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RCN Children and Young People  
Continuing and Community Care Forum

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Monday 13th January 2025

**Re: RCN Guidance – Meeting the Health Needs of Children and Young People in Educational and Community Settings**

Dear [REDACTED],

Further to our previous contact, you will be aware that I am the Director of ESC Management Services (ESC), a company that works with health and education organisations to improve the arrangements for healthcare provision in educational settings. I am contacting you about the recently updated RCN guidance, Meeting the Health Needs of Children and Young People in Educational and Community Settings.<sup>1</sup>

The scope of the RCN guidance covers registered nurses delegating healthcare activity to support workers, and the RCN's term '*support worker*' includes teachers and learning support assistants. Therefore, the content is relevant to my work and the clients seeking ESC advice and support. I appreciate that updating this guidance has been complex and consideration has been given to the risk of challenges once published.<sup>2</sup> However, I am writing to raise concerns and request clarification on specific aspects of the guidance. ESC works within the English system, so the points raised relate to aspects of the guidance that apply to England.

In summary, the guidance notably omits key legal and regulatory information, and the framing of the guidance and elements of content raise questions. The concern is that this presents a misleading and unclear view of the legal and regulatory framework that is in place to ensure children and young people have access to quality healthcare. Consequently, contrary to its intent, this could result in children and young people being denied the healthcare services they are entitled to, and expose all involved, including children and young people, registered nurses/NHS provider trusts and education staff/providers to inappropriate and unacceptable risks.

In recent years, there has been an improved understanding of the legal issues associated with the delivery of healthcare services in educational settings. Although the RCN has contributed to national work on this topic, providing context before discussing guidance-specific issues may be beneficial. The guidance-specific points are set out in five sections: rights of children and young people, policy and legislation, professional accountability, principles of delegation, and proposed case studies.

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<sup>1</sup> RCN (2024) Meeting the health needs of children and young people in educational and other community settings <https://www.rcn.org.uk/Professional-Development/publications/rcn-meeting-health-needs-of-children-young-people-educational-and-community-settings-uk-pub-011-112>

<sup>2</sup> RCN (2022) Children and Young People Continuing and Community Care Forum – Annual Update Report pg. 2 <https://www.rcn.org.uk/Get-Involved/Forums/Children-and-Young-People-Continuing-and-Community-Care-Forum/Our-work>



## 1 Context

For over a decade, confusion about healthcare responsibilities in schools has persisted, driven by gaps in NHS commissioning and missteps in national-level guidance. These issues often result in arrangements that deviate from legal and regulatory frameworks. Consequently, clinical healthcare is inappropriately moved from the health sector's legal, regulatory and governance framework, resulting in compromised care standards, safety and risk issues, and non-compliant practices.

Partnership working has underpinned public sector reforms, including the 2014 Special Educational Needs and Disability (SEND) reforms. Whilst services must collaborate, effective integration of health, social care, and education services requires recognition of the sector distinctions.<sup>3</sup> In relation to the health sector, it is the distinct 'health' statutory and regulatory framework that underpins the governance to secure NHS 'quality' and deliver on the NHS Constitution.<sup>4</sup> This health framework aims to ensure that all individuals, including children and young people in community settings such as schools, can access the quality healthcare they need.

Historically, a frequently overlooked point is that even if the NHS Act 2006 healthcare activity is considered suitable for registered health professional delegation to an unregistered support worker, the NHS commissioning responsibility is not removed. Extensive case law, policy, and guidance support this.<sup>5,6,7</sup> Furthermore, when NHS healthcare activity is delegated across organisations/sectors, both individual-level **and** organisation-level arrangements need to be in place to support the delegation. ESC describes this as the delegation dual dynamic.<sup>8</sup>

