

## **EXECUTIVE NOTE**

### **THE COMMUNITY CARE AND HEALTH (SCOTLAND) ACT 2002 (INCIDENTAL PROVISION) (ADULT SUPPORT AND PROTECTION) ORDER 2012**

**SSI 2012/66**

The above Order was made by Scottish Ministers in exercise of the powers conferred by section 24 of the Community Care and Health (Scotland) Act 2002 and all other powers enabling them to do so.

#### **Policy objectives**

The Community Care and Health (Scotland) Act 2002 (“the 2002 Act”) received Royal assent on 12<sup>th</sup> March 2002. The Act provided for new, closer, joint working between NHS Scotland and Local Authorities, enabling them to develop more effective, seamless services to suit local circumstances while retaining flexibility in how they jointly manage and resource services.

This Order makes provision which is incidental to the Community Care (Joint Working etc.) (Scotland) Amendment Regulations 2012.

Those Regulations amend the Community Care (Joint Working etc.) (Scotland) Regulations 2002 to add various new functions to those functions which may be delegated by both local authorities and NHS bodies to each other. Those amendments include the addition of the functions of Part 1 of the Adult Support and Protection (Scotland) Act 2007 (“the 2007 Act”) to allow local authorities to delegated any of those functions to a health board.

The 2007 confers various functions on “council officers” and the Adult Support and Protection (Scotland) Act 2007 (Restriction on the Authorisation of Council Officers) Order 2008 (“the 2008 Order”) puts various restrictions on the qualifications that a council officer must have prior to exercising those functions.

This Order clarifies, for the avoidance of doubt, that where the 2007 Act makes reference to a “council officer” and the relevant function has been delegated to a an NHS body, the reference to a “council officer” must be read as including reference to an employee of an NHS body, and any employee of a health body who is carrying out those functions is also subject to the restrictions in the 2008 Order.

In part this Order is in response to Highland Council’s proposal to delegate these functions to Highland Health Board by virtue of an agreement under the 2002 Act.

#### **Consultation**

Consultation on the draft legislation for the 2002 Act took place between April and September 2001. Both Highland Council and Highland Health Board have been consulted widely in the preparation of this Order. As these matters are to be reviewed in the forthcoming legislation on Adult Health and Social Care Integration further consultation was not considered necessary.

## **Impact Assessments**

There are no equality impact issues.

## **Financial Effects**

The instrument has no direct financial effects on the Scottish Government, local government, or on business.

Scottish Government  
Integration and Service Development Division  
Directorate for Health and Social Care Integration