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| **Adult Social Care Workforce and Fair Work Division**Directorate for Social Care and National Care ServiceIan Turner, Deputy DirectorE: hsca@gov.scot |  |
| Chief Executives of Local Authorities Chief Officers of Integration Authorities 11 February 2025 |  |

Dear Colleagues

**Health and Care (Staffing) (Scotland) Act 2019**

The Health and Care (Staffing) (Scotland) Act 2019 commenced on the 1st of April 2024. You will recall the Chief Nursing Officer wrote to you previously on 28th March 2024, informing you of your new legal responsibilities under the Act. This letter serves as a reminder to all Local Authorities and Integration Authorities of your legal responsibilities under the Act, and to offer further information and resources to support you with compliance with those duties.

**Duties**

For care services, the Act broadly replaces the secondary legislation with minor changes. However, the Act has also introduced duties that all Local Authorities and Integration Authorities must comply with.

Every Local Authority and Integration Authority must have regard to several listed factors when planning or securing the provision of a care service from a third party:

* the guiding principles in the Act (section 1 of the Act);
* the requirement 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 requirement on care service providers with regard to training of staff (section 8 of the Act);
* the requirement on care service providers to have regard to guidance issued by the Scottish Ministers (section 10 of the Act);
* the duties on care service providers under [Chapter 3 of Part 5 of the Public Services Reform (Scotland) Act 2010](https://www.legislation.gov.uk/asp/2010/8/part/5/chapter/3), for example with regard to registration of care services; and
* the duties on care service providers under Chapter 3A of Part 5 of the Public Services Reform (Scotland) Act 2010, for example with regard to the use of any prescribed staffing methods or staffing tools. Note that the [Health and Care (Staffing) (Scotland) Act 2019](https://www.legislation.gov.uk/asp/2019/6/section/12/enacted) inserted chapter 3A into the Public Services Reform (Scotland) Act.
* each year, you must report on the steps you have taken, and any ongoing risk that may affect your ability, to comply with the duty above (section 3(6) of the Act);

The following care services are in scope of the Act:

* a support service;
* a care home service;
* a school care accommodation service;
* a nurse agency;
* a child care agency;
* a secure accommodation service;
* an offender accommodation service;
* an adoption service;
* a fostering service;
* an adult placement service;
* child minding;
* day care of children; and
* a housing support service.

**Reporting**

**An annual report must be published each year to demonstrate how you have complied with your duties. The template in Annex A must be used to draft your report and this must be published and sent to** **HCSA@gov.scot** **no later than the 30th June 2025.**

It should be noted that there are separate reporting requirements for health services and care services and that this letter is only concerned with the reporting of staff carrying out care in the services listed in the bullet points above.

**Resources**

[Health and Care (Staffing) (Scotland) Act 2019: Statutory Guidance](https://www.gov.scot/publications/health-care-staffing-scotland-act-2019-statutory-guidance/) has been published on the Scottish Government website to support relevant organisations in meeting the requirements placed on them by the Act. [Section 15](https://www.gov.scot/publications/health-care-staffing-scotland-act-2019-statutory-guidance/pages/15/) covers, planning or securing the provision of care services from others.

Healthcare Improvement Scotland (HIS), in collaboration with the Scottish Government, has developed a series of [Quick Guides](https://learn.nes.nhs.scot/74342) to complement the published statutory guidance.

[The Safe Staffing Programme (SSP) pages](https://hub.careinspectorate.com/how-we-support-improvement/quality-improvement-programmes-and-topics/safe-staffing-programme/) on the Care Inspectorate’s website hold an abundance of information and learning resources on the Act.

**Support**

The SSP Team have been supporting the care sector to prepare for commencement of the Act for the past three years and they will continue to offer guidance to the sector. Please contact the SSP Team mailbox if you have any questions about how the Act affects you.

**Key Contact Request**

In order for the Scottish Government to engage effectively with Local Authorities and Integration Authorities, we kindly request that each authority submit a key contact to the Scottish Government **by Friday 28th February 2025**. Please send all nominations to HCSA@gov.scot.

