

6. Reporting Duties, Planning Securing and Commissioning Services: The Health and Care Staffing (Scotland) Act 2019

What is the new legislation about?

The Health and Care (Staffing) (Scotland) Act 2019 (**HCSSA**) provides a statutory basis for the provision of appropriate staffing in health and care services. This is to enable safe, high-quality care and improved outcomes for people experiencing care. This guide summarises the guiding principles of the Health and Care (Staffing) (Scotland) Act 2019. In carrying out the duty relating to staffing imposed by HCSSA any person who provides a registered care service must have regard to the guiding principles for health and care staffing. [Read the full legislation here.](#)

The main purposes of the HCSSA are:

- to provide safe and high-quality care,
- to ensure the best care outcomes for people who use services **and in so far as it affects either of those matters**, the wellbeing of staff.

The guiding principles are:

1. improving standards and outcomes for service users,
2. taking account of individual needs, abilities, characteristics of people,
3. respecting the dignity and rights of people,
4. taking account of the views of staff and people experiencing services,
5. ensuring the wellbeing of staff,
6. being open with staff, individual and families about staffing decisions,
7. allocating staff efficiently and effectively, and
8. promoting multi-disciplinary services.

Guiding principles in planning, securing, and commissioning services

In planning or securing the provision of a care service from another person under a contract, agreement or other arrangements, every local authority and every integration authority (within the meaning of section 59 of the Public Bodies (Joint Working)(Scotland) Act 2014) **must have regard to the guiding principles for health and care staffing, and the duties relating to staffing imposed on persons who provide care service by virtue of subsection (1) and sections 7 to 10, and by virtue of Chapters 3 and 3A of Part 5 of the Public Services Reform(Scotland) Act 2010.**

Requirements of the HCSSA are only one part of a larger commissioning cycle. There are many factors to be considered when planning or securing the provision of a care service. For this reason, refer to existing guidance on commissioning health and social care services such as the [Strategic Commissioning Plans Guidance.](#)

In practice, relevant organisations will have existing procurement and commissioning strategies in place. Consideration of the HCSSA will form part of and be included in existing and future processes.

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Evidence organisations may consider, when planning or securing care services may include;

- Care Inspectorate inspection reports,
- previous enforcement action,
- care inspectorate datastore,
- processes in place for the provider to implement the requirements of the HCSSA,
- previous experience of commissioning, or working with, the provider,
- other relevant inspections, contract monitoring, and audits,
- notifications and complaints,
- TURAS safety huddle tool for care homes to help identify emerging risks, trends, and issues.

This information should be used in a manner which is compliant with applicable procurement rules.

Integration and local authority reporting

As soon as reasonably practicable after the end of each financial year, every local authority, and every integration authority (within the meaning of section 59 of the Public Bodies (Joint Working) (Scotland) Act 2014) must publish information

1. on the steps they have taken and
2. any ongoing risk that may affect their ability to comply with the guiding principles and the duties relating to staffing imposed on persons who provide care services.

This means the new legal framework becomes a relevant part of the planning of such services, as well as their delivery. This creates a duty on local authorities and integration authorities to report to Scottish Ministers on how they have complied with the guiding principles and any risks that may affect their ongoing ability to do so.

Integration and Local Authorities are advised to access the reporting template from the Scottish Government's HCSSA Implementation Team. The email to request the reporting template and direct all other enquiries about the HCSSA is HCSA@gov.scot

Scottish Government Annual Report on Staffing in Care Services

As soon as reasonably practicable after the end of each financial year, the Scottish Ministers must then publish, and lay before the Scottish Parliament, a report setting out

- (a) a summary of how the duties imposed by sections 3, 7 (staffing) and 8 (qualifications) on persons who provide, plan and secure care services are being discharged,
- (b) the effect that staffing levels in care services have on the discharge of those duties,

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- (c) the steps that Ministers have taken to support staffing levels in care services to assist the discharge of those duties,
- (d) how the matters mentioned in paragraphs (a), (b) and (c) will be taken into account in determining the future supply of registered nurses, medical practitioners, and other care professionals as the Scottish Ministers consider relevant to discharge the duties imposed,
- (e) and the steps Ministers have taken to ensure funding is available to any person who provides a care service.

Guidance issued by Scottish Government on the HCSSA

Every local authority and every integration authority must have regard to any guidance issued by the Scottish Ministers when planning or securing the provision of a care service from another person under a contract, agreement, or other arrangements.

Before issuing guidance, Scottish Ministers must consult the Care Inspectorate, representatives of the providers, commissioners and users of care services, trade unions and professional bodies representative of individuals working in care services, persons as they consider to be representative of carers and other persons as appropriate. The Scottish Ministers must publish any guidance issued.

Care Inspectorate

The Care Inspectorate has a duty to develop and recommend to the Scottish Ministers staffing methods for use by persons who provide care home services for adults (initially), and such other registered care services as the Scottish Ministers may by regulations specify.

The Care Inspectorate may as it considers appropriate, conduct reviews of the effectiveness of the operation of the duty under section 7 (staffing) of the HCSSA and may publish a report to the Scottish Ministers on the operation of that duty.

[Strategic Commissioning Plans Guidance.](#)
[Care Inspectorate: Safe Staffing Programme](#)
[HCSSA Statutory Guidance](#)
[The Hub](#)