NHS National Services Scotland

Derogation Identification and Management Guidance

Scottish Health Technical Note 00-06

SHTN 00-06

Version 1 - March 2026

Contents

Preface

About Scottish Health Technical Notes

Technical guidance is a vital tool in the safe and efficient operation of healthcare facilities. Scottish Health Technical Notes (SHTNs) provide guidance to NHS boards on a range of healthcare-specific standards, policies and current good practice. SHTNs are essential to the effective management of the Duty of Care placed on NHS boards to ensure the health, safety and wellbeing of people and the environment.

Language usage in guidance

Verbs such as 'must', 'should' and 'may' are used to convey notions of obligation, recommendation or permission. The choice of modal verb will reflect the level of obligation needed to be compliant.

The following describes the implications and use of these modal verbs in guidance (readers should note that these meanings may differ from those of industry standards and legal documents):

A. 'must' is used when indicating compliance with the law

B. 'should' is used to indicate a recommendation (not mandatory/ obligatory), for example among several possibilities or methods, one is recommended as being particularly suitable - without excluding other possibilities or methods

C. 'may' is used for permission, for example to indicate a course of action permissible within the limits of the guidance

D. 'shall', in the obligatory sense of the word, is not typically used in guidance

Typical usage examples

A. 'The Construction (Design and Management) Regulations 2015 (CDM 2015) are regulatory and **must** be complied with.' [obligation]

B. 'The assessment of a derogation request **should** consider the consequential impact across a range of fundamentals.' [recommendation]

C. 'Voice alarm systems have been shown to provide significant benefits, and **may** be considered for use, particularly in areas where large numbers of public congregate.' [permission]

Executive summary

Healthcare construction projects and management processes can often present a unique set of complexities, constraints or circumstances that may prevent full adherence with NHS Scotland guidance and as such there may be a need to vary or derogate. Whilst variations and derogations are an accepted and sometimes necessary practice to ensure practicable outcomes, it is essential that each and every potential variation and derogation is assessed and justified in its own right.

The implications of varying or derogating from guidance should be fully evidenced and a full and detailed record made of the consequential impact, risks, practical limitations of a scheme or site, and include a formal review and approval process. This process should also include a post project evaluation assessment to ensure there are no unintended consequences created by the variation or derogation operationally. The consequential impact of varying or derogating from guidance must not result in a departure from statute or legislation. This guidance document recommends that any non-compliance with statute or legislation be considered as prohibited.

Risks are often multi-factorial and can include factors such as health and safety, quality, cost, sustainability and so on. Any variation or derogation must be risk assessed to establish whether it has an impact on any of these multi-factorial requirements. The Health and Safety Executive (HSE), for example, provide guidance on how employers should assess risks in the workplace - further information can be found on the HSE website.

Aim of this guidance

The aim of this document is to provide guidance relating to the identification, evaluation and management of derogations, variations and statutory non-compliances at the briefing, design, construction, maintenance and operational management stages of projects within the healthcare built environment. The document aims to provide healthcare organisations with a framework, that is applicable across their estate, that contains guidance and processes to identify, manage and risk assess variations and derogations from guidance applicable to the NHS Scotland estate.

Though the guidance contained in this document is not applicable retrospectively, the healthcare organisation should assess their existing or current procedure(s) for identifying and managing variations and derogations against the guidance contained in this Scottish Health Technical Note (SHTN) to ensure any historic controls are suitably robust and safe.

Who should read this guidance?

This document is applicable to all stakeholders who are involved at any stage in the briefing, design, construction, maintenance and operational management of healthcare facilities.

Status

This 2026 publication of SHTN 00-06 is a first edition of this guidance. There are no previous versions of SHTN 00-06.

The advice in this document and any recommended courses of action are not in themselves mandatory. However, healthcare organisations or others choosing not to follow them, are advised that it is essential that alternative steps are taken to comply with all relevant legislation and to ensure derogations are appropriately managed within their organisation.

1. Introduction

1.1. Health Building Notes (HBNs), Scottish Health Facilities Notes (SHFNs), Scottish Health Planning Notes (SHPNs), Scottish Health Technical Memoranda (SHTMs) and Scottish Health Technical Notes (SHTNs) provide comprehensive advice and guidance on the design, installation and operation of specialised building and engineering technology used in the delivery of healthcare. The focus of NHS Scotland guidance remains on healthcare-specific elements of standards, policies and established good practice. They are applicable across the Healthcare Estate in Scotland and are for use at various stages during the whole building lifecycle.

1.2. Healthcare organisations have a legal responsibility and duty of care to ensure that appropriate governance arrangements are in place and are managed effectively. The HBN series, the SHFN series, the SHPN series, the SHTM series and the SHTN series provide good practice engineering, architectural, sustainability, building standards and policy.

1.3. Healthcare organisations in Scotland have a statutory duty to reduce and control risk to ‘As Low as Reasonably Practicable’ (ALARP). Risks are often multi-factorial and can often include factors such as quality, safety, cost, sustainability and so on, therefore the process for derogating from guidance must be managed appropriately by the healthcare organisation with governance in place for recording, reviewing and approval.

1.4. Statutory non-compliance(s), defined in Section 2 of this SHTN, are not acceptable in the healthcare built environment. Where they occur, a revised solution is required to ensure statutory compliance.

2. Definitions

Adherence

2.1. Adherence is defined as proposals or solutions that follow in full the guidance, recommendations, methodologies and working practices indicated in NHS Scotland guidance.