Statutory provisions are in place that permit organisation-level delegation within the health and adult social care sectors.<sup>9</sup> Assuming arrangements meet legislative and regulatory requirements, delegable healthcare activities identified include diabetes management, catheter care, and enteral feeding.<sup>10,11</sup> NHS England's statutory guidance provides details on the organisation-level delegation provision introduced in the Health and Care Act 2022. According to the guidance, before the 2022 provisions were introduced, organisations were '*legally constrained*' in how they worked together.<sup>12</sup> Also, the statutory guidance is explicit in stating '*potential liability for unlawful delegation for the function, remains with the delegating organisation.*'<sup>13</sup>

Notably, general health-related duties are replicated across social care and education e.g. duty of care, welfare, reasonable adjustments, and first aid. However, the statutory schemes for adult social care, children's social care and education differ in relation to NHS Act 2006 healthcare differ. Statutory provisions that allow organisation-level delegation across health and adult social care sector organisations do not appear to extend to cover delegation of healthcare activities to education providers.

<sup>3</sup> East Sussex County Council v KS (SEN) [2017] UKUT 273 [2018] AACR3. Para. 64 [https://assets.publishing.service.gov.uk/media/5bb61b1ce5274a4f75596b3b/2018\\_AACR\\_3\\_ws.pdf](https://assets.publishing.service.gov.uk/media/5bb61b1ce5274a4f75596b3b/2018_AACR_3_ws.pdf)

<sup>4</sup> **Note:** 'Quality' as defined in statute – effectiveness, safety and service user experience.

<sup>5</sup> R (T, D and B) v Haringey LBC. [2005] EWHC 2235 (Admin); (2006) 9 CCLR 58)

<sup>6</sup> NHS England (updated 2023) Delegation of healthcare tasks to personal assistants within personal health budgets. <https://www.england.nhs.uk/wp-content/uploads/2017/06/PRN00095-Personal-health-budgets-delegation-of-healthcare-tasks-to-personal-assistants.pdf>

<sup>7</sup> R (Juttla and others) v Herts Valleys CCG [2018] EWHC 267 (admin) <https://www.bailii.org/ew/cases/EWHC/Admin/2018/267.html>

<sup>8</sup> ESC (2023) Delegation - A Dual Dynamic <https://escmanagementservices.co.uk/wp-content/uploads/2024/12/Delegation-A-Dual-Dynamic.png>

<sup>9</sup> DHSC/Skills for Care (2024) Delegated healthcare activities – Guiding principles for health and social care in England See Legislation Pg. 19 <https://www.gov.uk/government/publications/adult-social-care-system-reform-next-steps-to-put-people-at-the-heart-of-care/next-steps-to-put-people-at-the-heart-of-care>

<sup>10</sup> Ibid. Pg. 8

<sup>11</sup> DHSC (2023) Next Steps to put People at the Heart of Care. See section 'Recognising adult social care as a profession' <https://www.gov.uk/government/publications/adult-social-care-system-reform-next-steps-to-put-people-at-the-heart-of-care/next-steps-to-put-people-at-the-heart-of-care>

<sup>12</sup> NHS (2023) Statutory guidance Arrangements for delegation and joint exercise of statutory functions para. 8 <https://future.nhs.uk/connect/ti/ICSGuidance/view?objectID=146725541>

<sup>13</sup> Ibid. para. 74



The Children and Families Act (CFA) 2014 Part 3 sets out the legislation for children and young people with SEND in England. Under s.20(1), the definition of SEN is a child or young person who has ‘*a learning difficulty or disability which calls for special educational provision*’.<sup>14</sup> In 2024, 4.8% of pupils in England had an Education, Health and Care (EHC) plan.<sup>15</sup> For children and young people eligible for an EHC plan under s.21(5), if health care (or social care) provision educates or trains, it is deemed special educational provision. This requires local authorities to take a child/young person-specific approach to differentiate between health support that educates or trains the child/young person and health support the child/young person needs to stay well.<sup>16</sup>

Case law has provided insight into compliant decision-making in this area. For example, it should be possible to see what the provision is trying to instil, teach or train and there may be teaching and learning strategies built into the provision.<sup>17</sup> In addition, health provision that involves a child or young person being ‘*practiced upon*’ is unlikely to constitute educational provision.<sup>18</sup> Also, even if medical and nursing care is essential for a child or young person to be educated, that does not in itself make it special educational provision.<sup>19</sup> The SEND Code of Practice states that EHC plan Section G Health Provision may include a ‘*range of nursing support*’.<sup>20</sup>

