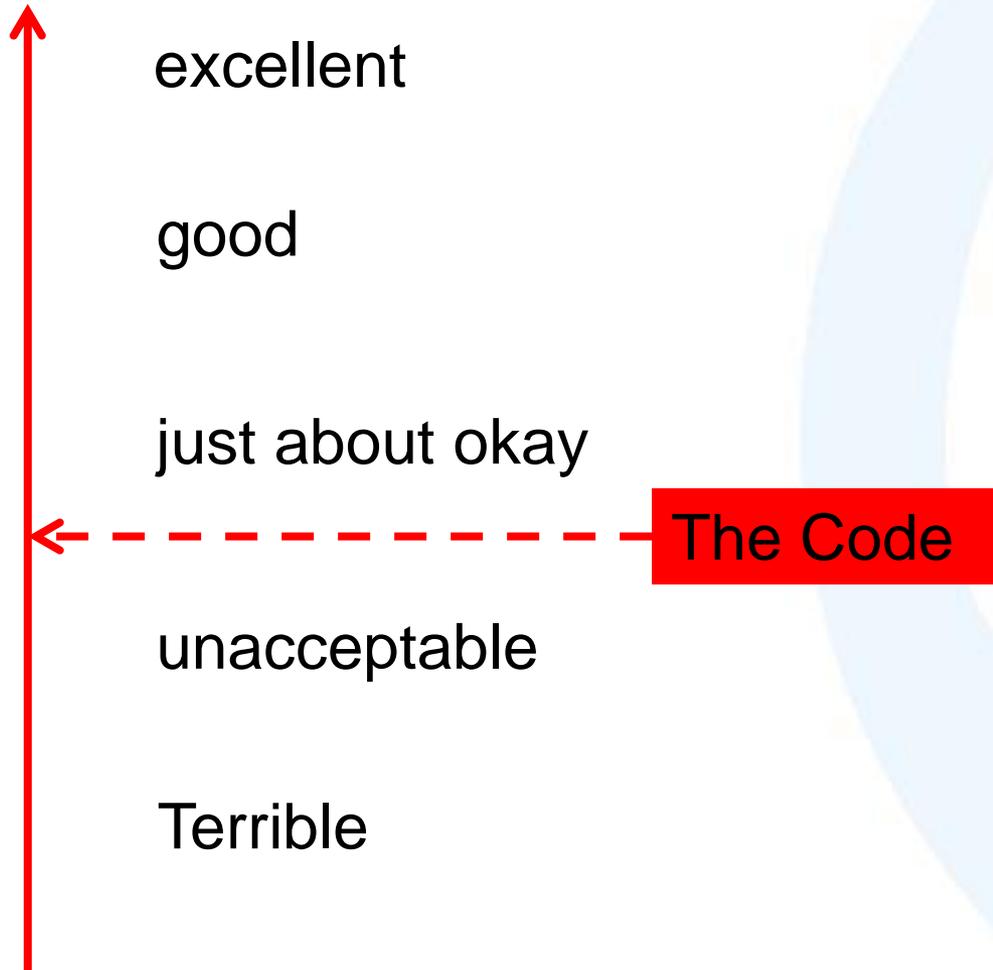
The Code 15

For the many committed and **expert practitioners** on our register, this Code **should** be seen as a way of reinforcing their professionalism.

