

Health and Care (Staffing) (Scotland) Act 2019

Annual Report 2024-2025



Declaration

Name of local authority or integration authority: Moray Health and Social Care Partnership

Report authorised by:

Name: Jim Lyon

Designation: Head of Children, Families and Justice Services, and Chief Social Work Officer

Date: 25 June 2025.

Details of where the report will be published:

- [Child Protection, Children and Families - Moray Council](#)
- [Home - Health and Social Care Moray](#)

Introduction

This annual report outlines the steps Moray Health and Social Care Partnership (MHSCP), inclusive of Children, Families, Justice and Adult Social Work Services, has taken to comply with section 3(2) of the Health and Care (Staffing) (Scotland) Act 2019, (The Act) and any continuing risks which may affect our ability to comply with the requirements of The Act. It covers the reportable care services which were planned and or secured in the 2024/2025 financial year.

1. The steps we 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.

Within MHSCP, we have been building the requirements of section 3(2) of The Act into relevant processes concerning:

- Commissioning, inclusive of securing and or planning care services as well as monitoring service provider compliance
- Self-Directed Support, options 1, 2 and 4 (with option 3 being covered within commissioning processes)

These processes are covered respectively below.

Securing and or Planning Reportable Care Services

The reportable commissioned care services are planned and or secured in one of three ways as follows:

1. Contracts with service providers
2. Scotland Excel frameworks
3. Local frameworks

The ways in which the requirements of The Act are included in these processes are outlined below.

1. Contracts with Service Providers

In the 2024/2025 financial year, Children, Families, Justice and Adult Social Work Services planned and secured one support service (short break services for children with disabilities) and two housing support services via contracts with service providers.

Obligations with regards to the guiding principles of The Act (e.g., provision of safe and high-quality services; ensuring the best outcomes for people receiving services) are outlined in the contract specification as well as the contracts and individual plans.

The duties relating to staffing imposed on the service providers (e.g., having regard to the guiding principles of The Act as well as the guidance issued by Scottish Ministers, ensuring appropriate staffing and training, and registration with the Care Inspectorate) are outlined in contract specifications, terms and conditions.

Registration with the Care Inspectorate is not a requirement for the services that are based in England which are registered with the Care Quality Commission instead.

2. Scotland Excel Frameworks

In the 2024/2025 financial year, four care home services, one school care accommodation, two fostering services, two housing support services, one secure accommodation service and one residential rehabilitation service were planned and or secured using Scotland Excel Frameworks.

Obligations to have regard to the guiding principles of The Act and the duties relating to staffing imposed on care providers are expected to be included in Scotland Excel Frameworks, complemented by individual placement agreements (IPAs) in Children's Social Work and individual service agreements (ISAs) in Adult's Services as per **Appendix 1**.

3. Local Framework Agreements

In the 2024/2025 financial year, five care home services have been planned and or secured via local framework agreements.

Obligations to have regard to the guiding principles of The Act and the duties relating to staffing imposed on care providers are explicitly noted in local frameworks, as exemplified in the appended template.

Assessing and Monitoring Care Provider Compliance

In addition to embedding the requirements of The Act into the way we secure and or plan reportable services, we have the following mechanisms in place to help us assess and monitor, as proportionate and relevant to the contract, provider compliance in the following areas relevant to section 3(2) of The Act:

- A.** We use the Single Procurement Document to assess our providers have the appropriate registration with the regulatory authority.
- B.** We assess compliance with Fair Work Practices, in particular:
 - payment of at least the Scottish Living Wage
 - investment in workforce development
 - no inappropriate use of zero-hour contracts
 - action to create a more diverse and inclusive workplace
- C.** We assess compliance with quality management as well as health and safety procedures, including documented arrangements:
 - for providing the workforce with quality and health and safety related training and information appropriate to the type of work for which this organisation is likely to bid. This will demonstrate that the organisation has in place, and implements, training arrangements, including for health and safety (H&S), to ensure its workforce has sufficient skills and understanding to discharge their various responsibilities. These arrangements must include a programme of training which will keep the workforce up to date with required knowledge about quality related issues, including copies of job profiles, training manuals, and records. This must also include a description of arrangements for keeping the workforce updated on legislation and good practice applicable throughout the organisation.
 - describing what H&S or other relevant qualifications and experience the bidder's workforce has, to implement the H&S policy to a standard appropriate for the work for which the organisation is likely to bid. This must demonstrate that the workforce possesses suitable qualifications and experience for the tasks assigned to them, unless there are specific situations where they need to work under controlled and competent supervision, for example, how they support trainees.

