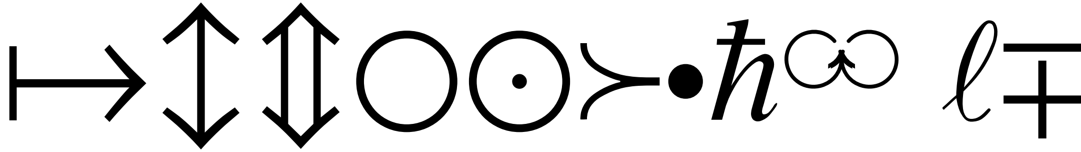


Joint Future Unit

Circular No: CCD 11/2002
Guidance Package Index Ref: F17

St Andrew's House
Regent Road
Edinburgh EH1 3DG

Telephone: 0131-244 4041
Fax: 0131-244 5307
Linda.watters@scotland.gsi.gov.uk
http://www.scotland.gov.uk

Chief Executives, Local Authorities
Chief Executives, NHS Boards
Chief Executives, NHS Trusts
Chief Executive, Communities Scotland
Directors of Social Work
Directors of Finance, Local Authorities
Directors of Finance, NHS Boards
Directors of Housing
Relevant professional, voluntary and other organisations

Your ref:
Our ref: GKG/1/24/3

27 December 2002

Dear Colleague

IMPLEMENTATION OF THE PROVISIONS ON JOINT WORKING IN PART 2 OF THE COMMUNITY CARE AND HEALTH (SCOTLAND) ACT 2002 AND THE COMMUNITY CARE (JOINT WORKING ETC.) REGULATIONS 2002

1. This circular introduces the provisions on joint working in Part 2 of the Community Care and Health (Scotland) Act 2002 ('the Act') and the Community Care (Joint Working Etc.) Regulations 2002 ('the Regulations'). The guidance builds on that on joint resourcing and joint management of community services in Circular CCD 7/2001. Part 2 of the Act was commenced on 1 September 2002, and the Regulations come into effect on 1 January 2003.

2. Part 2 of the Act increases considerably the flexibility available to local authorities and NHS bodies to improve the outcomes for people who use services and their carers. It also gives Scottish Ministers the power to direct them to enter into joint working arrangements where Ministers consider this would improve the bodies' performance of their functions. The Regulations specify the social care, health and housing functions covered by both the enabling and intervention powers and the conditions applicable to their use. The provisions are described more fully in the annexes to this circular.

3. These powers enable local authorities and NHS bodies to raise joint working to new levels. They are a Scottish solution to Scottish circumstances, to enable greater integration within the current organisational framework. Their scope was welcomed in the consultations on both "Better Care for all our Futures" and on the detailed content of the regulations. Circular CCD 7 set out the policy context: the guidance focuses on the operational arrangements for the new provisions. It is now for local partners to use the flexibility they offer.

Resource Implications

4. The provisions should enable local partners to make better use of resources in the longer term, within the context of joint resourcing and joint management set out in Circular CCD 7/2001.

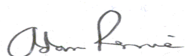
Action

5. Local partners, and more particularly the joint committee or partnership body established under their joint management arrangements, should consider how to maximise the flexibilities now available to obtain the best results for people locally, and to include their plans in their first full Local Partnership Agreement due in April 2003.

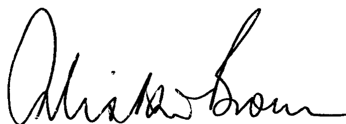
6. The Act and Regulations are available on the HMSO website at :
http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/acts2002/20020005.htm
http://www.scotland-legislation.hmso.gov.uk/legislation/scotland/en/2002en05.htm
http://ww.scotland-legislation.hmso.gov.uk/legislation/scotland/ssi2002/20020533.htm

7. Any enquiries about this circular should be addressed to Linda Watters, Scottish Executive, Joint Future Unit, 3ER, St Andrews House, Regent Road, Edinburgh, EH1 3DG, by telephone on 0131 244 4041 or by e-mail to linda.watters@scotland.gsi.gov.uk

Yours sincerely



J A RENNIE
Head of Community Care 2



ALISTAIR BROWN
Head of Performance Management

GEOFF HUGGINS
Head of Housing Division 3

ANNEX A

THE FLEXIBILITIES IN THE COMMUNITY CARE AND HEALTH ACT 2002 AND THE REGULATIONS

Context

1. People who need services and their carers are best served by local partners working together. Effective and efficient local partnerships are therefore central to the Executive's strategies for improving the health and well-being of the people of Scotland. This is demonstrated by the Executive's commitment to community planning, Best Value and the range of cross-cutting measures set out in "Working Together for Scotland" and in more detailed strategies in areas such as housing, mental health, learning disabilities, drug and alcohol abuse, etc.