Yours sincerely

Ian Turner

Adult Social Care Workforce and Fair Work Division

Directorate for Social Care and National Care Service

**Annex A**

**Health and Care (Staffing) (Scotland) Act 2019: Annual Report**

Under section 3(2) of the [Health and Care (Staffing) (Scotland) Act 2019](https://www.legislation.gov.uk/asp/2019/6/enacted) (“the Act”), every local authority and integration authority must have regard to a number of listed factors when planning or securing the provision of a care service from a third party:

* the guiding principles in the Act (section 1 of the Act);
* the requirement 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 requirement on care service providers with regard to training of staff (section 8 of the Act);
* the requirement on care service providers to have regard to guidance issued by the Scottish Ministers (section 10 of the Act);
* the duties on care service providers under [Chapter 3 of Part 5 of the Public Services Reform (Scotland) Act 2010](https://www.legislation.gov.uk/asp/2010/8/part/5/chapter/3), for example with regard to registration of care services; and
* the duties on care service providers under Chapter 3A of Part 5 of the Public Services Reform (Scotland) Act 2010, for example with regard to the use of any prescribed staffing methods or staffing tools. Note that the [Health and Care (Staffing) (Scotland) Act 2019](https://www.legislation.gov.uk/asp/2019/6/section/12/enacted) inserted chapter 3A into the Public Services Reform (Scotland) Act.

Section 3(6) of the Act states that relevant organisations must publish information annually on the steps they have taken to comply with the requirement in section 3(2) regarding the planning and securing of care services and any ongoing risks that may affect their ability to comply with this requirement.

This template should be used by local authorities and integration authorities to publish the information required and should be read in conjunction with the statutory guidance that accompanies the Act, specifically chapter 15.

The information in this template should relate to the financial year, i.e. 01 April to 31 March. All reports must be published by 30 June at the latest each year.

In order to collate the information published, the Scottish Government also requests that you send the completed template to hcsa@gov.scot.

**Declaration**

**Name of local authority / integration authority: Aberdeen City Health and Social Care Partnership (ACHSCP)**

**Report authorised by:**

***Name:* Fiona Mitchelhill**

***Designation:* Chief Officer, ACHSCP**

***Date:* 30 June 2025**

Details of where the report will be published: (insert link to publication) **ACHSCP Website**

**Information Required**

1. Please detail the steps you have taken as an organisation to comply with section 3(2) of the Health and Care (Staffing) (Scotland) Act 2019:

*3(2) 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—*

*(a) the guiding principles for health and care staffing, and*

*(b) the duties relating to staffing imposed on persons who provide care services—*

*(i) by virtue of subsection (1) and sections 7 to 10, and*

*(ii) by virtue of Chapters 3 and 3A of Part 5 of the Public Services Reform (Scotland) Act 2010.*

**Guidance for answering this question**

What care services need to be included?

Care services are those listed under section 47(1) of the [Public Services Reform (Scotland) Act 2010](https://www.legislation.gov.uk/asp/2010/8/section/47), namely:

* a support service;
* a care home service;
* a school care accommodation service;
* a nurse agency;
* a child care agency;
* a secure accommodation service;
* an offender accommodation service;
* an adoption service;
* a fostering service;
* an adult placement service;
* child minding;
* day care of children; and
* a housing support service.

When completing the questions on the template you should consider all services that fall within the above list that have been planned or secured within the financial year. There is no requirement to keep reporting on services once they have been planned or secured, until such time as existing contracts, agreements or arrangements are renewed, renegotiated etc.

What are the guiding principles mentioned in section 3(2)(a)?

Chapter 14 of the statutory guidance provides more detail on the guiding principles as they apply to care services.

What are the duties in 3(2)(b) relating to staffing imposed on persons who provide care services (i) by virtue of subsection (1) and sections 7 to 10?

This refers to:

* the requirement 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 requirement on care service providers with regard to training of staff (section 8 of the Act); and
* the requirement on care service providers to have regard to guidance issued by the Scottish Ministers (section 10 of the Act).