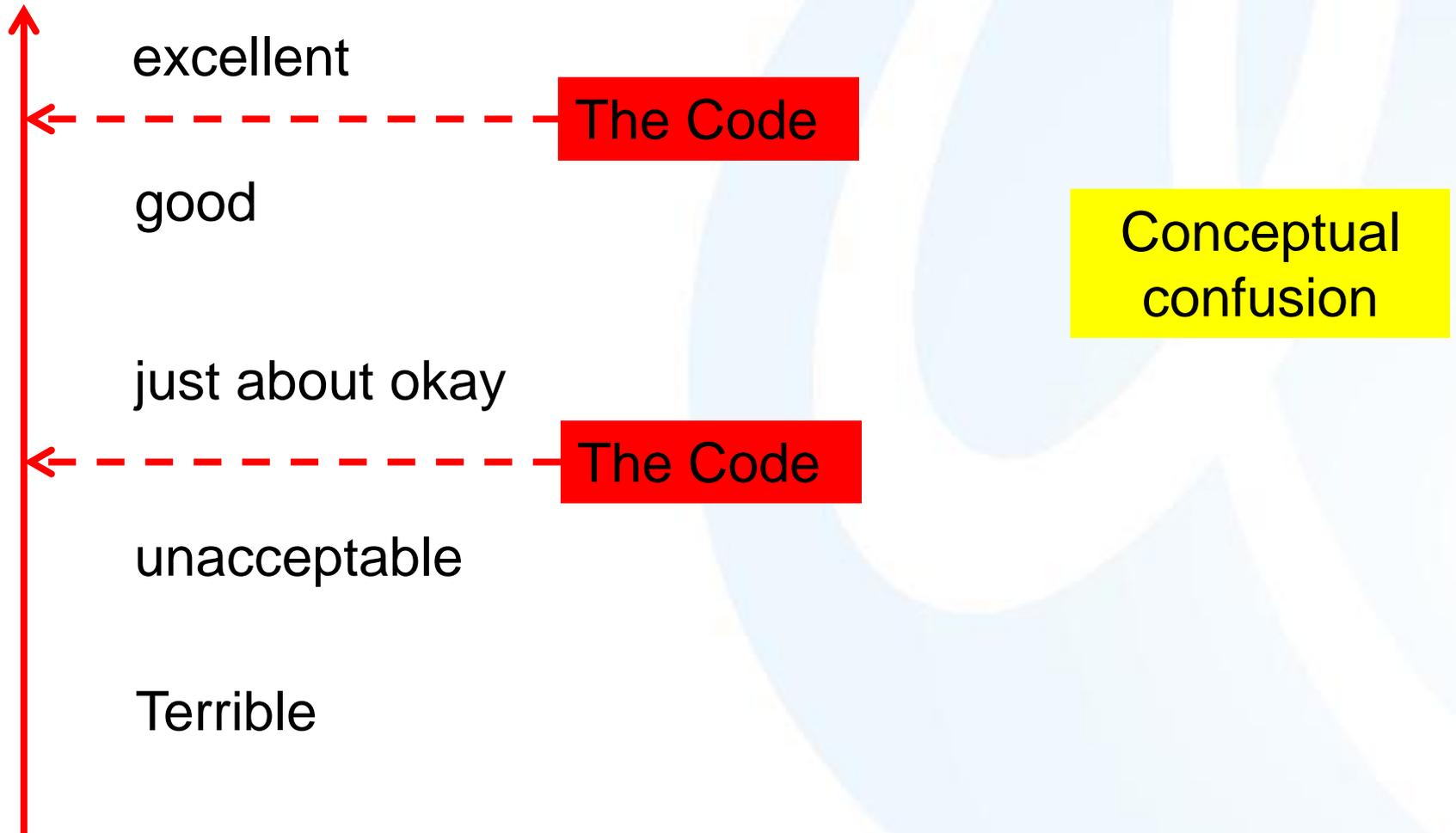
The Code contains a series of statements that taken together signify what **good nursing** and midwifery practice looks like

[The Code page 3](#)

Imagine a 'scale of nurse quality'