2. The Joint Future Agenda is often likened to community planning in action because it takes the principles of community planning and applies them to a discrete area of activity. It has common objectives, delivery through partnerships and the infrastructure (including the measures in this circular) to deliver the desired results. The Scottish Executive's commitment to strengthening links between NHSScotland and local authorities is firmly laid out in 'Our National Health: A plan for action, a plan for change'. The plan also takes forward the Joint Future Group's report 'Community Care: A Joint Future' and the Delayed Discharge Action Plan. The current review of decision-making in NHSScotland looks to build on the Joint Future Agenda to improve further the benefits of joint working between NHSScotland and local authorities. Moreover, the implementation of Supporting People will strengthen the link between housing support and community care.

Aims

3. The Executive's aim is to make community care services more accessible and more efficient, and to deliver better outcomes for people who use services. To achieve this, the Executive's policy is to improve joint working across health, housing and social care, to promote partnership between all providers of health, housing and social care, and to remove barriers that impede progress.

4. There are already a number of statutory provisions enabling or requiring co-operation between partners locally. The Local Government in Scotland Bill, currently under consideration, and the 2002 Act and its Regulations build on both that framework and the extensive range of joint working already taking place. The Joint Future Agenda and the Delayed Discharge Action Plan have given new impetus to delivery through joint working. These and other means have generated many new approaches and innovative uses of resources. The new provisions should therefore support and extend that flexibility, not constrain it. One of the outstanding examples was of NHS resources in primary care being applied to purchase housing for people leaving long-stay hospitals. That is the kind of holistic use of resources that Ministers wish to see under these flexibilities. The new powers give local partners much greater flexibility to meet the needs of local people and their carers, and to secure Best Value for the 'community care £'.

Provisions in Part 2 of the Act and the Regulations

5. Part 2 of the Act provides for the further development of joint resourcing and joint management of services in community care. Local partners in social care, health and housing are making good progress on implementing joint resourcing and joint management in terms of Circular CCD 7/2001. But there were still some barriers to joint working that the circular anticipated and that the Act has now removed. The provisions of the Act are in three parts. The first enables aligned budgets to operate more flexibly by allowing payments between NHSScotland and local authorities, and vice versa, in connection with relevant functions; the second creates a framework within which local authorities and NHSScotland may delegate functions and pool budgets; the third establishes a mechanism for Ministerial intervention where existing performance is unsatisfactory.

6. However, the Act requires Ministers to prescribe in regulations the functions to which these joint working arrangements apply and the conditions for such arrangements. The following sections and the supporting annexes set out what Ministers want to achieve through sections 13 to 17 of the Act and the associated Regulations.

Scope

7. Although the scope of the Act allows for the joint working arrangements to extend to any function of a local authority or NHS body, Scottish Ministers made clear during the passage of the Bill that the arrangements would apply initially only to adult community care services. The functions set out in the Regulations reflect this position. Within that frame, the functions have been made as expansive as possible in order to encourage flexibility and innovation. In social work, they include, with only minor exceptions, the full range of services for adults under the Social Work (Scotland) Act 1968 and associated legislation. In health, they cover a similarly wide range, including long-stay and acute hospital care, community health services and primary care, again with only limited exclusions. And in housing, they include mainstream and supported housing (including grants, and adaptations for disabled people and, in due course, Supporting People). There are explicit exclusions. These cover, on the one hand, functions which only local authorities can or should perform, and on the other, medical activity such as surgical and other specialist procedures that the NHS should not delegate. The functions prescribed in the Regulations, particularly those of the NHS, are described in broad terms. It will be for partners locally to decide precisely which elements they wish to include in their joint working arrangements. One size does not fit all.

8. Throughout the provisions, the term 'NHS body' is used to describe the NHS partners in joint working. It is defined in the Act to mean a Health Board, a Special Health Board, NHS Trusts and the Common Services Agency. Special Health Boards at present are - the State Hospitals Board for Scotland, Scottish Ambulance Services, Common Services Agency, Health Education Board for Scotland, NHS 24, NHS Education for Scotland, the Golden Jubilee National Hospital and NHS Quality Improvement Scotland (from 1 January 2003).

Payments by NHS bodies towards certain local authority expenditure

(a) The enabling powers

9. **Section 13** of the Act allows an NHS body to make payments towards certain local authority functions. The powers are similar to, but broader than, those of section 16A of the NHS (Scotland)

Act 1978 (although they are not intended to replace these powers). Payments can be made towards revenue or capital expenditure.

10. Section 13 provides new financial flexibility, enabling the NHS body to move resources to deliver joint objectives. It allows money to be directed to priority services, or to facilitate the redesign of services. For example, under an arrangement for older people's services, partners may decide to transfer NHS funding to the local authority to expand certain of its home care services to reduce delayed hospital discharge.

(b) The functions

11. The functions for which payments can be made are prescribed in Regulation 2(1) and Schedule 1 to the Regulations, and are listed in Part B of Annex D to this circular. The scope of the Schedule covers community care and housing functions that have a health interface. They are deliberately extensive to allow local partners significant flexibility.

(c) The arrangements for making payments

12. Under the Act, before making payments towards local authority expenditure the NHS body must consult the local authority in question. It must also satisfy itself that the payment:

- has an effect in relation to the health of individuals;
- has an effect in relation to, or is affected by, any function of the NHS body; or
- is connected with any function of the NHS body.