Example of adherence

2.2. "The proposal has adopted the NHS Scotland Repeatable Room for a Consultation/ Examination room as a means of ensuring full adherence to guidance and standards."

Variation

2.3. A variation is an alternative to the measures described in applicable technical standards (or policy) which can be evidenced to still achieve or exceed, the same, clinical and technical requirements as the applicable technical standards.

Example of variation

2.4. "A proposal to design a storey above 18m in height split into 4 compartments, one of which is slightly less than 500m^2, is progressed as an alternative to the minimum storey areas detailed in Section 10 of Scottish Health Technical Memorandum (SHTM) 81: Part 1: Fire safety in the design of healthcare premises. A full review of patient cohort, workforce and evacuation times, including future adaptability and expansion is completed and it is evidenced that progressive horizontal evacuation can still be carried out safely and effectively."

Derogation

2.5. A derogation is a relaxation or exception from the measures described in applicable technical standards (or policy) that is compliant with underlying statutory or legal obligations.

Example of derogation

2.6. "SHTM 03-01 'Specialised ventilation for healthcare premises Part A: The concept, design, specification, installation and acceptance testing of healthcare ventilation systems' paragraph 9.75 requires fog coils to be installed in air handling units to protect downstream

air filters from low temperature, high humidity intake air conditions. A proposal not to install a fog coil without an alternative would constitute a derogation from the guidance set out SHTM 03-01 and the guidance and processes detailed in this Scottish Health Technical Note (SHTN) would apply."

Statutory non-compliance

2.7. A statutory non-compliance is defined as a proposal that fails to meet the measures described in applicable technical standards (or policy) resulting in a failure to meet the underlying statutory or legal obligations.

Example of statutory non-compliance

2.8. "A new hospital atrium incorporates a design feature consisting of tiered seating integrated with a broad staircase, used as a social and circulation space. Along the outer edge of the tiered seating, there is an exposed vertical drop of 1.1–1.4 metres with no guarding, balustrade, or barrier."

2.9. This is a statutory non-compliance as it fails to comply with Section 2 and Section 3 of the Health and Safety at Work etc. Act 1974, and Regulations 12 and 13 of the Workplace (Health, Safety and Welfare) Regulations 1992, which require safe access, egress, and the prevention of falls from height.

3. Management of applicable standards

3.1. Project specific design standards must be established as early as possible by the healthcare organisation. NHS Scotland Assure have a published Guidance Index for NHS Scotland guidance, which has been created for this purpose. The Guidance Index confirms status in NHS Scotland of good practice guidance and is regularly updated.

3.2. Healthcare organisations should use this to help identify their applicable technical guidance and create a project specific guidance register detailing the version of the guidance being applied and any non-applicable sections or clauses. This register should be reviewed and updated at key project stages and form the reference point for the project applicable guidance management processes.

> Note 1: When new guidance is published and a project and/ or existing estate has already established a guidance register, healthcare organisations should review the applicability of the new guidance to establish therefore if the new guidance should be implemented (or otherwise). This review should be appropriately documented by the healthcare organisation including any identified risks (and mitigations) for the adoption or rejection of the new guidance in a formal risk assessment.

3.3. Where healthcare organisations identify areas of potential conflict between guidance and standards when establishing project specific guidance, a review should be undertaken to determine the implications that the conflict may have on the project.

> Note 2: Healthcare organisations can contact NHS Scotland Assure for clarification if they identify areas of potential conflict between guidance and standards when establishing project specific guidance.

3.4. The decision-making process adopted for selecting the project specific guidance where conflict exists should be documented and recorded. If required, a risk assessment should be completed to address the conflict. The healthcare organisation should ensure that this does not have an impact on their responsibilities to discharge their legal or statutory obligations.

> Note 3: The principals for assessing derogations outlined within this document may be applied to other types of guidance for example the National Infection Prevention and Control Manual (NIPCM).

4. The derogation process

Identification

4.1. A variation or derogation from guidance can be identified at any stage of a healthcare project or at any operational phase of a facility's lifecycle. The Royal Institute of British Architects (RIBA) Plan of Work organises the process of briefing, designing, delivering, maintaining, operating and using a building into eight stages. It is a framework for all disciplines on construction projects and should be used solely as guidance for the preparation of detailed professional services and building contracts.

4.2. Variations or derogations may be identified by any member of the healthcare organisation and/ or their project team, including but not limited to Estates personnel, the Infection Prevention Control Team (IPCT), designers, contractors and sub-contractors and so on. At any stage where a variation or derogation from guidance is identified as being required or desired, the exact details should be clearly defined. This should include full details of the clause or area of variation or derogation, the reason(s) for the inability to conform to the relevant guidance, the potential consequential impact of the variation or derogation and what risk reduction measures (RRMs) or mitigation is being proposed to minimise or remove the residual risk of non-compliance.

Note 4: There may be a requirement on projects to adopt the services of a 'Specialist Contractor' to design and install specialist and complex technical solutions. For these design elements, known as Contractor Design Portions (CDP), the project design team typically produce a performance design or specification (including any key requirements and constraints) as part of their duties between RIBA Stages 2-4, and then pass the detailed design responsibility on to the 'Specialist Contractor'. It is the responsibility of the project design team who are producing the CDP performance specification to identify any derogations or variations that are likely to be required at this stage. The Specialist Contractor would then typically be responsible for identifying any potential derogations or variations from Stage 4 onwards. The RIBA stages noted are indicative only, and will be dependent on procurement, and all parties have a responsibility to report any potential variation or derogation as soon as it is identified. The process for varying or derogating from guidance in these circumstances should follow the same process as that detailed in Figure 4.1.