## 2 The Rights of Children and Young People

The RCN guidance includes a section on children and young people’s rights. This acknowledges the United Nations Conventions on the Rights of the Child and the Rights of Persons with Disabilities. The guidance refers to supporting children to achieve the highest standard of health and children and young people with health needs being entitled to a full education. This section of the guidance also mentions the Equality Act 2010 and reasonable adjustments (see 4 Policy and legislation for related points).

Citing the United Nations Rights and the Equality Act 2010 is appropriate and relevant. However, given that a key aim of this RCN guidance is to support meeting the health needs of children and young people, a striking omission is any reference to the NHS Constitution.<sup>21</sup> Although the NHS Constitution is limited to England, much of the intended audience will work within the English system, making this highly relevant when considering rights.

The NHS Constitution Handbook’s section ‘*Patients and public: your rights and the NHS pledges to you*’, many rights apply to children and young people requiring healthcare services in educational or other community settings.<sup>22</sup> The handbook explains that the NHS Constitution brings together rights conferred explicitly by law and rights derived from legal obligations imposed on NHS bodies. Furthermore, a fundamental principle of the NHS Constitution is that the NHS works across organisation boundaries. Considering its relevance, the omission is surprising.

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<sup>14</sup> Emphasis added

<sup>15</sup> DfE (2024) Special Educational Needs in England. Academic Year 2023/24 <https://explore-education-statistics.service.gov.uk/find-statistics/special-educational-needs-in-england>

<sup>16</sup> NICE (updated 2023) NG213 Disabled children and young people up to 25 years with severe complex needs: integrated service delivery and organisation across health, social care and education. Pg. 31 Para. 1.4.9 <https://www.nice.org.uk/guidance/ng213>

<sup>17</sup> DC and DC v Hertfordshire County Council (SEN) [2016] UKUT 379 (AAC) (12 August 2016) para. 17 pg. 4

[https://assets.publishing.service.gov.uk/media/57e389aded915d6cfa000066/HS\\_0226\\_2016-01.pdf](https://assets.publishing.service.gov.uk/media/57e389aded915d6cfa000066/HS_0226_2016-01.pdf)

<sup>18</sup> Ibid. para. 18

<sup>19</sup> East Sussex County Council v KS (SEN) [2017] UKUT 273 [2018] AACR3 para. 89 <https://assets.publishing.gov.uk/2018AACR3>

<sup>20</sup> DfE/DoH (2015) SEND Code of Practice pg. 167

[https://assets.publishing.service.gov.uk/media/5a7dcb85ed915d2ac884d995/SEND\\_Code\\_of\\_Practice\\_January\\_2015.pdf](https://assets.publishing.service.gov.uk/media/5a7dcb85ed915d2ac884d995/SEND_Code_of_Practice_January_2015.pdf)

<sup>21</sup> DHSC (2023) The NHS Constitution for England <https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england>

<sup>22</sup> DHSC and PHE (2023) Handbook to the NHS Constitution for England See section ‘Patients and public: your rights and the NHS pledges to you’ <https://www.gov.uk/government/publications/supplements-to-the-nhs-constitution-for-england/the-handbook-to-the-nhs-constitution-for-england#patients-and-the-public-your-rights-and-the-nhs-pledges-to-you>



### 3 Professional Accountability

The RCN guidance includes a section on 'Professional accountability' and refers to registered nurses' professional accountability as set out in the NMC Code. This section also includes a statement from the NMC guidance, '*Delegation of tasks from one individual to another occurs commonly in all health and care settings.*'<sup>23</sup> In addition to the specific delegation standards, according to the NMC Code Standard 20.4, registrants must comply with the laws of the country in which they practice.