13. In addition, there are a number of specific conditions in the Regulations to be satisfied. These are prescribed in Regulation 2(2)(a) and set out in Annex B. The arrangement for payments will be formalised in a written agreement, which must include the provisions in Regulation 2(2)(b), as set out in para. 6 of Annex B.

Payments by local authorities towards expenditure by NHS bodies on prescribed functions

(a) The enabling powers

14. **Section 14** of the Act is a reciprocal power to section 13, allowing local authorities to make payments to NHS bodies towards prescribed NHS functions. Again payments can be made towards revenue or capital expenditure. For example, under an arrangement for older people's services, partners may decide to transfer local authority funding to the NHS body to expand the capacity of community nursing or rehabilitation services, in order to achieve a shift in the balance of care, improve care journeys, or reduce delayed hospital discharge.

(b) The functions

15. Regulation 3(1) and Schedule 2 to the Regulations prescribe the functions for which payments can be made. Regulation 3(2) excludes functions related to emergency ambulances. Unlike the later provisions on delegation, it is possible to make payments between the State Hospital and local authorities. The scope of the functions has been defined in broad terms, to include hospital, ancillary and primary care services for adults, as well as non-emergency ambulance services. The functions are set out in Part A of Annex D. The reference in that Annex to functions conferred on or

delegated to NHS trusts reflects that some functions are subject to formal arrangements under the powers in sections 12A(a) and 12AA(a)(b) of the 1978 Act.

(c) The arrangements for making payments

16. Local authorities can only make payments towards expenditure by NHS bodies if they are satisfied that the service would be improved. As for section 13, there are a number of conditions to be satisfied. These are prescribed in Regulation 3(3)(a) and set out in Annex B. Again the arrangements should be formalised in a written agreement.

Delegation and joint funding between local authorities and NHS bodies

(a) The enabling powers

17. **Section 15** of the Act enables local authorities and NHS bodies to delegate functions to one another and to pool their resources in support of joint services. This is the most significant change in the flexibilities available to partners locally. As the next step up from aligned budgets, it enables a whole new way of working, allowing integration of the highest order and the maximum flexibility within the current organisational framework. This allows local authorities and NHS bodies to agree who is best placed to co-ordinate a joint service on a day to day basis to provide a seamless response and to use resources more efficiently. Circular CCD 7/2001 set out what these concepts mean and how they sit within the context of joint resourcing and joint management generally: this guidance focuses on the arrangements to make them happen. The two elements need to be read together.

Delegation

18. Delegation allows local partners to provide an integrated service with clear day to day leadership for functions relating to either a community care client group or community care generally. It is also a driver and enabler of joint teams and services by bringing together the relevant functions. And it allows local partners to agree jointly who is best placed to co-ordinate these functions. The agreed partner will be the 'host' for the arrangement. Early candidates are likely to include those services where joint teams and joint services are the norm, such as learning disability services, mental health services or services to people with addictions, and where local partners already have an agreed joint strategy for the provision of services.

19. Delegation does not reduce the existing responsibilities of either local authorities or NHS bodies for the exercise of their functions. It means that the body delegating a function will continue to be responsible for a service hosted by a partner. As part of their Local Partnership Agreement the partners need to develop a governance framework under which the delegated services will be managed, and which demonstrates the delegating partner's accountability for the service or activity delegated. The Act also does not prevent the local authority or NHS body themselves exercising the functions.

Pooled Budgets

20. Having agreed the host partner for the services and the functions to be delegated to achieve this, local partners can then decide whether to make payments to the delegated partner or to pool budgets. Pooled budgets enable partners to use their resources more flexibly and to streamline the management and accounting for them. The pooled budget creates a "community care £" and accounts for it against jointly agreed aims and objectives. This means that care packages can be designed and put in place with a real focus on the needs of the individual, and supported by a single financial framework. This reduction in bureaucracy should lead to faster access to services because this single financial framework cuts through separate schemes of financial delegation and financial instructions, and creates the circumstances for more streamlined audit arrangements for community care expenditure. Overall this should lead to more seamless services and reduce the overheads of separate administration and accounting. For example, local partners may choose to establish a single learning disability service, hosted by the local authority, providing all (health and local authority) learning disability services for the area. At an individual level, a pooled budget will support Single Shared Assessment of needs by ensuring an integrated response is deployed promptly, with the minimum of bureaucracy. At a whole systems level, resources will be maximised to support service reconfiguration and then used more flexibly to sustain new models of service provision in the community.

21. The provisions in the Act and Regulations aim to cover all the relevant forms of delegation, pooling and indeed the movement of resources between local partners in support of the wider aims of the policy on joint working. And the scope of the provisions covers all the currently relevant functions in social care, health and housing. However, recognising the evolutionary nature of joint working in these terms and partners' desire to push out the boundaries, if local partners have concerns about their ability to develop advanced forms of joint partnerships, they should seek appropriate legal advice.

