

Health and Care (Staffing) (Scotland) Act 2019

2025-2026 Annual Report



Contents

Overview	3
Legislative responsibilities	4
Declaration.....	5
 1. Compliance with Section 3(2) of Health and Care (Staffing) (Scotland) Act 2019.....	6
1.1. Care Homes.....	6
1.2. Day Care Provision for Older People	7
1.3. Commissioned Care at Home Services	9
 2. Please detail any ongoing risks that may affect your ability to comply with the duty set out in section 3(2).	10
1.4. Care Homes.....	10
1.5. Day Care Provision for Older People	10
1.6. Commissioned Care at Home Services	10

Annex A**Overview**

The Health and Care (Staffing) (Scotland) Act 2019 started on the 1st of April 2024.

The Act introduced duties that all Local Authorities and Integration Authorities must comply with. This includes making sure that providers and health services that we are contracting with are abiding by the guiding principles of the Act, ensuring appropriate training is in place for staff and that services have sufficient staff in place.

The Local Authority and Integration Authorities must publish an annual report going forward to show how the new legislation is included in any newly contracted services for the previous financial year.

The report below is for services commissioned by East Lothian Health and Social Care Partnership for the financial year 2025-26.

The government has asked that we publish information only in relation to the processes in place for planning and procuring services. The Partnership also continue to monitor all providers once services are commissioned to ensure that they continue to implement the new legislation. While this information is not contained in the report, should you wish to contact us to learn more about this, you can submit this request via email to elhscp@eastlothian.gov.uk

Legislative responsibilities

Under section 3(2) of the [Health and Care \(Staffing\) \(Scotland\) Act 2019](#) (“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](#), 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](#) 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:

East Lothian Health and Social Care Partnership

Report authorised by:

Name: Laura Kerr

Designation: General Manager – Planning and Performance

Date: 20/04/2026

Please mark all relevant boxes to show which services have been taken account in this report:

X	Support services
X	Care home services
	School care accommodation services
	Nurse agencies
	Child care agencies
	Secure accommodation services
	Offender accommodation services
	Adoption services
	Fostering services
	Adult placement services
	Child minding
	Day care of children
	Housing support service

Details of where the report will be published: www.eastlothian.gov.uk/elhscp-safer-staffing

1. Compliance with Section 3(2) of Health and Care (Staffing) (Scotland) Act 2019

Information Requirement: 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.*

1.1. Care Homes

East Lothian contracted with one new care home provider, Lammermuir Nursing Home, following a change in ownership and is now owned by Alor Healthcare. The contract was issued under the National Care Home Contract on 04/06/2025. East Lothian HSCP does not actively commission any new care home providers in our area. Any new homes opening are private businesses that have sought planning permission from ELC planning department and have built or opened the home using the Care Inspectorate required standards.

Any new care home opening within the county is subject to procurement processes, including a police check for directors, and any other relevant checks (i.e. financial) prior to contracting. Discussions take place with the new provider to put in place a relevant contract.

Planning & Commissioning work closely with the CI registration team to gain updates on registration and confirmation when this has been completed. Onboarding of any new service also includes a meeting with the provider's senior management team and new/existing care home manager which includes an introduction to East Lothian care home services and the relevant East Lothian teams in place to provide support to our local homes. This includes the NHS Care Home Team, ELCHASE, Social Work, Quality Improvement service and the Planning and Commissioning Officer. Reporting requirements and key contacts are also shared with the provider. Copies of policies and public and employers' liability insurance are gathered. Prior to the new building being opened, a walk around is completed with key staff, staffing models and recruitment processes are discussed. Where the provider is a regional or national provider, a check on the CI grades across the whole group is conducted to highlight any homes in their organisation of concern.

The National Care Home Contract clearly sets out that the provider must:

- Be PVG Compliant
- Have a personal care plan in place for the resident and conduct regular reviews to ensure services meet the residents needs

- Issue residency agreements to all clients detailing terms and conditions of their placement to provide residents with clarity and understanding of the services provided
- Have internal quality assurance processes in place to monitor the service and share required information with the Partnership on request
- Have a complaints process in place
- Have safer staffing processes in place
- Employ sufficient and suitably qualified staff in the service and that staff should be registered with the SSSC or NMC where the roles undertaken require this.
- Have equal opportunities policies in place and deliver services to staff and residents in a non-discriminatory manner
- Ensure that services are delivered to meet a specific range of outcomes for service users
- Provide training to staff to enable them to deliver all aspects of care required by the resident
- Have regard for the Health and Safety of Staff including relevant policies including moving and handling.

Contract monitoring has also been completed with the new manager in the home under the Alor Group where we have been reassured that dependencies (assessment of resident needs) are being undertaken weekly. Allocation of staff within the home is informed by this and an appropriate skill mix is used. The provider is also staffed 20% above dependencies to provide a consistent staff group and to cover holidays. They are fully recruited across all areas and there is currently no agency use. The provider also continues to seek staff feedback through supervision and staff surveys. Supports for staff wellbeing are in place through their work with Health Assured which offers confidential advice and support to staff. In terms of staff training, Alor continues to work to upskill their staff with 5 staff members going through SVQ2, one through SVQ3 and another through SVQ4. Alor are continuing to monitor and audit training completion to ensure the home achieves the benchmark of 95% compliance.

1.2. Day Care Provision for Older People

East Lothian commissioned an existing provider (John Bellany Day Centre) to provide a new service in a different locality (Musselburgh).