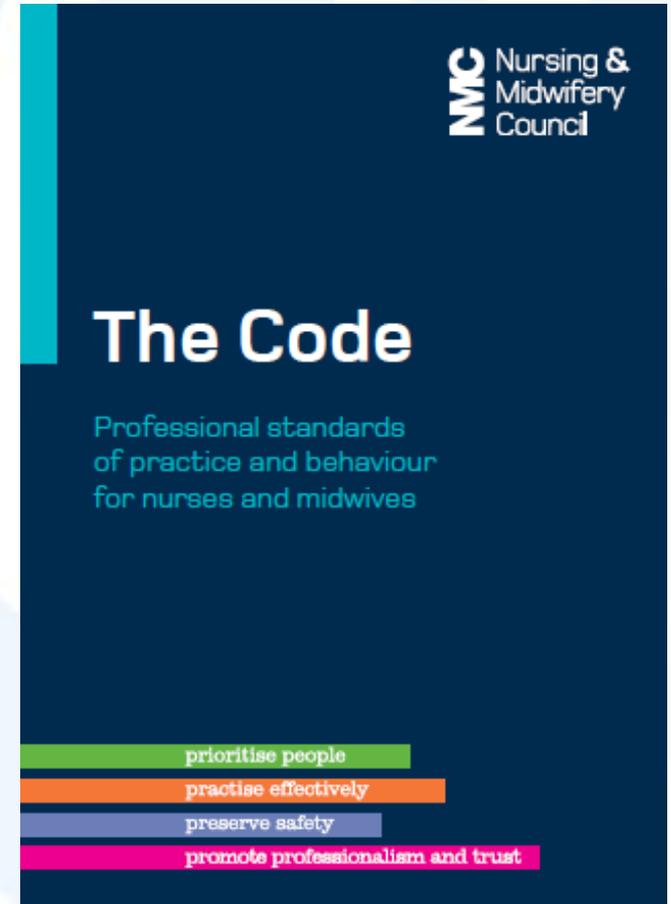


Imagine a 'scale of nurse quality'



A whistlestop tour, but three problems with the UK Code

- Level
- Language (and what it means) (should and must)
- Directive power



Must and should (ought) in conversation (1)

Moral

- You should go and visit your.....
- You *really* should go and visit your....
- You must go and visit your....

Must and should (ought) in conversation (2)

Moral

- You should go and visit my.....
- You *really* should go and visit
- You must go and visit

Prudential

- You should give up smoking
- You *really* should give up smoking
- You must give up smoking
- You *really* must give up smoking

Must and should in regulation (1)

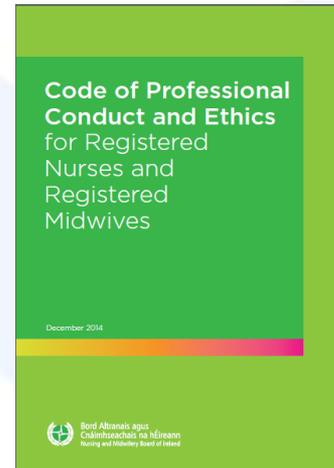
- 5 In *Good medical practice*, we use the terms 'you must' and 'you should' in the following ways.
- 'You must' is used for an overriding duty or principle.
 - 'You should' is used when we are providing an explanation of how you will meet the overriding duty.
 - 'You should' is also used where the duty or principle will not apply in all situations or circumstances, or where there are factors outside your control that affect whether or how you can follow the guidance.

Must and should in regulation (2)

Must: commands the action a nurse or midwife is obliged to take from which no deviation whatsoever is allowed.

Should: indicates a strong recommendation to perform a particular action from which deviation in particular circumstances must be justified.

Irish board



Must and should in regulation (4)

The requirements of the Code, although now presented in a different structure, all remain prefaced by the phrase 'you must'. There had been concerns voiced during the consultation exercise that the constant use of the phrase 'you must' made the Code sound dictatorial and draconian rather than promoting a sense of ownership. However, it is felt that retaining the phrase **'you must' makes it clear that these are not optional requirements and are expected standards for all nurses and midwives.**

NMC Board paper - revision of the Code

International comparisons (1)

ICN, UK, Australia, Canada, NZ, BC, USA, HK, Ireland

Organisation	country	Type	Title	Form	Example
International Council of Nurses	international	advisory	Code of Ethics for Nurses	Descriptive	The nurse holds in confidence personal information and uses judgement in sharing this information.
Nursing and Midwifery Council	UK	Regulatory	Professional standards of practice and behaviour for nurses and midwives	Directive	you must ... respect a person's right to privacy in all aspects of their care
Nursing and Midwifery Board of Australia	Australia	Regulatory	Code of Professional Conduct for Nurses in Australia	Descriptive	Nurses treat personal information obtained in a professional capacity as private and confidential
Canadian Nurses association	Canada	Professional	Code of ethics for registered nurses	Descriptive	Nurses respect the right of people to have control over the collection use access and disclosure of their personal information
Nursing Council of New Zealand	New Zealand	Regulatory	Code of conduct for nurses	Standards / descriptive	Maintain health consumers' confidentiality and privacy by not discussing health consumers,
College of registered nurses of British Columbia	Canada	Regulatory	Professional Standards for Registered Nurses and Nurse Practitioners	Descriptive	Protects client privacy and confidentiality.
American Nurses' Association	USA	Professional Regulatory in some states	Code of Ethics for Nurses with Interpretive statements	Mixed	Nurses should model the same health maintenance and health promotion measures that they teach and research (p.19). Nurses must maintain competence (p.22)
The Nursing Council of Hong Kong	Hong Kong	Regulatory	Code of Ethics and professional Conduct for Nurses in Hong Kong	Descriptive	Nurses ensure that the information given by the individuals in confidence will only be used for the purposes for which it was given (p.8)
Nursing and Midwifery Board of Ireland	Ireland	Regulatory	Code of Professional Conduct and Ethics for Registered Nurses and Registered Midwives	Values descriptive	Values descriptive Standards of conduct mixed You must respect each person as a unique individual (1) You have a responsibility to make every valid (3) You should respect an individual's advance healthcare directive, if you know they have one You must strive to communicate