(b) The relevant functions

22. The functions which local partners can delegate are prescribed in Regulation 4 and Schedule 3 to the Regulations (for local authority functions) and Regulation 5 and Schedule 2 to the Regulations (for NHS functions). They are explained in greater detail in Annex D. The scope of the functions is again extensive, with only very limited exclusions. It includes, for example, the full range of social care functions for adults; long-stay and acute hospital care, primary care and ancillary services in the NHS, and, in the housing field, mainstream and supported housing grants and adaptations for people with disabilities. 'Supporting People' funds which will be ring-fenced can be aligned but not pooled under the joint funding arrangements (see circular CCD7/2001). The arrangements for funding housing support services through the "Supporting People" initiative will be reviewed in 2006. The powers in the NHS are particularly broad, e.g. all general medical services are included. It is not however expected that there will be wholesale delegation of such functions. Instead local partners will agree on the elements that they wish to include in their joint working arrangements. This might mean the relevant mainstream social work, hospital and community health services being brought together with a dedicated element of general medical services to provide an integrated service. (This might comprise a practitioner providing general medical services as part of a wider range of integrated health and social care services to, for example, people who abuse substances.)

Exclusions

23. Exclusions from the functions which can be delegated cover only those functions that could not reasonably be exercised by the partner. The NHS functions which have been excluded are prescribed in Regulation 5(2) and (3) of the Regulations. They are:

- surgery, radiotherapy, termination of pregnancies, endoscopy, the use of class 4 laser treatments, and other treatments of an invasive nature;
- the provision of emergency ambulances;
- functions in relation to state hospitals (under section 36 of the NHS (Scotland) Act 1978).

24. For the most part that is self-explanatory. The term "invasive nature" is not defined in the Regulations but advice is that it might involve opening a body cavity or the use of local or general anaesthesia. This would disallow delegation of high level invasive treatments, but would permit lesser treatments often undertaken by people with no medical or nursing qualification, but suitably trained in a procedure. These lesser treatments would include the use of gastrostomy tubes (but not their insertion) and would also permit other interventions such as rectal diazepam or buccal/nasal midazolam, as well as other treatments such as injections, suppositories or tube-feeding.

25. The scope of delegable local authority functions does not include the duties of Mental Health Officers under the Mental Health Act 1984 and the Adults with Incapacity (Scotland) Act 2000. In both cases, the local authority has particular statutory responsibilities of a protective and supervising nature - as opposed to the provision of a service - which only it can fulfil.

26. Also, local authorities cannot delegate their powers to charge for services. Only they can set a charge, and decide how to pursue its recovery, if unpaid. This does not, of course, affect the other partner and their staff collecting financial information (as part of an assessment or otherwise) or their ability to calculate the charge against pre-determined parameters. Nor does it stop them making informal arrangements to collect income via other parties. But the ultimate decisions on collectability have to lie with the local authority. It is important to recognise and make clear that any such arrangements for the NHS's involvement in charging for local authority services are not a means of charging for NHS community care services.

(c) The detailed arrangements in the Act

27. The Act requires the local authority or NHS body to satisfy themselves that any joint working arrangements would, in their opinion, be likely to lead to an improvement in the way in which the functions prescribed in Schedules 2 and 3 of the Regulations are exercised, including an improvement in the provision to any individuals of any services to which these functions relate. Again the question of improvement is certainly not limited to cost comparisons. The Executive envisages quality, results and other issues being part of that exercise.

(d) The content of the Regulations

28. The conditions for delegation of functions and pooling of budgets are prescribed in the Regulations as follows:

- Regulations 6 to 8 identify pre-conditions.
- Regulation 9 requires arrangements to be in the form of a written agreement.
- Regulation 10 sets out the arrangements for pooling.

- Regulation 11 sets out the content of the written agreement.

29. The arrangements for delegation and pooling are explained in further detail in Annex C.

Transfer of Staff

30. **Section 16** provides a 'safety net' for staff transferring from one employer to another under a partnership agreement. It sets out the legal effect of any change of employer and protects the existing terms and conditions of staff in such cases. This means that, in line with the principles of the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) 1981, no member of staff should be worse off as a result of a transfer and, unless they agree otherwise, staff will be entitled to retain their existing terms and conditions.

31. The detailed provisions are that:

- subsection (2)- a person's contract of employment transfers with the person;
- subsection(3) - the rights, powers, duties and liabilities of the transferring authority transfer to the receiving authority; and that any actions of the transferring authority in relation to the employee or his or her contract shall be deemed to be actions of the receiving authority;
- subsection 4 - ensures that an employee's right to terminate his or her contract is protected;
- subsection 5 - ensures that section 16 applies to people who have entered into contracts with the transferring authority which have not yet come into effect on the date of transfer;
- subsections (2) to (5) ensure that staff contracts, terms and conditions are not adversely affected by such a transfer.

32. Section 16 of the Act is therefore a powerful means of ensuring that anyone who it appears could be disadvantaged by a decision by local partners to transfer staff as part of the delegation of functions, would have their entitlements preserved. As local partners are aware, the Integrated Human Resources Working Group analysed the likely effects of the new flexibilities and made a number of recommendations for both the short and longer term. These have been accepted with one exception (the National Staff Forum) by the Executive, and arrangements are in hand to implement the report. The report made very clear, however, that significant changes of employment are not envisaged under the flexibilities: the more usual routes will be by secondment or attachment. The call on the powers in section 16 may therefore be very infrequent.