Evaluation

4.3. The healthcare organisation should set up a process to formally record each variation, derogation and statutory non-compliance and undertake a review to assess the request. An example of this process is provided as a flow diagram in Figure 4.1 and in Appendix A of this Scottish Health Technical Note (SHTN).

4.4. The review should be undertaken by a multi-disciplinary team (MDT) with representation from the appropriate safety group(s) and suitably competent technical Subject Matter Expert (SME), for the discipline(s) involved. The Technical SME should have demonstrable experience in the healthcare built environment and hold professional registration of a relevant institution.

4.5. There may on occasion be a requirement to co-opt additional expertise into the MDT to ensure a comprehensive evaluation of the proposed variation or derogation, for example this may include suppliers, finance representatives and so on.

4.6. The MDT review should be comprehensive and include representation of all relevant stakeholders including Clinicians, IPCT, local Health and Safety Teams, Operational Estates and Facilities, Technical SME and the Project Team, resulting in a determination as to whether the item under review is adherence, variation, derogation or statutory non-compliance. Roles and responsibilities of the individual members of the MDT should be clearly documented and any potential conflicts of interest recorded.

Note 5: Discussions held during the MDT review meeting should be properly recorded as these can be used for supplementary evidence to support the derogation decision making process. This information also forms part of the ‘golden thread’ for the healthcare facility.

4.7. It is incumbent upon project teams to identify and evaluate potential variations and derogations as timeously as possible, as a failure to do so could amplify risks associated with the project, for example project programmes and cost.

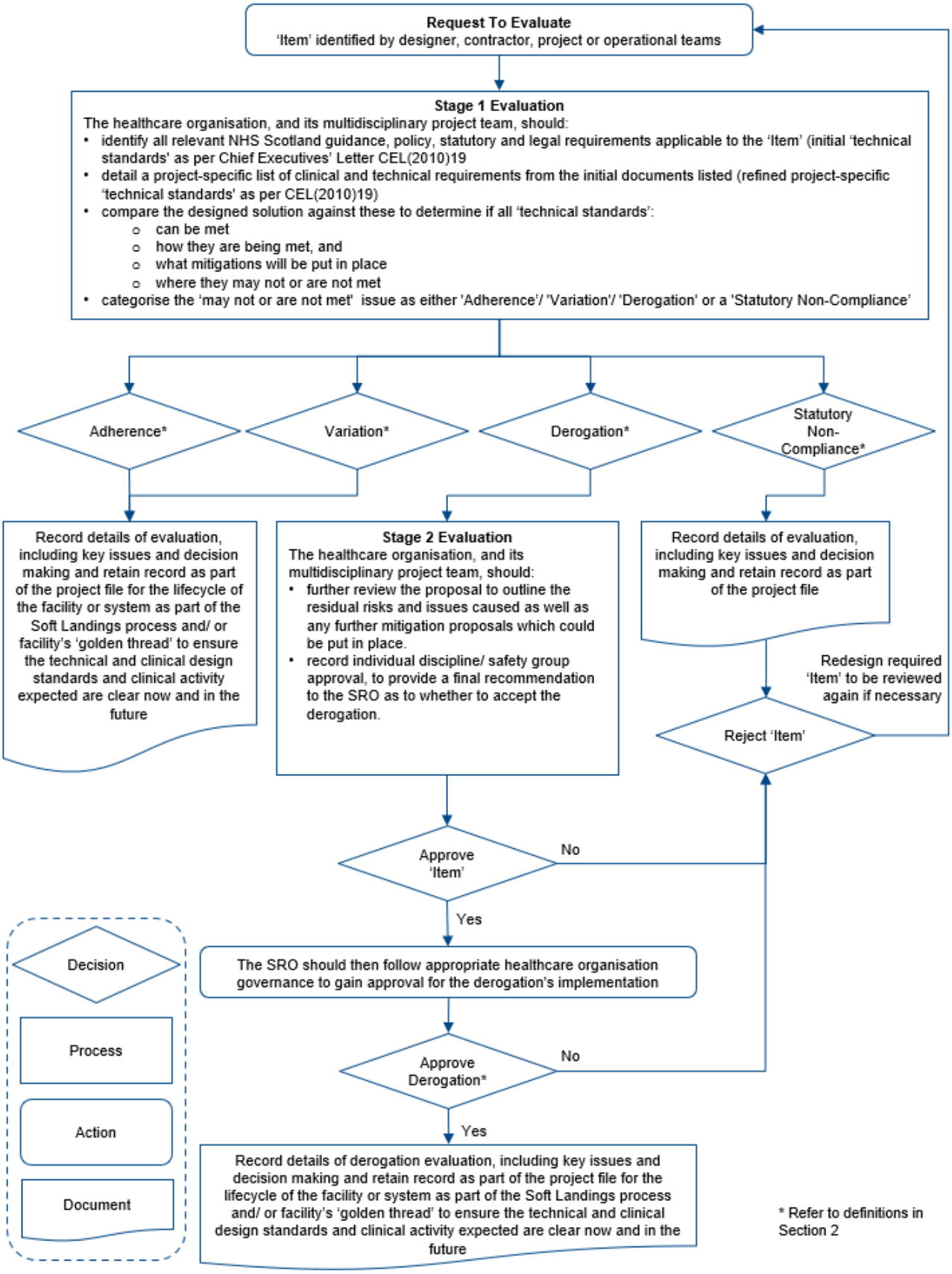
Note 6: Project teams are not expected to record every instance of “adherence to guidance”, as this would be impracticable. Project teams should however ensure that they have a demonstrable quality assurance process in place for reviewing project materials such as drawings, specifications and so on. This will also form part of the ‘golden thread’. Adherence would typically only be recorded where a clarification as to whether an item is an adherence, variation, derogation or statutory non-compliance has been sought as part of the process shown in Figure 4.1.