International comparisons (2)

ICN, UK, Australia, Canada, NZ, BC, USA, HK, Ireland

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Nurses treat personal information obtained in a professional capacity as private and confidential (Australia)

International comparisons (3)

ICN, UK, Australia, Canada, NZ, BC, USA, HK, Ireland

Organisation	country	Type	Title	Form	Example
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you must ... respect a person's right to privacy in all aspects of their care (UK)

Prioritise people

You put the interests of people using or needing nursing or midwifery services first. You make their care and safety your main concern and make sure that their dignity is preserved and their needs are recognised, assessed and responded to. You make sure that those receiving care are treated with respect, that their rights are upheld and that any discriminatory attitudes and behaviours towards those receiving care are challenged.

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

- 1.1 treat people with kindness, respect and compassion
- 1.2 make sure you deliver the fundamentals of care effectively

Promote professionalism and trust

You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the profession from patients, people receiving care, other healthcare professionals and the public.

20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.1 keep to and uphold the standards and values set out in the Code

Standards for medicine management

Standard

Students must never administer or supply medicinal products without direct supervision.

Standards for medicine management

Standard

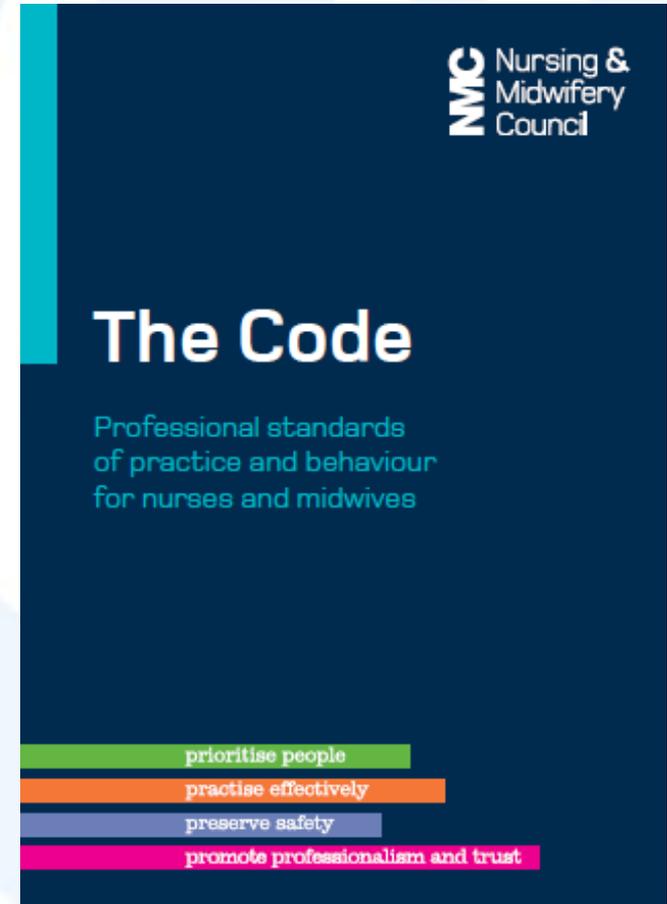
Students must never administer or supply medicinal products without direct supervision.

Guidance

As students progress through their training, their supervision may become increasingly indirect to reflect their competence level.

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Katerina Kolyva is director of
services of nurse education, clinical practice at the NMC

[The Code] sets out the fundamental standards of nursing and midwifery practice, explaining **exactly** what nurses and midwives **must** do to justify the trust that patients place in those who care for them.