Further detail about these can be found in chapter 14 of the statutory guidance.

You should detail how these factors have been considered as part of the planning and securing stage of contracts, agreements or other arrangements made with a third party provider. For example, detailing how these factors have been incorporated into procurement or commissioning procedures.

What are the duties in 3(2)(b) relating to staffing imposed on persons who provide care services (ii) by virtue of Chapters 3 and 3A of Part 5 of the Public Services Reform (Scotland) Act 2010?

Chapter 3 of Part 5 of the Public Services Reform (Scotland) Act 2010 is not a new piece of legislation. This contains requirements regarding registration of care services with the Care Inspectorate, as well as provisions, for example, about the powers of the Care Inspectorate to issue improvement notices, cancellation of registration etc.

Chapter 3A of Part 5 of the Public Services Reform (Scotland) Act 2010 was inserted by section 12 of the Health and Care (Staffing) (Scotland) Act 2019 and is about the use of staffing methods by care services. It gives the Care Inspectorate the power to develop a staffing method for care home services for adults and recommend this to Scottish Ministers. Ministers can then make legislation to require care services to use that method. Chapter 16 of the statutory guidance provides further details. **However, the Care Inspectorate has not yet developed any such method, therefore there is currently no requirement to use a specified staffing method and therefore no requirement to consider this as part of the planning and securing process.**

Again, you should detail how these factors have been considered as part of the planning and securing stage of contracts, agreements or other arrangements made with a third party provider. For example, detailing how these factors have been incorporated into procurement or commissioning procedures.

**Planning and Securing Care Services from Others**

**Aberdeen City Health and Social Care Partnership commissions the following services from others:**

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| --- |
| * **Residential Care Homes - LD**
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| * **Residential respite - LD**
 |
| * **Residential Care Homes - OP**
 |
| * **Day care (OP/dementia)**
 |
| * **Support at home**
 |
| * **Training and Skills Development (Adults)**
 |
| * **Carer Support**
 |
| * **Sensory Loss Services**
 |
| * **Out of Area / Complex Care**
 |
| * **Third Sector Interface**
 |
| * **Advocacy**
 |
| * **Mental Health Support**
 |

**As part of the Action Plan referred to above, the ACHSCP has undertaken work to revise the procurement procedures and documentation utilised to plan and commission new care services from others. This was to fully comply with the requirements of the Act and in particular to ensure that new providers were aware of their duties to ensure appropriate staffing and to adhere to the Guiding Principles of the Act.**

**This year we have embedded in all tender documentation that any bidder must answer a mandatory question on being aware of the duty to have appropriate staffing and to abide by the Guiding Principles. Going forward providers would not receive a winning score without this clarification; our published template**

**contract also refers to the provider having agreed with the responsibilities under the Act. No provider would be awarded a contract who were not following national guidance in respect of this duty. In addition, our contract monitoring also checks to ensure compliance with the duty to ensure appropriate staffing and consider the guiding principles. We also have two changes upcoming in 2024/25:**

**a) contract templates will be more specific – this work is being agreed with Aberdeen City Legal Department;**

**b) annual review of contract monitoring by team will firm up the ask around compliance on this duty.**

1. Please detail any ongoing risks that may affect your ability to comply with the duty set out in section 3(2).

**Guidance for answering this question**

This should detail any risks you have encountered with regard to planning and securing care services that would affect your ability to comply with the requirements set out in question 1.

For example:

* You may have had difficulty in assessing particular services with regard to their duties to ensure appropriate staffing and staff training due to lack of relevant information;
* You may have incurred potential risk in considering all the factors if there is a shortage of service providers giving rise to limited choice in planning or securing services; or
* The range of different care services and types of contract, agreements or arrangements may have made it difficult to incorporate the requirements of the Act into each situation.

**Although the Aberdeen City Health and Social Care Partnership Lead Commissioner post is currently vacant, and there are ongoing pressures within the Social Care Service, it is not our expectation at present that these issues should affect our ability to comply with the duty.**