Approval

4.8. The approval process consists of two stages. The first stage approval/ rejection should be made by the MDT, with their recommendation then presented to the Senior Responsible Officer (SRO) (or a nominated member of the healthcare organisations Management) for final approval. Authorisation should be informed and supported by suitably competent Technical SME, health and safety, IPCT and clinical advice. Only those members of the MDT whose role and responsibilities are pertinent to the discipline being reviewed should formally accept or reject the variation or derogation in accordance with the project governance arrangements. The governance of the healthcare organisation should ensure that the appropriate board committee has oversight of variations and derogations.

Note 7: Healthcare organisation derogation protocols should also consider any additional approvals that may be required in addition to or in support of SRO approval. For example, local safety groups (for example Ventilation Safety Group or Water Safety Group) or project specific working groups in accordance with project governance arrangements. There may be scenarios where there is no SRO appointed, for example smaller projects on an existing estate. In this instance the role of SRO should be fulfilled by an appropriately competent senior professional within the healthcare organisation.

Figure 4.1 - Derogation process flow diagram



5. Risk management

5.1. The healthcare organisation must be able to clearly demonstrate the rationale for the variation or derogation and evidence the measures taken to satisfy the requirement of taking all reasonably practicable steps to mitigate any residual risk or issues.

5.2. The assessment of a request should consider the consequential impact across a range of fundamentals. These include but are not limited to:

1. occupant safety and comfort
2. quality of the built environment
3. security
4. maintainability
5. policy compliance
6. updates to guidance or best practice
7. advances in technology
8. clinical service delivery requirements' clinical need or clinical use
9. practical limitations (for example, space and existing building restrictions)
10. lifecycle
11. financial - capital, operating, revenue and energy expenditure
12. business case approval
13. impact on statutory requirements/ obligations
14. impact on sustainability requirements including 'net-zero' obligations

Note 8: When considering the impact of derogating, stakeholders should also assess any potential impact on future flexibility or adaptability, for example the impact on whole system infrastructure planning.

5.3. Only after all the impacts have been fully assessed, reviewed and recorded and the scope of the variation or derogation agreed should a risk assessment be completed. The risk assessment should include the full detail of the variation or derogation, including (but not limited to):

1. a statement detailing:
    a. what is the variation or derogation?
    b. why is it required?
    c. the consequential impact of the proposed variation or derogation?
    d. risk reduction measures (RRMs) or mitigations?
2. drawings of existing design
3. drawings of proposed design

4. additional supporting documentation - risk assessments method statements (RAMS) and technical documentation

5.4. The risk assessment should be completed by a multi-disciplinary team (MDT) (refer to Section 4) to enable the project Senior Responsible Officer (SRO) or a nominated member of the healthcare organisation's Management to make a fully informed decision on the final approval or rejection of the variation or derogation. The MDT should indicate their individual recommendations for approval or rejection of the variation or derogation (see Appendix A).

Note 9: Healthcare organisations in Scotland have a statutory duty to reduce and control risk to 'As Low as Reasonably Practicable' (ALARP). When undertaking a risk assessment, safety should always be considered, as well as the proportionality of any potential control measures to be indicated. For example, the HSE in guidance related to The Control of Major Accident Hazards (COMAH) Regulations 2015 considers the impact of cost and proportionality, noting that where risks are considered 'intolerable' and where the ALARP principals cannot be demonstrated, action must be taken to reduce the risk almost irrespective of cost. However, risks may be considered 'broadly acceptable' if the ALARP assessment can demonstrate adherence to codes, standards and established good practice - these however must be shown to be up to date and relevant to the operations in question.

5.5. The details of an approved variation or derogation should be recorded in the project/ facility's operational documents including the health and safety file and/ or operation and maintenance manuals. This ultimately forms part of the building or facility information known as the 'golden thread'. The consequential impact of a derogation should be the subject of continual management, and the mitigating factors reviewed on an annual basis as a minimum.

Note 10: Where a variation has resulted in an outcome that is of a higher standard than that which is deemed to satisfy guidance and there may be no RRMs or mitigations associated with it, a regular review should still be undertaken for the lifecycle of the variation, to ensure that this remains the case (and to subsequently identify any RRMs or mitigations if/ when the need arises).

Continuous review

5.6. It is essential that periodic reviews of variations and/ or derogations are undertaken to ensure that all mitigations and RRMs remain effective. These reviews are particularly important if there are changes in how the building is used or in management protocols, as such changes can impact the validity and/ or effectiveness of the identified controls. Reviews should be scheduled at intervals to suit the particular project, the complexity of the variation or derogation, or the level of risk identified. This could for example, include reviews at key design milestones aligned to Royal Institute of British Architects (RIBA) or Scottish

Capital Investment Manual (SCIM) stages or prior to entering into contract with third parties. The review should be incorporated into operational risk reviews.

