

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

Short Summary of HCSA and ILA reporting

The Health and Care (Staffing) (Scotland) Act 2019 (HCSA) establishes statutory requirements to ensure appropriate staffing levels and staff training in health and social care services. Its aim is to support safe, high-quality care and improve outcomes for people who use services. All registered care service providers must also adhere to the Act's guiding principles for health and care staffing.

Purpose of the HCSA

- Ensure safe, high-quality care.
- Improve outcomes for people using services, including supporting staff wellbeing where it affects quality and care outcomes.

Guiding Principles

- Improve standards and outcomes for people experiencing care.
- Consider individual needs, abilities and characteristics.
- Respect people's dignity and rights.
- Take account of staff and service user views.
- Support staff wellbeing.
- Be transparent about staffing decisions.
- Allocate staff efficiently and effectively.
- Promote multidisciplinary working.

Planning and Securing Care Services from a third party

Integration and local authorities (ILAs) must consider the guiding principles and statutory staffing duties when commissioning services **from third party providers only**. The HCSA forms one element of the broader commissioning process; ILAs should continue to follow established procurement and commissioning guidance e.g. Strategic Commissioning Plans Guidance. Evidence sources ILAs may use when planning or securing services may include:

- Care Inspectorate inspection reports and datastore results
- Previous enforcement action
- Provider processes for meeting HCSA requirements
- Past commissioning experience
- Other inspections, audits, contract monitoring, complaints, and notifications
- TURAS safety huddle tool data

All evidence should be used in line with procurement rules.

Reporting Duties for ILAs

By **30 June each year and every year thereafter**, ILAs must publish:

- The steps they have taken to comply with the HCSA,
- Any ongoing risks that may affect their ability to comply.

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ILAs must report only on **services planned or secured from third party providers** within the relevant financial year. **They are not required to report on internally delivered services or internal staffing matters.**

Scottish Government Annual Report

After each financial year, Scottish Ministers must publish a report outlining for example:

- How duties under HCSA Part 3: Sections 7-10 are being met,
- The impact of staffing levels on compliance,
- Actions taken to support staffing levels,
- Considerations for future workforce supply,
- Steps taken to ensure adequate funding for care providers.

The Scottish Government provides a reporting template each year for ILAs. This is shared and available on request via **HCSA@gov.scot**

Frequently Asked Questions

1. Why do reporting dates differ?

ILAs report by **30 June**, following feedback gathered during consultation. Other agencies (NHS) must continue to report by **30 April**.

2. What must ILAs report on?

They must demonstrate how they have considered:

- The guiding principles
- Provider duties relating to staffing and training.
- Relevant legislative duties under the Public Services Reform (Scotland) Act 2010 such as reporting and guidance.

ILAs decide how this is implemented within contracts but do not need to report on contract management activity.

3. What about multi-year or extendable contracts?

ILAs determine whether contract extensions should be included in annual reporting. Reporting applies only to services planned or secured during the reporting year.

4. Expectations for Scotland Excel, COSLA and similar agencies

All commissioning support organisations must understand their responsibilities under the HCSA and ensure the services they support comply with the Act. Questions about frameworks should be directed to the body that developed them.

5. Guidance and Care Inspectorate Responsibilities

ILAs must follow any guidance issued by Scottish Ministers. Before issuing guidance, Ministers must consult relevant stakeholders. The Care Inspectorate is

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responsible for developing staffing methods and report on the staffing duties under section 7 and section 8.

Detailed Overview of HCSA and ILA Reporting Requirements HCSA and ILA Reporting: Extended Guidance and Resources

What is the HCSA legislation about?

The Health and Care (Staffing) (Scotland) Act 2019 (HCSA) 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 HCSA 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 HCSA 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 a third party under a contract, agreement or other arrangements, every integration and local authority (ILA) 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.

The requirements under the HCSA 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.](#)

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

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

- Care Inspectorate inspection reports,
- Previous enforcement action,
- Care Inspectorate datastore,
- Processes in place for the provider to implement the requirements of the HCSA,
- 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

By 30 June, after the end of each financial year (and every year thereafter), 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 on:

1. The steps they have taken to comply with the HCSA 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 HCSA framework becomes a relevant part of the securing and planning of services from a third party, 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 HCSA guiding principles, Part 3 sections 7-10; along with any risks that may affect their ongoing ability to do so.