The NMC has confirmed to ESC that in line with Standard 20.4, nurses must ensure any delegated task is lawful.<sup>24</sup> However, this aspect of the NMC standards has been overlooked in the RCN guidance. Given the legislative differences across the sectors, acknowledging this NMC Code standard and what it means practically is possibly a missed opportunity to provide clarity and support nurses in adhering to NMC professional standards when they are considering delegation.

### 4 Policy and legislation

The RCN guidance starts with the statement '*This resource will enable community children's nurses or those outreaching into children in the community to be fully aware of their role and responsibilities, as outlined in the special educational needs and disability legislation in England, Northern Ireland, Scotland and Wales.*' The guidance's 'Policy and legislation' section covers the four UK countries '*taking legislation into account and focusing on the provision of positive outcomes for cyp*'. Considering the historical confusion and pervasive non-compliance, the intention of improved clarity is welcomed. However, there appear to be issues with the approach taken, which means the intended clarity may not be achieved.

The section 'Policy and legislation' relating to England contains minimal information about the duties/obligations conferred under the SEND legislation. There is a reference to EHC assessments and EHC plan annual reviews and partnership working, but there is no mention of NHS duties under the SEND legislation or NHS duties/obligations, generally. In terms of positive outcomes for children and young people with health needs, presumably fundamental to this would be access to the 'quality' NHS healthcare they are entitled to. Therefore, a minimum expectation would be the inclusion of key NHS legislation/duties relevant to nursing care in the community. For example, the ICBs' responsibility to commission the health services pupils may need in school, including support for managing long-term conditions, disabilities and additional health needs such as gastrostomy.<sup>25</sup>

Another notable omission in this 'Policy and legislation' section is that there is no mention of the different sector statutory schemes i.e. adult social care, children's social care and education, and their different provisions for NHS healthcare. These differences are critical and highly relevant for nurses delegating tasks in community settings. What may be a compliant delegation of a healthcare intervention to a support worker in an adult social care setting may not be a compliant delegation to a support worker in an education setting.

Within the RCN guidance's 'Policy and legislation' section, the only specific duty mentioned is the duty of maintained schools and academies to make arrangements to support pupils with medical conditions. The guidance states that the SEND Code of Practice '*places this statutory duty*' on

<sup>23</sup> NMC (2018) Delegation and Accountability – Supplementary Information to the NMC Code pg. 3

<https://www.nmc.org.uk/globalassets/sitedocuments/nmc-publications/delegation-and-accountability-supplementary-information-to-the-nmc-code.pdf>

<sup>24</sup> NMC (2019) Letter from Professor Geraldine Walters, Director Education and Standards, NMC to ESC. Held on file.

<sup>25</sup> DfE (2015) Supporting pupils at school with medical conditions pg. 16

<https://assets.publishing.service.gov.uk/media/5ce6a72e40f0b620a103bd53/supporting-pupils-at-school-with-medical-conditions.pdf>



schools; the RCN may wish to seek legal clarification on this, as it potentially misrepresents the legislation/statutory guidance.

Although the RCN guidance includes education staff e.g. teachers and learning support assistants in the ‘*support worker*’ term and, as such, potentially involved in a delegation arrangement, there is no explicit RCN position on what the legal basis would/could be for registered nurses to delegate healthcare activities to education staff. Whether intentional or not, the absence of this information, coupled with the inclusion of the CFA 2014 s.100 duty on schools and the references to the Equality Act 2010 reasonable adjustment duty, infers that these latter duties provide legitimacy to nurses delegating nursing care tasks to education staff. This is potentially problematic.

These duties should be viewed within the context of the wider statutory duties and obligations for healthcare services rather than being viewed in isolation.

### ***Children and Families Act 2014 – Part 5, s.100***

The CFA 2014 s.100 duty is contained within the CFA 2014 Part 5 Welfare. It does not appear to confer obligations or powers on schools in relation to NHS Act 2006 healthcare. The duty is ‘**to make arrangements**’. Therefore, a reasonable interpretation of the duty is that it is two-fold. Firstly, to make arrangements for school-led health support within the scope of the school’s duties and powers. Secondly, to make collaborative arrangements with local partners to enable pupils to access NHS and local authority commissioned health services.