5.7. It is important to ensure reviews are undertaken prior to RIBA Stage 6 (Handover) to ensure operational and estates teams are supported in managing any residual risks and derogations through the "In Use" phase of a facility.

5.8. During these reviews it is important to continue to engage with the relevant subject matter experts and impacted stakeholders.

Note 11: During the design and construction stages of the project, reviews should include the MDT, whereas once the facility is operational this may need expanded to include local safety groups and/ or health and safety committees.

5.9. The review process should consider:

- is the derogation still appropriate/ required?
- does the risk description remain accurate and valid including risk impacts?
- do the RRMs and mitigation(s) remain valid and effective?
- are any additional control measures required?

5.10. Healthcare organisations should ensure the effectiveness of the RRMs or mitigations that have been implemented to control their risks and quality. The RRMs or mitigations should also be part of variation or derogation reviews to confirm their ongoing effectiveness, the following should be considered:

1. do they remain effective for the variation(s) or derogation(s)?
2. do they adequately prevent any hazards created by the variation(s) or derogation(s)?
3. do they remain effective under all likely hazard conditions? Is the risk likely to change if there are any reconfigurations during the lifecycle of the facility or system?
4. if they were to fail for any reason, they must fail ‘safe’ in such a manner that would continue to prevent any hazard created by the variation(s) or derogation(s)
5. are the failure causes known, and are steps taken to minimise them?
6. if any were to fail, would it be immediately apparent?
7. if there are multiple RRMs or mitigation(s), have they been assessed for any dependencies that could lead to common cause failures?
8. have any weaknesses been assessed for particular hazard characteristics for example, a single point of failure or single point supply?
9. have the relationships between different RRMs or mitigation(s) been assessed for interdependencies in their functions?
10. have they been assessed to ensure that they are diverse from each other so that no failure could occur simultaneously?

11. do the RRMs or mitigation(s) for the variation(s) or derogation(s) present any additional hazards or increase existing risks as an unintended consequence?

6. Recording

6.1. A variation or derogation from guidance or a statutory non-compliance should be recorded formally and form part of the 'golden thread' of information for the building or facility.

1. The information should be stored in such a manner that it is digital, secure from unauthorised access, accessible when required, presented in a usable way, a single source of information, compliant with General Data Protection Regulation (GDPR) and held for the duration of the facility's lifecycle.
2. The healthcare organisation should ensure that reviews of potential variations, derogations and statutory non-compliances are formally recorded. This should be a full record of the process described in Figure 4.1.
3. Each potential variation, derogation and statutory non-compliance should then, following review, be formally recorded within a project schedule with each item identified by a unique reference number. An example of such a record is provided in Appendix B .

6.2. The schedule should include as a minimum:

1. the name of the healthcare organisation and the title of the project
2. a unique reference to identify the item - this should be a unique identity code for each item, the code may include the relevant discipline, system, or location for ease of identification. This is of particular relevance on larger projects
3. project applicability as allocated in the latest published version of the NHS Scotland Assure Guidance Index
4. the reference ID of the publication that the item pertains to
5. the title of the publication that the item pertains to
6. the date of the publication that the item pertains to
7. the selected title of the item
8. the clause from the publication that the item pertains to
9. the details of what is required in the guidance or technical standard - include key text from the technical standard or guidance and relevant details
10. the details of the item
11. the extent of impact, such as the service(s), location(s), lifespan affected by the item
12. a justification for the item - robust technical rationale must be provided for any project specific variations or derogations
13. the residual impact in-use for users, such as safety, quality, efficiency, resilience, lifecycle cost and sustainability/ net zero
14. the mitigation for the item - risk should be clearly detailed including how this risk is offset or managed in-use

15. details of the ‘reference design’ information - this should include any further information as appropriate such as drawing references, specifications, management plans
16. a reference for communication of the item

6.3. The healthcare organisation should ensure the regular update, review and version-controlled issue of the schedule at each key project stage as a minimum. New or updated technical standards such as NHS Scotland guidance should be integrated into this process. For example, the NHS Scotland Assure published Guidance Index is the record of all ‘current’ NHS Scotland guidance and therefore should be utilised by the project team lead or project manager to pre-assess then agree ‘applicability’ either when newly published, or at the pre-start of each key project stage.

Appendix A Example review record

Figure A.1 – Example review record

Document control sheet

Document details

Document Title	*SHTN00-06 Review: Project Title/Code_001*
Version Number	*V1/V2/V3/d0.1/d1.1/d2.1*
Unique Reference ID	*ABC-001*
Project Title	*Refurbishment of Ward*
Asset Site/ Block Code	*AXXXH*
Current Stage	*OBC/ FBC/ Construction/ Operational*

Document authors

Version	Name	Project Role	Contact Details
d0.1	*Name*	*Job/ role title*	*Email address*
d0.2	*Name*	*Job/ role title*	*Email address*
d0.3	*Name*	*Job/ role title*	*Email address*
V1	*Name*	*Job/ role title*	*Email address*
D1.1	*Name*	*Job/ role title*	*Email address*

