



Mental Health (Care and Treatment) (Scotland) Act 2003

2003 asp 13

PART 4

HEALTH BOARD AND LOCAL AUTHORITY FUNCTIONS

CHAPTER 2

LOCAL AUTHORITY FUNCTIONS

Duty to inquire into individual cases

34 Inquiries under section 33: co-operation

- (1) This section applies where a local authority are required by section 33(1) of this Act to cause inquiries to be made into a person's case.
- (2) Where it appears to the local authority that the assistance of any of the persons mentioned in subsection (3) below—
 - (a) is necessary for the purposes of the inquiries; or
 - (b) would assist the inquiries,the authority may request that person to provide the assistance specified in the request.
- (3) Those persons are—
 - (a) the Commission;
 - (b) the Public Guardian;
 - [^{F1}(ba) Healthcare Improvement Scotland;]
 - [^{F2}(c) Social Care and Social Work Improvement Scotland;]
 - (d) a Health Board; and
 - (e) a National Health Service trust.
- (4) Where—
 - (a) a person receives a request under subsection (2) above; and

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 34 is up to date with all changes known to be in force on or before 09 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) complying with the request—
- (i) would be compatible with the discharge of the person’s functions (whether under any enactment or otherwise); and
 - (ii) would not prejudice unduly the discharge by the person of any of those functions,
- the person shall comply with the request.

Textual Amendments

- F1** S. 34(3)(ba) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), sch. 17 para. 32](#); S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F2** S. 34(3)(c) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), s. 134\(7\), sch. 14 para. 18](#); S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

Commencement Information

- I1** S. 34 in force at 5.10.2005 by [S.S.I. 2005/161, art. 3](#) (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

Changes to legislation:

Mental Health (Care and Treatment) (Scotland) Act 2003, Section 34 is up to date with all changes known to be in force on or before 09 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)