Scottish Ministers' power to require delegation etc. between local authorities and NHS bodies

(a) The enabling powers

33. **Section 17** of the Act gives Scottish Ministers the power to intervene where it is felt that the functions prescribed in Regulations 4 and 5 and Schedules 2 and 3 are not being adequately exercised, and that intervention would be likely to lead to an improvement. Under section 17 Scottish Ministers can:

- Direct local authorities or NHS bodies to delegate functions and enter into pooled funding arrangements;

- Direct local authorities or NHS bodies to enter into any other joint working arrangement as prescribed in Regulation 14 and Schedule 4 to the Regulations. (These cover a wide range of joint activities which local partners will recognise as every day forms of joint working, but which, if not in practice in any particular situation may have to be introduced under a Direction).
- Require local partners to make payments to one another under section 13 or 14 of the Act.
- Make a secondary direction to another local authority or NHS body where this is needed to make a joint arrangement work.
- Include in the Direction to local authorities or NHS bodies any other function not prescribed in the regulations where, in Ministers' opinion, it would lead to an improvement in the way in which the original functions in the Direction are exercised.

(b) The functions to which they apply

34. The functions to which the powers of Ministerial intervention apply are those specified in Regulation 13 and Schedule 2 (NHS) and Schedule 3 (local authorities) to the Regulations. They are set out in Annex D. But they do not extend to the functions in relation to surgical and other interventions, emergency ambulances and the State Hospital set out in Regulations 5(2) and (3).The scope is therefore broad – just as for the flexibilities.

(c) The detailed arrangements

35. In the passage of the Bill and in the consultation on the Regulations Ministers made that clear the powers in section 17 of the Act are powers of 'last resort'. They will only be used where earlier requests to improve services have been unsuccessful.

36. Ministers will have regard to a wide range of information on performance, including statistical returns, formal reports of inspectorate bodies, and material provided by NHS bodies or local authorities, as well as performance information in the Performance Assessment Framework (NHS PAF). Alongside that the Joint Performance Information and Assessment Framework will provide joint information on how individual partnerships are performing. NHS bodies and local authorities are themselves developing monitoring, supervision and accounting arrangements for all joint working arrangements, and this can provide further information on performance locally.

37. To support these measures being of "last resort", the first meeting of the Ministerial Steering Group agreed that an appropriate ladder of support/intervention should be developed jointly by the Scottish Executive, COSLA and NHSScotland. Work on that is about to begin.

38. Where all other reasonable measures have failed and Scottish Ministers, after consulting the local authority or NHS body concerned, are still not satisfied that services are being provided on an adequate basis they can issue a Direction requiring the local authority or NHS body concerned to take the action specified in the Direction. Ministers may only do this where the arrangements they include in the Direction would be likely to improve service delivery of the functions in question.

Action

39. As indicated in the covering circular, local partners, and more particularly the joint committee or partnership body established under the joint management arrangements, should consider how to maximise the additional flexibilities now available to obtain the best results for people locally, and to include the decisions in their first full Local Partnership Agreements due on 1 April 2003.

ANNEX B

PAYMENTS BY NHS BODIES TOWARDS CERTAIN LOCAL AUTHORITY EXPENDIUTRE/PAYMENTS BY LOCAL AUTHORITIES TOWARDS EXPENDITURE BY NHS BODIES ON PRESCRIBED FUNCTIONS

1. Section 13 of the Act allows an NHS body to make payments towards the local authority functions prescribed in regulation 2(1) and Schedule 1 to the Regulations. Section 14 of the Act allows a local authority to make payments towards the NHS functions prescribed in regulation 3(1) and Schedule 2 to the Regulations. Regulation 3(2), however, excludes payments in respect of emergency ambulance services. Under section 13, it is for the NHS body to decide, in consultation with the local authority, which of the functions to make payments towards. (The reverse applies to section 14 payments.) The local authority, or the NHS body as appropriate, must also satisfy itself that making such a payment would improve the way in which the authority's functions are exercised.

2. Under the Act, before making payment towards any of the prescribed functions the NHS body must satisfy the conditions in regulation 2(2)(a) and a local authority must satisfy the same conditions in regulation 3(3)(a). These are:

(i) that the proposed payment is likely to secure more effective use of resources than applying the equivalent amount on the provision by it of services in performance of any functions to which regulation 2 (for local authorities) or Regulation 3 (for NHS bodies) applies;
(ii) that the proposed payment is consistent with any local plan which relates to the function in respect of which the payment is to be made;
(iii) that, if the proposed payment is intended to meet or be applied towards capital costs in relation to the performance of any function to which this regulation applies, the amount of that payment shall be determined by the NHS body and the local authority before those costs are incurred; and
(iv) that the local authority/NHS body to which the proposed payment is to be made intends to meet the balance of costs incurred or to be incurred in the performance of the function in respect of which the payment is to be made for so long as the NHS body or local authority, as appropriate, consider necessary and desirable.