Revision history

Version	Date Issued	Summary of Changes	Changes Made By	Changes Marked
d0.1	*dd/mm/yy*	*First draft, issue identification and summary*	*Name*	*Name*
d0.2	*dd/mm/yy*	*First draft of evaluation 1*	*Name*	*Name*
d0.3	*dd/mm/yy*	*Comments and updates from stakeholder workshops of evaluation 1*	*Name*	*Name*
V1.0	*dd/mm/yy*	*Determination of categorisation*	*Name*	*Name*
d1.1	*dd/mm/yy*	*First draft of evaluation 2*	*Name*	*Name*
d1.2	*dd/mm/yy*	*Evaluation 2 update following full stakeholder workshop and review*	*Name*	*Name*

d1.3	*dd/mm/yy*	*Evaluation 2 update following further comments from stakeholder group*	*Name*	*Name*
d1.4	*dd/mm/yy*	*Evaluation 2 update following confirmation of individual sign off for group members – refer document approval for d1.4*	*Name*	*Name*
V2.0	*dd/mm/yy*	*SRO sign off for item approval to proceed through governance*	*Name*	*Name*
V3.0	*dd/mm/yy*	*SRO sign off and evidence update of healthcare organisation derogation approval*	*Name*	*Name*

Document approvals

Version	Date Approved	Name	Signature	Designation
d0.1	*dd/mm/yy*	*Derogations Group*	*Signature*	*Project IPC Lead, Chair*
0.2	*dd/mm/yy*	*IPC Group*	*Signature*	*Project IPC Lead, Chair*
0.2	*dd/mm/yy*	*Project SRO*	*Signature*	*SRO*
0.2	*dd/mm/yy*	*Infection Control Committee*	*Signature*	*Chair*
0.2	*dd/mm/yy*	*Project Team*	*Signature*	*Chair*
0.2	*dd/mm/yy*	*Project Board*	*Signature*	*Chair*
0.2	*dd/mm/yy*	*Assurance Committee*	*Signature*	*Chair*

Distribution

Version	Date Issued	Name	Designation
0.1	*dd/mm/yy*	*Name*	*Title*
0.2	*dd/mm/yy*	*Name*	*Title*

Part A: Item identified

The undernoted information is a summary of the item identified which may represent a departure from guidance and is the subject of this review:

Item Identified By:	*Name/ project role/ contact email*
Date Identified:	*dd/mm/yy*
Reason for Identification:	*Short narrative on why and how this was identified, this should include a full description, including design proposals (images, drawings, specifications and so on embedded into this table) as well as identification (where known) of the current departure from guidance.*
Potential Consequences:	*Provide a short narrative on the potential consequences of the identified departure from guidance, the likely risks and issues caused because of the current proposals.*

Part B: Stage 1 evaluation

Stage 1 evaluation response:

Based on the information provided above, a multi-disciplinary team of stakeholders, including all appropriate subject matter experts, has reviewed the item to determine what category of departure from guidance this represents:

Based on the evaluation undertaken, this item has been identified as a:

Category	Definition	Action
Adherence ☐	Proposals or solutions that follow in full the guidance, recommendations, methodologies and working practices indicated in NHS Scotland guidance	Record of evaluation to be retained for file
Variation ☐	An alternative to the measures described in applicable technical standards (or policy), which can be evidenced to still achieve or exceed, the same clinical and technical requirements as the applicable technical standards	Record of evaluation to be retained for file
Derogation ☐	A relaxation or exception from the measures described in applicable technical standards (or policy) that is compliant with underlying statutory or legal obligations	Stage 2 evaluation required.
Statutory Non-Compliance ☐	A proposal that fails to meet the measures described in applicable technical standards (or policy) resulting in a failure to meet the underlying statutory or legal obligations	Redesign or proposal required.

Multi-disciplinary stakeholder team

Name	Project Role	Discipline	Contact Details
Name	*Job/ role title/ group Title*	*Discipline*	*Email address*
Name	*Job/ role title/ group Title*	*Discipline*	*Email address*
Name	*Job/ role title/ group Title*	*Discipline*	*Email address*
Name	*Job/ role title/ group Title*	*Discipline*	*Email address*
Name	*Job/ role title/ group Title*	*Discipline*	*Email address*

Item specific guidance:

The undernoted is a list of project specific guidance which relates specifically to the item under review.

Extant NHS Scotland guidance

Reference Code	Date/ Version	Title	Section
SXXX XX-XX	*Jan 2025*	*Title*	*Section reference*

Extant NHS Scotland policy

Reference Code	Date/ Version	Title	Section
XX(XXXX)XX	*Jan 2025*	*Title*	*Section reference*

Extant statutory requirements

Reference Code	Date/ Version	Title	Section
Code (If relevant)	*Jan 2025*	*Title (Fire Scotland Act, equality, health & safety at work and so on)*	*Section reference (if relevant)*

Other relevant guidance/ codes of practice

Reference Code	Date/ Version	Title	Section
Code (If relevant)	*Jan 2025*	*Title*	*Section reference (if relevant)*

Item specific technical standards:

Relevant Guidance Title	Clinical/ Technical Standard	Standard Reference (For Evaluation Use)
Title	*Relevant quote/ summary of standard - focus on modal verbs 'Must', 'Should', 'May'*	*TS001*
Title	*Relevant quote/ summary of standard - focus on modal verbs 'Must', 'Should', 'May'*	*TS002*
Title	*Relevant quote/ summary of standard - focus on modal verbs 'Must', 'Should', 'May'*	*TS003*