### ***Equality Act 2010 – Reasonable Adjustments***

The Equality Act 2010 requires education providers to make reasonable adjustments for pupils with disabilities. However, this duty does not override NHS responsibilities under the NHS Act 2006. For example, ICBs are responsible for commissioning clinical services and support pupils require in school, and this should inform any consideration of what is ‘reasonable’ healthcare activity for an education provider to commission/provide. The RCN may be aware that in response to concerns raised by ESC (and others), the Equality and Human Rights Commission amended its guidance for schools to remove reasonable adjustment examples involving medical conditions.<sup>26,27</sup>

## **5 Principles of Delegation**

The ‘Principles of delegation’ section of the RCN guidance sets out the need to undertake a risk assessment using a two-step process, with the second step covering organisation-level elements. The RCN’s Accountability and Delegation Guide recognises a tiered approach to accountability covering individual and organisational levels.<sup>28</sup> Vicarious liability means that when a registered nurse delegates healthcare activity to a support worker, there is an organisation aspect, which is particularly important when delegation of healthcare activities occurs across organisations.

Although the RCN guidance’s intended audience is nurses because of the organisation aspect, the guidance also serves as a suggested/recommended way of working for the employers of nurses and support workers, which under the RCN guidance’s scope would include NHS provider trusts and education providers.

<sup>26</sup> ESC (2023) Letter to the EHRC re. Technical Guidance for Schools and Reasonable Adjustments <https://escmanagementservices.co.uk/wp-content/uploads/2024/12/EHRC-2.11.23.pdf>

<sup>27</sup> EHRC (2024) Technical Guidance for Schools in England. See 30 July 2024 update <https://www.equalityhumanrights.com/equality/equality-act-2010/technical-guidance-schools-england> **Note:** a tracheostomy example was removed in 2022.

<sup>28</sup> RCN (2023) Accountability and Delegation See ‘You and the law’ <https://www.rcn.org.uk/Professional-Development/Accountability-and-delegation/Guide#accountability>



The concern, again, is the blanket approach that has been taken without acknowledging the sector distinctions, specifically the education provider's limited statutory powers relating to healthcare activity. The second step of the risk assessment is largely concerned with governance. Legal and regulatory compliance are the foundation for robust governance arrangements; governance and compliance are inextricably linked.<sup>29</sup> As such, the elements outlined e.g. service level agreement, job descriptions, policies and indemnity insurance arrangements, would need to be established within a compliant framework. However, the legal basis for the delegation of healthcare activities to education staff/providers remains unclear.

In addition, this second step of the risk assessment appears focused on the employer of the support workers providing the care, with minimal/no acknowledgement of the nurse employer's responsibilities under a formal delegation arrangement. This is in stark contrast to other guidance, which recognises the responsibilities, accountabilities and liabilities of the employing organisations of the delegator (registered health professional) and the delegatee (unregistered worker).<sup>30,31</sup>

Arguably, this presents a one-sided, oversimplified picture of the organisation-level aspect that fails to reflect the practical issues and complexities when related to education settings, for example:

- *Nurse Employer's Liabilities:* In addition to vicarious liability for the acts and omissions of the nurse delegating, there also needs to be consideration of potential liabilities for non-compliant delegation.
- *Teachers' Role and Responsibilities:* Teachers are regulated professionals, and they are not required to provide support to pupils with medical conditions.<sup>32</sup> There can be serious professional regulatory implications for those who do.<sup>33</sup>

This aspect of the RCN guidance risks setting out a framework or 'checklist' for delegation involving education providers' *support workers*', which is underpinned by inappropriate expectations, insufficient assurances and ineffective governance arrangements. As a result, professionals and organisations, including registered nurses, NHS provider trusts, and education providers using this guidance, could find that they are inadvertently implementing non-compliant legal and regulatory practices with significant implications.