3. Most of these conditions are self-explanatory. Whichever agency is planning to make a payment needs to satisfy itself that doing so will provide added value. The Regulations refer to securing more effective use of resources than by spending on the body's own functions. What constitutes added value cannot be determined by central government. But the comparison should not be based on costs alone: factors such as quality and outcomes also need to be considered.

4. As regards consistency with plans, this is intended to apply not only to subject plans such as the Health Plan, the Community Care Plan or the Local Housing Strategy but also to higher level plans such as the local Community Plan. This reflects the growing joint approach to planning, in which health, social care and housing are key partners.

5. In terms of setting pre-conditions and, indeed, the content of the written agreement, the Regulations provide a framework for making payments. They do not cover points of detail, which are best left to local partners. It is for them to determine within the agreement, either for individual payments or payments collectively, aspects such as:

- what to do about non compliance, including penalties.
- management of under/overspends on planned expenditure.
- disputes about either payments or the level of expenditure against which they are made.
- withdrawal, partial or total, of a payment.

6. Once the conditions in para. 2 are satisfied the arrangements should be set out in a written agreement with the partner authority. Although the precise terms of the written agreement are for the partners to determine they have to include the items specified in regulation 2(2)(b) for an NHS body, and 3(3)(b) for a local authority. These are:
(i) the function or functions which are the subject of the agreement;
(ii) the specific objectives which the payment is intended to help secure and how the attainment of those objectives is to be measured;
(iii) the establishment and operation by the NHS body/local authority of systems of monitoring, accounting and audit in respect of the payment and performance of the function in respect of which it is to be applied;
(iv) the provision to the NHS body by the local authority or the local authority to the NHS body of audited accounts of expenditure against payments received at such intervals as may be agreed;
(v) variation of the amount of payment by the NHS body/local authority as a result of any variation in the level of service provided by the NHS body/local authority in performance of the function in respect of which the payment is made; and
(vi) consequences for the agreement where, in the event that the agreement is made in respect of the costs of acquiring land or buildings, such land or buildings are used for a purpose other than that for which the payment is made.

7. Many parts of Scotland have progressed from establishing the financial structures to determining how they will work, including many of the facets described in para 5 above. In terms of technical issues, local partners will wish to be aware of the following issues:

Accounting Regulations & Financial Instructions

UK generally accepted accounting principles, NHS accounting guidance and local government accounting regulations continue to be applicable to the activities of the respective local partners in joint arrangements.

Joint Property Developments & Transactions

The Community Care & Health Act 2002 and the related Regulations enable partners to transfer property or delegate functions to provide premises in support of joint working and achieve more effective use of resources. To encourage and facilitate the use of these regulations, the Scottish Executive is undertaking a review of existing NHS and local government property management guidance to identify areas where guidance needs to be strengthened to support partnership working and enable joint property development. This review is expected to report in early 2003. Meanwhile, the existing NHS guidance and local government regulations apply.

VAT Arrangements

Payments from one partner to another under the 2002 Act and Regulations should comply with current VAT legislation and the existing guidance on joint working between NHS bodies and local authorities published by HM Customs & Excise. We, together with HM Customs & Excise, are currently drawing up national VAT guidance on aligned budgets in Scotland, which we expect to introduce from April 2003. In the meantime, partners should ensure that they have addressed their VAT implications in respect of aligned budgets with their VAT adviser and local VAT inspector.

ANNEX C

DETAILED ARRANGEMENTS FOR DELEGATION AND POOLED FUNDING

Delegation and pooled funding

1. Section 15(1) of the Act enables local authorities and NHS bodies to delegate any of the functions prescribed in Regulations 4 and 5 and Schedules 2 and 3 to the Regulations and set out in Annex D of the circular; and, where they delegate, to make payments to their partner or establish and maintain a pooled fund. Making payments (as in sections 13 and 14) in effect maintains the aligned budget process. But where partners wish to support fully integrated provision and benefit fully from the decision to delegate functions, a more flexible pot of resources is required. Pooled budgets provide that more flexible pot, in a less bureaucratic way. The opportunity to delegate functions and pool budgets presents considerably greater flexibility, and requires accountability arrangements that demonstrate the continued accountability of both partners while setting out the day to day governance arrangements for the operation of the delegated functions and pooled budget. The host partners needs to account for its use in a similar way to any other payment between partners. The Regulations set out detailed arrangements for managing both delegation and pooling, as described below.

Consultation

2. Before entering into an agreement on delegation or pooled funding, partners are required to consult anyone likely to be affected by the arrangements. Although the scope of the consultation will depend on the actual proposals. Regulation 6 sets out the minimum requirements. These are:

No less than 8 weeks prior to the commencement of a proposed arrangement, the parties shall jointly-

- Publicise the arrangement that they propose to enter into by placing an advertisement, in a daily or weekly newspaper circulating in the area in which it is proposed the arrangement will operate; and
- Consult, in such a manner as the parties consider appropriate, such persons or classes of persons in the area in which the arrangement is proposed to operate, who, in the opinion of the parties, are likely to be affected by such arrangement.