Stage 1 evaluation

Title	Details
Does the current proposal adhere to the required or defined project specific technical standards?	*Multi-disciplinary narrative summary response: provide clear evidence – refencing the standards noted above (TSXXX) as well as including evidence to inform and back up decision making. Evidence may, for example, include reference to alternative or emerging guidance, systematic literature reviews or PhD quality research*
What challenges, obstacles or impediments are causing the non-adherence?	*Multi-disciplinary narrative summary response: provide clear evidence – refencing the standards noted above (TSXXX) as well as including evidence to inform and back up decision making. Evidence may, for example, include reference to alternative or emerging guidance, systematic literature reviews or PhD quality research*
Where specifically does the current proposal depart from adherence to the technical standards, what risk will this present and what mitigations are being put in place to overcome those?	*Multi-disciplinary narrative summary response: provide clear evidence – refencing the standards noted above (TSXXX) as well as including evidence to inform and back up decision making – evidence may reference alternative guidance available or emerging. Evidence may, for example, include reference to alternative or emerging guidance, systematic literature reviews or PhD quality research*
Do the mitigations allow the proposal to meet the standards by alternative means? What standards are still not being met?	*Multi-disciplinary narrative summary response: provide clear evidence – refencing the standards noted above (TSXXX) as well as including evidence to inform and back up decision making – evidence may reference alternative guidance available or emerging. Evidence may, for example, include reference to alternative or emerging guidance, systematic literature reviews or PhD quality research*
Does this result in a variation, derogation or statutory non-compliance, if so against what project specific guidance?	*Multi-disciplinary narrative summary response: provide clear evidence – refencing the standards noted above (TSXXX) and the direct reference to the project specific guidance as well as including evidence to inform and back up decision making – evidence may reference alternative guidance available or emerging. Evidence may, for example, include reference to alternative or emerging guidance, systematic literature reviews or PhD quality research*

Stakeholder sign off

Name	Title	Accepted/ Rejected	Date
Name	*Job/ role title/ group title*	*Accepted/ rejected*	*dd/mm/yy*
Name	*Job/ role title/ group title*	*Accepted/ rejected*	*dd/mm/yy*
Name	*Job/ role title/ group title*	*Accepted/ rejected*	*dd/mm/yy*
Name	*Job/ role title/ group title*	*Accepted/ rejected*	*dd/mm/yy*
Name	*Job/ role title/ group title*	*Accepted/ rejected*	*dd/mm/yy*
Name	*Job/ role title/ group title*	*Accepted/ rejected*	*dd/mm/yy*

Part C: Stage 2 evaluation (derogations only)

Stage 2 evaluation response:

Based on the information provided above, a multi-disciplinary team of stakeholders has reviewed the item and determined that this departure from guidance requires a formal derogation. The undernoted evaluation has been completed by the multi-disciplinary team, including all appropriate subject matter experts, with the following recommendation provided to the SRO:

Recommendation
Approve Proposal ☐
Reject Proposal ☐

Multi-disciplinary stakeholder team

Name	Project Role	Discipline	Contact Details
Name	*Job/ role title/ group title*	*Discipline*	*Email address*
Name	*Job/ role title/ group title*	*Discipline*	*Email address*
Name	*Job/ role title/ group title*	*Discipline*	*Email address*
Name	*Job/ role title/ group title*	*Discipline*	*Email address*
Name	*Job/ role title/ group title*	*Discipline*	*Email address*

Stage 2 evaluation

Title	Details
Further to the stage 1 evaluation review – what further mitigation could be considered?	*RISK: multi-disciplinary narrative summary response: provide clear evidence – referencing the standards noted above (TSXXX) as well as including evidence to inform and back up decision making. Evidence may, for example, include reference to*

	alternative or emerging guidance, systematic literature reviews or PhD quality research. *MITIGATION: this should cover all proposals considered as well as an assessment on their suitability to be effectively implemented. It may include Designer's risk assessment, clinical assessments and so on*
What residual risks would still be present?	*Multi-disciplinary narrative summary response: provide clear articulation of the residual risk and how they impact working practices, clinical activity, building users and or future management/ governance procedures*

Stakeholder sign off

Name	Title	Accepted/ Rejected	Date
Name	*Job/ role title/ group title*	*Accepted/ rejected*	*dd/mm/yy*
Name	*Job/ role title/ group title*	*Accepted/ rejected*	*dd/mm/yy*
Name	*Job/ role title/ group title*	*Accepted/ rejected*	*dd/mm/yy*

Senior Responsible Officer sign off

Following review of the evaluations and recommendations noted above:

I support the derogation identified and will follow relevant healthcare organisation governance to obtain approval	☐
I do not support the derogation identified and will seek an alternative proposal	☐

Name	Title	Date Accepted
Name	*Senior Responsible Officer*	*dd/mm/yy*

Part D: Governance record

Senior Responsible Officer sign off

Following appropriate governance as evidenced in the information below I can confirm that the healthcare organisation:

Has approved the derogation and the proposals identified will be implemented, a record of this will be retained and held alongside appropriate asset information for future reference	☐
Has rejected this derogation and the proposals will now be revised	☐

Name	Title	Date Accepted
Name	*Senior Responsible Officer*	*dd/mm/yy*

Decision Making
Embed evidence of healthcare organisation decision making – such as formal papers/ minutes

Appendix B Recording schedule

B.1 An example of the schedule described in Section 6 is provided below

Figure B.1 - Example schedule

Organisation name and project:								
Variation, derogation and non-compliance recording schedule								
Unique reference ID (including date identified)	**Item title**	**Publication reference ID**	**Publication title**	**Date published**	**Clause**	**Guidance requirement**	**Derogation**	►
For example, ABC-001		*HBN 00-01*	*Core guidance - General design for healthcare buildings (HBN 00-01)*	*October 2014*				►
ABC-002		*SHTM 03-01 Part A*	*Ventilation for Healthcare - Design and validation (SHTM 03-01 Part A)*	*February 2022*				