The RCN will be aware that the NICE Guideline NG213 section on delegated clinical tasks includes paragraph 1.15.25 covering similar employer elements of delegation i.e. job descriptions, indemnity/insurance arrangements and policies and procedures. Initially, this paragraph referred to '*employers*', thus presenting a blanket approach to health, social care and education employers. However, when legal and regulatory issues were raised with NICE, this was amended and '*employers*' was replaced with '*health and social care employers*' to clarify that the recommendation was not addressed to education employers.<sup>34,35</sup>

<sup>29</sup> DHSC/Skills for Care (2024) See Principle Two – Governance, regulation and accountability '*This principle focuses on effective and robust governance within the required regulatory and legislative requirements.*' pg. 16 <https://www.gov.uk/government/publications/adult-social-care-system-reform-next-steps-to-put-people-at-the-heart-of-care/next-steps-to-put-people-at-the-heart-of-care>

<sup>30</sup> Skills for Care/ Lincolnshire Delegated healthcare activities toolkit <https://www.skillsforcare.org.uk/resources/documents/Developing-your-workforce/Care-topics/Delegated-healthcare-interventions/Governance-toolkit-delegated-healthcare-activities.pdf>

<sup>31</sup> NHS (2022) Quick guide to insulin delegation. See page 4 Organisational checklist includes '*policies comply with legal requirements*' [https://www.diabetes.org.uk/sites/default/files/2022-11/IAD\\_Organisational\\_Checklist\\_for\\_Delegation\\_of\\_Administration\\_of\\_Insulin\\_v5.pdf](https://www.diabetes.org.uk/sites/default/files/2022-11/IAD_Organisational_Checklist_for_Delegation_of_Administration_of_Insulin_v5.pdf)

<sup>32</sup> DfE (2014) School teachers' pay and conditions document 2024 and guidance on school teachers' pay and conditions Annex 5 pg. 68 [https://assets.publishing.service.gov.uk/media/67165b0d9242eccc6c849b4b/School\\_teachers\\_pay\\_and\\_conditions\\_document\\_and\\_guidance\\_2024\\_.pdf](https://assets.publishing.service.gov.uk/media/67165b0d9242eccc6c849b4b/School_teachers_pay_and_conditions_document_and_guidance_2024_.pdf)

<sup>33</sup> Teaching Regulation Agency (2018). Mr Matthew Pryer: Professional conduct panel meeting outcome [https://assets.publishing.service.gov.uk/media/63d93ed6e90e0773d6a33c0c/Pryer\\_M\\_-\\_Web\\_Decision.pdf](https://assets.publishing.service.gov.uk/media/63d93ed6e90e0773d6a33c0c/Pryer_M_-_Web_Decision.pdf)

<sup>34</sup> ESC (2022) Letter to NICE Re. NG213 Children and young people with severe complex needs <https://escmanagementservices.co.uk/wp-content/uploads/2025/01/NICE-Guideline-213-ESC-Letter-23.9.22-.pdf>

<sup>35</sup> NICE (updated 2023) NG213 Disabled children and young people up to 25 years with severe complex needs: integrated service delivery and organisation across health, social care and education. See January 2023 update <https://www.nice.org.uk/guidance/ng213>



### **Health care plans**

The RCN guidance makes the distinction between ‘*an essential care and support plan*’ which could be drawn up between parent/guardian/child or young person and the setting and a ‘*complex care and support plan*’ for children and young people often known to the multidisciplinary team where a collaborative approach should be taken to drawing up the plan.

Aside from the obvious difference in severity/complexity of health needs, according to the guidance, ‘*either scenario*’ could involve registered nurse delegated tasks. Therefore, it appears that the RCN is suggesting that parents/guardians and community settings, including schools, can develop care plans that involve delegated tasks. However, where there is an NHS commissioning responsibility for healthcare services, regardless of whether the care is considered non-delegable or delegable there is an associated NHS responsibility for care planning. This care planning is integral to health sector-regulated activity.