- involving the bidder's workforce in the planning and implementation of H&S measures. This must demonstrate that the bidder has in place, and implements, the means of consulting its workforce on H&S matters and shows how the workforce's comments, including complaints, are considered.

D. To help us understand risks related to recruitment and retention which may be an indication of issues or have an impact on compliance with section 3(2) of the Health and Care (Staffing) (Scotland) Act 2019, we assess the following on a continual basis for the highest risk contracts:

- Staff turnover
- Staff sickness
- Vacancies
- Use of overseas, sponsored workers and agency workers
- SSSC requirements (record keeping; any staff with conditions of registration; any unmet conditions, number not yet registered)
- Update to policies and procedures following changes in legislation
- Care Inspectorate inspections, requirements and recommendations

Self-Directed Support

As part of our Self-Directed Support (SDS) provisions and personalised care packages, under the Social Care (Self-directed Support) (Scotland) Act 2013, we support people and families who receive SDS to become employers or we sign tripartite agreements with people who receive SDS as well as service providers. We have a range of templates (**Appendix 1**) to ensure all parties understand their obligations.

2. Risks that may affect our ability to comply with the duty set out in section 3(2)

The continuing risks which may affect our ability to comply with the duties outlined in The Act, as well as planned mitigating actions, are presented in Table 1 below:













Table 1: Risks and Mitigating Actions

Risk	Mitigating Actions
The requirements on care service providers to have regard to the guiding principles of The Act as well as the guidance issued by Scottish Ministers are not always explicitly stated in contract specifications or terms and references.	The Commissioning Teams within Children's and Adult's Social Work Services and MHSCP are planning to amend contract templates so The Act will be explicitly named in all future contracts.

Contracts established prior to the enactment of this legislation, understandably, do not refer to the new legal requirements.	As contracts are being renewed, duties in relation to The Act will be included.
Whilst the General Terms and Conditions of the Scotland Excel Framework do not appear to explicitly refer to The Act, it is inclusive of references to the provision of trained and knowledgeable staff.	Whilst we fully expect Scotland Excel Frameworks to be updated in the future, we are planning to mitigate this risk by referring to the requirements of The Act within IPAs and ISAs.
Comprehensive systems, inclusive of tools, are not yet in place to effectively monitor whether service providers comply with The Act.	Practice changes in commissioning across Children's and Adult's Social Work Services and MHSCP: make use of tools listed by the Scottish Government, if required and not already covered by other mechanisms.
Agreements and letter templates for service provision as part of SDS do not explicitly refer to responsibilities under The Act.	Agreements and letter templates for service provision as part of SDS are to be updated and disseminated for use in both Children's and Adult's Social Work Services.

We are satisfied that the continuing risks in the table above and the mitigating actions we have identified, are sufficient to address the operational challenges to ensure we comply with the requirements of The Act while keeping matters under review.

Appendix 1: Service Agreement Templates

Template Title	Embedded Template
Children's Social Work Individual Placement Agreement	 Children's IPA template.docx
Adult Care Individual Placement Agreement templates	<div>  Residential Interim FPC IPA.doc  Nursing Perm Funded IPA.doc </div> <div>  Nursing Perm FPC IPA.doc  Nursing Interim Funded IPA.doc </div> <div>  Nursing Interim FPC IPA.doc  Residential Perm Funded IPA.doc </div> <div>  Residential Perm FPC IPA.doc  Residential Interim Funded IPA.doc </div>
SDS Tripartite Agreement	 Tri Part Agreement template.docx
Local Framework Agreement	 Local Moray FW - TEMPLATE.docx
SDS Direct Payment Individual Service Agreement	 SDS DP Individual Service Agreement.doc