The advertisement must-

- contain details of the proposed arrangement;
- contain an address to which representations may be made;
- include a date not less than 8 weeks from the date on which the advertisement appears before which representations may be made.

3. This aims to ensure that members of the public are aware of potential changes in the way care is provided and that appropriate parties are fully consulted on such changes. The latter element is not prescribed. This recognises that many areas already have effective arrangements not just for consulting but also the on-going engagement with representatives of, for example, the independent sector, people who use services, and carers. Others may have to develop suitable arrangements to that end. Staff and their professional bodies and trade unions should also be consulted.

4. Regulation 8 is more specific and requires partners to consult staff on any planned changes and to give them the opportunity to respond (see para. 7 below). Local partners may find helpful the following guidance on various forms of consultation:

How to Consult Your Users - http://www.servicefirst.gov.uk/1998/guidance/users/index.htm
Patient and Public involvement in the new NHS - http://www.doh.gov.uk/involve.htm.
Good Practice Guidance on Consultation with Equalities Groups - http://www.scotland.gov.uk/library5/social/gpgc-00.asp

Consistency of arrangement with local plans

5. Before partners enter into any arrangements on delegation or pooled funding, Regulation 7 requires them to ensure that the arrangements are consistent with local strategic plans. As indicated in paragraph 4 of Annex B this covers both subject and higher level plans for the area (e.g. Community Plans).

Staffing

6. The new flexibilities inevitably impinge on staff. But as the report of the Integrated Human Resource Working Group (IHWRG) makes clear, good management locally has a major part to play in smoothing transitions. It is therefore important that the views and needs of the staff likely to be affected are taken into account at an early stage in any plans.

7. Regulation 8 recognises the importance of staff in joint working. It addresses not only the need for staff to be provided for the services to be delivered under a joint arrangement, which partners must include in their written agreement, but also the particular need to engage fully with them. Partners jointly must:

- Consult staff as soon as possible in the planning process on the proposals for the arrangement and how they will be affected by it.
- Give staff affected by the proposals notice of the terms of its arrangement in advance of its commencement. This should include:
  - its commencement date;
  - its duration;
  - how they will be affected by it;
  - the grievance or other dispute resolution procedures which will be available;
  - any other appropriate matters.
- Give staff the opportunity to make any representations.

Integrated Human Resources Working Group (IHRWG)

8. This guidance has referred already to the important role of the IHRWG in this field. The Group was established in May 2001 to take forward the workforce issues arising from the Joint Future Agenda. Its report was consulted on between May and July 2002. The report contains recommendations for the short, medium and longer term and includes detailed proposals on:

- Developing a national staffing framework which will apply to staff from NHS bodies, local authorities and voluntary organisations involved in delivering Joint Future services - including suggestions on what should be included in this.

- Arrangements for the secondment and attachment of staff as part of joint working arrangements - including protocols for the secondment and attachment of staff.
- Organisational development - including suggestions on joint organisational development plans.
- Joint training - including suggestions on joint training plans.
- Education and training for health and social care professionals.
- The regulatory bodies who will have an interest in the human resource issues of the Joint Future Agenda.

9. The Ministerial Steering Group accepted all but one of the recommendations as the basis to progress staffing issues in the development of any joint working arrangements. The exception is the Scottish Staffing Forum (which will now proceed through other channels). Implementation of the short-term aspects will begin shortly.

10. If under the flexibilities staff from one professional group come under the management of another professional group, for example, in a team-based approach or under a single manager, local partners must ensure that the supporting staff have on-going professional lines of reporting and support to ensure their continuing professional expertise and development.

Notification to Scottish Ministers

11. Although the powers of Ministers in this section of the Act are significant, Ministers do not wish to approve or amend local arrangements directly. Local partners are required under Regulation 12, however, to notify Scottish Ministers of any arrangements on delegation or pooled funding as soon as practicable after they commence. The detailed arrangements will, of course, form part of the Local Partnership Agreement.

Arrangements for delegation and pooled funding - written agreement

12. Once a partner has agreed to delegate functions to another body and satisfied itself on the pre-conditions referred to above, it can agree to enter into joint resourcing arrangements. These may comprise straightforward payments to sustain the delegation (and therefore operate on an aligned budget) or put resources into a pooled budget. This means that resources including staff, money, equipment, property and other resources from within the separate agencies can be brought together to provide a single point for the planning, commissioning and delivery of services. This should result in more flexible use of resources, quicker decision-making and more streamlined processes. Regulation 10 (described more fully in from para. 14 onwards) sets out all the criteria for a pooled budget. Whatever these arrangements, local partners must specify them in a written agreement in accordance with Regulation 9.