Integration and Local Authorities (ILAs) are advised to access the reporting template from the Scottish Government's HCSA Implementation Team. The email to request the reporting template and direct all other enquiries about the HCSA 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 (having used ILA reports, Scottish Ministers must publish, and lay before the Scottish Parliament, a report setting out

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- (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,
- (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.

Scottish Government Responses to Local Authorities and Integration Authorities FAQs on HCSA Reporting Questions

1. Q Why do the annual reporting dates differ for NHS Health Boards (30 April) and LA /ILs (30 June)

The date that all ILAs must publish their annual Health and Care (Staffing)(Scotland) Act 2019, (HSCA) report and send a copy to the HCSA@gov.scot mailbox is 30 June every year.

The original date of 30 April was changed following a consultation process. The Scottish Government collated the feedback received from multiple stakeholders. This was the only date change in relation to reporting. All other agencies must report by the 30 April as stated in the statutory guidance.

2. Q What should a LA / IA report on

The statutory duty at Section 3(2) of the Act states that: 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 must have regard to:

- ***the guiding principles for health and care staffing (section 1 of the Act);***
- ***the duty on care service providers to have regard to the guiding principles (section 3(1) of the Act);***
- ***the duty on care service providers to ensure **appropriate staffing** (section 7 of the Act);***
- ***the duty on care service providers with regard to the **training of staff** (section 8 of the Act);***
- ***the duty on Scottish Ministers **to report** to Parliament on staffing in care services (section 9 of the Act);***

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- the duty on care service providers to **have regard to guidance** issued by the Scottish Ministers (**section 10 of the Act**);
- the duties relating to staffing imposed on care service providers under [Chapter 3 of Part 5 of the Public Services Reform \(Scotland\) Act 2010](#); and
- the duties relating to staffing imposed on care service providers under [Chapter 3A of Part 5 of the Public Services Reform \(Scotland\) Act 2010](#). Note that the [Health and Care \(Staffing\) \(Scotland\) Act 2019](#) inserted chapter 3A into the Public Services Reform (Scotland) Act.

How that is achieved and implemented, via the relevant contract, agreement or similar arrangement, is for local authorities and integration authorities to consider, to include what provision should be made as regards monitoring, reviewing and termination of services.

Therefore, Local Authorities (LAs) and Integration Authorities (IAs) should report only on services that have been planned or secured from a third-party provider by 30 June for the preceding financial year. ILAs are not required to report on services delivered internally, nor on internally employed staff deployment, training, pay or terms and conditions.

The second part of this paragraph '**How that is achieved and implemented**' refers only to how LA and IA choose to then monitor their contracts and service provision in line with the HCSA. However, it does not mean they should report on this activity.

3. **Q What is the reporting expectation where a service is secured by LA/IA for one or more years, with an option to extend for one or more years (including other similar options/variations).**

The Scottish Government have left the guidance flexible so LA and IA can self-assess and make decisions based on what they believe is right for them. They understand all provision will be monitored in accordance with local and national guidance and legislation out with the HCSA.

Reporting under the HCSA is only for services planned or secured from a third party in that year. It is up to the LA /IA to self-assess and decide if they should/need to add the extensions of one or more years to the annual reporting in which it occurs. An ILA may for example renew all third-party contracts annually based on performance and outcomes whilst others may renew third party contracts for example every 3 or 5 years with options to extend.

4. **Q Expectations for Scotland Excel, COSLA /other agencies supporting commissioning**

All agencies involved in supporting the social care sector through commissioning must understand their responsibilities under the HCSA. They should also recognise that all

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registered services are required to comply with the Act, and that LAs and IAs must report annually on the services they have planned or secured within each financial year.

If you have any questions or concerns in relation to the frameworks or service provision you must take this up directly with the body who has developed the framework.

Scottish Government has published statutory guidance to accompany the Act and local and integration authorities must have regard to this; [chapter 15 of the statutory guidance](#) covers the planning and securing of care services.

Guidance issued by Scottish Government on the HCSA

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 HCSA and may publish a report to the Scottish Ministers on the operation of that duty.

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