The 2018 version of this RCN guidance was clear that care planning was unsuitable for delegation to an unregistered worker, this position is supported by DHSC guidance.<sup>36</sup> DfE guidance also allows for the appropriate professional, which may be a healthcare professional, to lead on the initiation, development and review of a healthcare plan for an individual pupil. Therefore, the appropriateness of education settings taking a leading role in developing care plans in this scenario would be questionable.<sup>37</sup> Although this interpretation may not have been the RCN’s intention, this is how it could be interpreted, so it would be beneficial to have further clarity on this point.

### **Ongoing support**

This section starts with ‘*The employer of the support worker will ensure that the member of staff has access to ongoing support to ensure they remain competent and confident to carry out the care tasks.*’ Yet again, the blanket approach and lack of acknowledgement of sector distinctions mean that this statement may be problematic. If healthcare activities i.e. nursing tasks, were delegated to education staff, it is beyond the scope of education providers to ensure competency in these healthcare tasks, and they would not have the ability/powers to compel local NHS services/professionals to provide the necessary support. This has the potential to set unrealistic and inappropriate expectations. (See previous point re. NICE guideline para. 1.15.25)

## **6 Proposed Case Studies**

The RCN guidance states, ‘*Case studies will also be available to complement this resource and aid the process of demonstrating how successful assessment, management, and support can be taken forward.*’ Potentially, the compliance issues/queries that currently exist may be clarified with the use of case studies.

The general RCN Accountability and Delegation guide includes a case study involving a child with complex health needs attending a mainstream school. This describes a child who requires 24-hour care, which is provided by staff and parents. There is a reference to education-employed ‘Pupil Support Assistants’ assisting NHS staff with tracheostomy care and emergency care. However, it is unclear exactly what their role and responsibilities are which means it is open to interpretation.

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<sup>36</sup> DHSC/Skills for Care (2024) Delegated healthcare activities – Guiding principles for health and social care in England See Legislation Pg. 15 <https://www.gov.uk/government/publications/adult-social-care-system-reform-next-steps-to-put-people-at-the-heart-of-care/next-steps-to-put-people-at-the-heart-of-care>

<sup>37</sup> CQC (accessed 2024) Guidance for providers on meeting the regulations. [https://www.cqc.org.uk/guidance-providers/regulations/regulation-9-person-centred-care#:~:text=Guidance%20on%209\(1\).preferences%2C%20whatever%20they%20might%20be.](https://www.cqc.org.uk/guidance-providers/regulations/regulation-9-person-centred-care#:~:text=Guidance%20on%209(1).preferences%2C%20whatever%20they%20might%20be.)



In this case study, assisting NHS staff could mean passing equipment as instructed, with no responsibility for delivering interventions. Alternatively, it could mean providing cover while NHS staff take breaks, thereby taking responsibility for providing care as and when needed. Clearly, these interpretations represent very different arrangements. Therefore, it is vital that any future case study is clear about the role and responsibilities of the support worker, and legal and regulatory compliance is evident in the description of the arrangements.

**To Conclude:**

**Clarification Questions**

- The RCN guidance aims to support nurses in their roles of meeting the health needs of children and young people in educational and community settings. Could the RCN clarify the rationale for using SEND legislation as the focus and the omission of key NHS legislation/duties?
- What is the RCN's position on what would be/could be the legal basis for care to be delegated from registered nurses/NHS provider trusts to education staff/providers, including the type of interventions and under what circumstances?
- Could the RCN clarify its position on developing health care plans specifically, parents and educational settings developing plans that involve registered nurse delegated tasks?
- What is the anticipated timescale for the publication of case studies to complement this guidance? Could the RCN also confirm that the case studies will set out the roles and responsibilities and include a description of how the arrangements are legal and regulatory compliant?

As there is a shared goal to improve services and outcomes for children and young people with health needs, I hope this constructive feedback is viewed positively. I look forward to the RCN's response to the issues and queries raised. In the interim, if you would like further clarification on any of the points raised, please do not hesitate to contact me.

Yours sincerely,

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