►	**Area affected (operational SOPs)**	**Justification**	**Impact on users**	**Impact on budget**	**Mitigation**	**Reference design info**	**Reference communication**
►							

Abbreviations

ALARP:	As Low as Reasonably Practicable
CDM:	Construction (Design and Management)
CDP:	Contractor Design Portions
CEL:	Chief Executive Letter
COMAH:	The Control of Major Accident Hazards
FBC:	Full Business Case
GDPR:	General Data Protection Regulation
HAI-SCRIBE:	Healthcare Associated Infection Systems for Controlling Risk in the Built Environment
HBN:	Health Building Note
HSE:	Health and Safety Executive
IPCT:	Infection Prevention and Control Team
MDT:	Multi-disciplinary Team
NIPCM:	National Infection Prevention and Control Manual
NSS:	National Services Scotland
OBC:	Outline Business Case
RAMS:	Risk Assessment Method Statement
RIBA:	Royal Institute of British Architects
RRM:	Risk Reduction Measure
SCIM:	Scottish Capital Investment Manual
SHFN:	Scottish Health Facilities Note
SHPN:	Scottish Health Planning Note
SHTM:	Scottish Health Technical Memorandum
SHTN:	Scottish Health Technical Note
SME:	Subject Matter Expert
SRO:	Senior Responsible Officer

Glossary

Adherence - full adherence with NHS Scotland guidance.

Competent/ Competence - application of skill, knowledge, experience and behaviour consistently to achieve a specific outcome.

Contractor Design Portion (CDP) - is an agreement where the principal or main contractor is responsible for designing specific parts of a construction project. This can involve using in-house or specialist subcontractors to fulfil these design responsibilities.

The Construction (Design and Management) Regulations 2015 (CDM 2015) - aim to improve health, safety, and welfare in construction projects across the UK. They define roles and responsibilities for duty holders including clients, designers, principal designers, contractors, and principal contractors. Key duties include planning and managing risks, ensuring proper coordination, providing relevant information, and maintaining welfare standards. Healthcare organisations must ensure suitable arrangements and appoint competent duty holders. Designers must eliminate foreseeable risks, while principal designers and contractors oversee safety during pre-construction and construction phases respectively.

Derogation - is a relaxation or exception from the measures described in applicable technical standards (or policy), such as Scottish Health Technical Memoranda (SHTMs), Scottish Health Planning Notes (SHPNs), Scottish Health Facilities Notes (SHFNs), Health Building Notes (HBNs) and Scottish Health Technical Notes (SHTNs), that is compliant with underlying statutory or legal obligations.

Designated Person - is an individual appointed by a healthcare organisation (an NHS board member or a person with responsibilities to the NHS board) who has overall authority and responsibility for particular systems within the premises and who has a duty under the Health and Safety at Work etc. Act to prepare and issue a general policy statement on health and safety at work, including the organisation and arrangements for carrying out that policy.

Designer - anyone who prepares or modifies designs for construction projects or arranges for others to do so. This includes drawings, specifications, and calculations, and applies to individuals or organisations.

The 'Golden Thread' - The purpose of the 'golden thread' is to have the right information in order to understand the building and the steps needed to keep both the building and the buildings occupants safe.

Healthcare organisation - organisation that provides or intends to provide healthcare services.

Item - refers to 'variation', 'derogation', or 'non-compliance' in the context of this document.

Lifecycle - is the design, construction, operation and disposal stages of a construction project.

Management - the management is defined as the owner, occupier, employer, General Manager, Chief Executive or other person in a healthcare organisation, or their appointed responsible contractor, who is accountable for the premises and who is responsible for issuing and implementing the Management Policy.

Main Contractor - the main contractor is the party which enters into a contract with the employer and is ultimately responsible for carrying out the construction work.

Mitigation - is the actions strategies, or measures taken to reduce the severity, impact, or consequences of a risk or adverse event. It does not necessarily prevent the event from occurring but aims to lessen the effects if it does.

Principal Contractor - The principal contractor is the contractor who has overall control of the construction phase on projects with more than one contractor, fulfilling this function in accordance with the Construction, Design and Management Regulations 2015. They are appointed by the client and there should only be one principal contractor for a project at any one time.

Principal Designer - A principal designer is a designer who is an organisation or individual (on smaller projects) appointed by the client to take control of the pre-construction phase of any project involving more than one contractor.

Risk assessment - the analysis of the risks to health and safety and business continuity inherent in a system and their significance in a particular context.

Risk reduction measures (RRMs) - are put in place as a result of a risk assessment to reduce risk to a level that is as low as reasonably practicable (ALARP).

Specialist Contractor - a subcontractor who specialises in a particular area or field that might undertake design work under a CDP.

Statutory non-compliance - a proposal that fails to meet the measures described in applicable technical standards (or policy) resulting in a failure to meet the underlying statutory or legal obligations.

Subcontractor - A person or business in charge of doing a specific part of the construction work, and under the CDM regulations, has a duty to plan, manage and monitor the work that they're responsible for.

Technical Subject Matter Expert (SME) - an individual who possesses sufficient competence, knowledge, skills and experience in their particular area of expertise.

Variation - an alternative to the measures described in applicable technical standards (or policy) which can be evidenced to still achieve or exceed, the same clinical and technical requirements as the applicable technical standards.

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