Principles for Commissioning

- Commissioned to deliver local services that reflect the varying needs of the local communities
- Flexibility of provision allowing for both centre and community based services which address fluctuating COVID-19 restrictions ('blended model')
- Reduction in carer stress
- Preventative in nature reducing social isolation and loneliness
- Innovation in dementia care
- Effective governance arrangements based on genuine partnership and collaboration with providers and communities

Principles for service delivery

The principles for service delivery are:

- Enabling human rights, capabilities and independence
- Preventative and anticipatory
- Based on building relationships, both with individuals and within their community
- Delivered collaboratively
- Flexibility of service provision, responsive to how people feel on the day
- Outcome focussed and personalised
- Involvement of people in service development
- Carer focus
- Promoting the principles of Self-Directed Support

The contract was subject to a Public Contract Scotland award process. Since award, the provider has been working with the Care Inspectorate to establish the new service. The terms of the contract award ensure that the provider:

- Is PVG Compliant
- Has personal care plans in place for the member and conducts regular reviews to ensure services meet their needs and achieve their agreed personal outcomes
- Has internal quality assurance processes in place to monitor the service and share required information with the Partnership on request; these are based on the Care Inspectorate Quality Assurance Indicator framework
- Has a complaints process in place and reports on these quarterly
- Have safer staffing processes in place
- Employ sufficient and suitably qualified staff in the service and that staff should be registered with the SSSC where the roles undertaken require this.
- Have equal opportunities policies in place and deliver services to staff and residents in a non-discriminatory manner
- Ensure that services are delivered to meet a specific range of personal outcomes for service users
- Provide training to staff to enable them to deliver all aspects of care required by the resident
- Have regard for the Health and Safety of Staff including relevant policies including moving and handling.

In the setting up phase the provider liaised with both the Care Inspectorate and HSCP on staffing levels and regularly updates on staffing levels and training delivered in both induction and in ongoing staff development.

1.3. Commissioned Care at Home Services

A Framework of approved providers for care at home services was secured via Scotland Excel in November 2024 (Care and Support Flexible Framework 2022). The framework includes associated Contract Schedules, service specification and Flexible Framework Terms. The majority of the providers came onto this framework in 2024 and was reported in last year's safer staffing report. Clover Care however, came on to the framework in March 2026.

Scotland Excel undertake due diligence and Procurement checks with providers, with additional local terms further detailing relevant Safer Staffing requirements which are reviewed quarterly during Quality Assurance reporting meetings with between ELHSCP and Commissioned Care at Home Providers.

The Framework Contractual Terms clearly set out Safer Staffing requirements under Health and Care (Staffing) (Scotland) Act 2019, including but not limited to:

- PVG compliance
- Contracted care only delivered as detailed in individual contracts
- Requirements for Safer Recruitment Policy and Procedures to satisfy Care Inspectorate requirements around employment and management of staffing
- Minimum CI grading, Equalities compliance for staff and service users
- Incident reporting and circumstances when this is shared with Care Inspectorate
- Compliance for itself and staff with Scottish Social Services Council
- Supporting attainment of relevant qualifications, training, supervision, registration of its staff and management to staff ratios.
- Data protection
- Appropriate Staffing levels, including assurances around any agency use and Business continuity
- Safer Recruitment – taking account of Protection of Adults at Risk of Harm and Child Protection
- Have regard for the health and safety of staff

New providers to East Lothian under this framework in 2025/26 include:

Provider Name	Date Contracted
Clover Care Scotland Ltd	18/03/2026

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

2.1. Care Homes

No risks were identified for this care home.

2.2. Day Care Provision for Older People

No risks were identified for this care and support service.

2.3. Commissioned Care at Home Services

Ongoing risks exist around social care recruitment and the retention of high-quality staffing in care at home services.

Often there is high turnover and movement to NHS or internal services where terms and conditions exceed those available in the external market, reported more so for locally recruited staff. This includes movement to the retail sector.

Where Home Office Sponsorship scheme is utilised in the Providers business model for staffing, cultural difference, equalities and human rights issues can present challenges for people using services, social care staff, and for providers and ELHSCP to ensure safer staffing is managed appropriately.

Whilst there are existing protective legislative measures for staff, with provider and commissioner policies and procedures reflective of this and actively monitored, there is ongoing risk that staff teams are increasingly subject to racially motivated abuse, a culture of tolerance leading to under reporting and risk to mental health.

Increasing utilisation of the Home Officer Sponsorship Scheme for overseas workers by commissioned providers is becoming a dependent business model in assuring appropriate Safer Staffing as contracted. Whilst this brings high skill levels and committed workforce, future risk in back filling this capacity remains as people may move on to the NHS or choose not to extend their Sponsorship arrangements.

There is a continued challenge for providers in ensuring that they only recruit, train and retain suitable candidates, with necessary rejection at interview stage becoming a common theme, both for the local recruitment market and Home Officer Sponsors. There may be several factors including the April 2025 announcement by the UK Government that Home Office Sponsors must focus recruitment on displaced persons already living in the UK rather than overseas.

There are challenges of poor Terms and Conditions for frontline staff with local efforts to improve these. Career pathways are not wholly obvious in the social care sector contributing to exit of workers from the sector, further contributing to a direct negative impact on the capacity and delivery of sustainable high-quality services, service user choice and meeting outcomes as per commissioned services contract.

Reliance on overtime is common to manage sickness or annual leave, including agency use to meet contract and more so where the Service Providers business model utilises the local recruitment market. This includes complex care for learning disability.

Current and forecast increase in older people's population as a proportion of the overall local population in East Lothian, serves to further create significant risk in providing high quality staffing levels, able to flex to population demands.