Consent and documentation (1)

1	2008 Code (clause 13)	You must ensure that you gain consent before you begin any treatment or care.
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Consent and documentation (2)

1	2008 Code (clause 13)	You must ensure that you gain consent before you begin any treatment or care.
2	Consultation version (clause 35)	You must ensure that you gain appropriate and properly informed consent before you begin any treatment or care, ensuring that consent is documented where appropriate .

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3	Draft final version pre-editing (clause 4.2)	[You must...] ensure that properly informed consent is obtained and documented before any intervention requiring such consent is commenced

Consent and documentation (4)

1	2008 Code (clause 13)	You must ensure that you gain consent before you begin any treatment or care.
2	Consultation version (clause 35)	You must ensure that you gain appropriate and properly informed consent before you begin any treatment or care, ensuring that consent is documented where appropriate.
3	Draft final version pre-editing (clause 4.2)	[You must...] ensure that properly informed consent is obtained and documented before any intervention requiring such consent is commenced
4	Final version (clause 4.2)	[You must...] make sure that you get properly informed consent and document it before carrying out any action

Ambiguous clauses (and no guidance)

- 20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers
- 20.7 make sure you do not express your personal beliefs (including political, religious or moral beliefs) to people in an inappropriate way
- 20.8 act as a role model of professional behaviour for students and newly qualified nurses and midwives to aspire to

The Code **15**

A reduction in guidance

- 7 It is our position that the NMC should reduce the guidance it issues underpinning the Code to a limited number of key areas. At present we believe that those should be:

[NMC Board paper - Guidance underpinning the Code](#)

The Council noted that, as part of the consultation to inform revisions to the Code, a broad consensus had emerged that the Code should be a comprehensive document and that the numbers of supporting guidance documents should be relatively small. The revised Code took into account those views.

Read Good medical practice (2013) >

Read the explanatory guidance >

0-18 years >

Accountability in multi-disciplinary and multi-agency mental health teams >

Acting as a witness in legal proceedings (2013) >

Confidentiality >

Consent guidance >

Delegation and referral (2013) >

Doctors' use of social media (2013) >

Ending your professional relationship with a patient (2013) >

End of life care >

Financial and commercial arrangements and conflicts of interest (2013) >

Good practice in prescribing and managing medicines and devices (2013) >

Guidance for doctors acting as >

[e/good_medical_practice.asp](#)

You are here: [Home](#) > [Good medical practice](#) > **Read the explanatory guidance**

Good medical practice: Explanatory guidance

Please select which guidance you need using the table below. If you are looking for information on a specific issue and do not know which guidance title you need, you can also view our [A-Z](#) or [search the guidance](#).

You can also download the publication, *What to expect from your doctor: a guide for patients* (2013) which we have developed to help patients understand the standards expected of all doctors. Please note that this is not guidance for doctors.

Role of the guidance	Access the guidance
<p>Good medical practice is our core guidance for all registered doctors. As with all our guidance, serious or persistent failure to follow it will put a doctor's registration at risk.</p> <p>Good medical practice is supported by a range of explanatory guidance, which expands on one or more of its high level principles.</p>	<ul style="list-style-type: none"> • Good medical practice
<p>We have guidance about fundamental ethical principles that most doctors will use every day, like Consent and Confidentiality.</p>	<ul style="list-style-type: none"> • Confidentiality • Consent
<p>Guidance that every doctor needs to know about and follow, even though they may not use it regularly in their day to day work.</p>	<ul style="list-style-type: none"> • 0-18 years • Protecting children and young people • Leadership and management for all doctors • Raising and acting on concerns • Treatment and care towards the end of life
<p>And guidance that may be more relevant to doctors working in certain specialties, or about specific situations some doctors may face during the course of their career.</p> <p>We expect doctors to be familiar with the range of guidance because failure to follow any of it will put their registration at risk.</p>	<ul style="list-style-type: none"> • Accountability • Acting as a witness • Consent to research <p>Confidentiality</p> <ul style="list-style-type: none"> • Confidentiality: disclosing information for education and training purposes (pdf) • Confidentiality: disclosing information for insurance, employment and similar purposes (pdf) • Confidentiality: disclosing records for financial and administrative

Conclusion

A bit churlish to criticise..... (Pattison and Wainwright 2010)

But this is document does not do what it is supposed to

- 1 Needs revision (again)
- 2 Extra explanatory guidance throughout

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