13. The written agreement, which must contain the information below, is not intended to be legally binding. It supports effective joint working, rather than being a form of contract in its own right. If, however, by including other matters, local partners create private law rights, terms of the agreement may become more of a 'contract'. That is ultimately for local determination. The terms of the agreement must include the key elements set out in Regulation 11. Again they form a framework: local partners may add to them at their discretion. But every agreement must contain:

13.1 Names and addresses of the parties to the agreement.

13.2 Functions

The functions that local partners wish to delegate must be drawn from those prescribed in Regulations 4 and 5 and Schedules 2 and 3, and explained in further detail in Annex D, subject obviously to the range of exclusions. Where a pooled budget is agreed it can only be used for those functions specified in the written agreement.

13.3 Payments

There is no limit on payments or the size of a payment or a pooled fund. In a pooled arrangement, once local partners have agreed the functions they wish to include, they should agree the amount to be contributed to the budget to enable the service requirements to be met. These contributions do not have to be equal. Indeed it would be rare if they were. The contributions can then be used on any of the services in the pooled fund, where that is the preferred approach. As well as direct financial contributions, other resources such as staff, accommodation and related equipment can be included in the fund.

13.4 Aims and outcomes

Local partners must identify and agree the joint aims, outcomes and targets for the function(s) to be delegated. Where the functions are funded through a pooled budget the partners need to ensure that they do not restrict the aims and outcomes or the flexibility in that budget. Setting out the joint aims and objectives of the pooled fund is a prerequisite to commencing the arrangements, and is the means by which performance will be measured, especially by auditors who need to evidence expenditure against jointly planned targets and outcomes.

13.5 People to whom arrangements apply

Local partners will need to include in their written agreement a definition of the people to whom arrangements on delegation/pooled funding may apply. It will be for the partners to decide how to do this. They may simply wish to state that the arrangements will apply to anyone who satisfies the criteria for eligibility. Alternatively partners may wish to define in terms of client group, local authority or NHS body area.

Regardless of how partners define the people to whom these arrangements apply in their written agreement, they will need to develop and agree criteria for providing the services included in the arrangement. This will enable staff to assess eligibility for services, to monitor service provision and to account for the funds available. The criteria should be specific enough to enable staff to assess eligibility but flexible enough to provide access to the services available.

13.6 Provision of staff, goods, services and accommodation

The body delegating the function must provide the means to make it work. The written agreement should therefore include the staff (professional and administrative), related equipment, property, facilities, services and other resources to be included and, where a pooled budget is set up, the written agreement should include all the resources to be provided by both parties as part of the arrangements.

13.7 Duration, manner of review, variation, termination of and handling of any breach of the agreement

The written agreement should include the start and end date. Where there is no end date for the arrangement, partners should include a date for review. They should also include the procedures for variation or termination of the arrangements. This may include circumstances under which their arrangement will need to be reviewed, e.g. Best Value reviews, inspection recommendations, a change in service requirements, or disputes between the partners.

It will be for local partners to decide on the detailed procedures to include in their agreement but it is important that the following is covered:

- the Financial Framework and strategic financial assumptions;
- how any disputes are to be handled;
- how any issues concerning variation in funding will be dealt with;
- how any staffing issues will be dealt with;
- the timescale for any changes to the arrangement;
- notifying material changes to Scottish Ministers;
- notifying material changes to the general public.

The written agreement should also cover the steps should local partners decide to terminate any arrangement, such as:

- what will happen to the staff involved in the arrangement;
- how the service will be provided following termination of the arrangement;
- what will happen to joint assets;
- how any debts will be managed.

13.8 Monitoring

Local partners will need to agree arrangements to monitor the performance of any functions they delegate or include as part of a pooled fund arrangement. This is how they will report on their statutory responsibility, and should be included in the written agreement.

It will be for local partners to agree how they will monitor the arrangements but they should include:

- how they are achieving their agreed aims and outcomes;
- quality of service.
- proper and efficient use of public money;

Although the host body is responsible for the operational management of any arrangement, partners need to agree comprehensive performance management frameworks, including agreed targets, to enable the effectiveness of the arrangement to be measured. This will help staff and managers to consider how to improve performance and develop their work on an ongoing basis. The performance measures need to take account of all the services to be delivered as part of the arrangement.

The Joint Performance Information and Assessment Framework (JPIAF) is a nationally recognised framework consisting of:
- national key joint performance indicators;
- independent joint performance assessment arrangements; and
- a high level joint accountability framework, principally at local level.

The joint indicators it will contain start the process of joint performance measurement. And the arrangements for local accountability and reporting to the joint committee or partnership begin the process of joint accountability locally.

13.9 Handling of Complaints

It is important to recognise that under the wider arrangements for local service provision, local authorities and NHS bodies retain their responsibilities to the people who use their services. Both have formal complaints machinery to handle grievances. In most cases where services are delegated it will be self evident to whom a person should complain. But that may need to be spelt out as part of the arrangements for delegation. For issues in respect of the partnership itself, partners should develop a procedure that enables complaints to be handled effectively. They may, for example, want to set up a joint arrangement to that effect.

Particular requirements for a pooled fund

14. The requirements for the composition and management of the pooled fund are prescribed in Regulation 10. These are:

- the fund shall be composed of payments from at least 2 contributors, one of whom shall be a local authority and one of whom shall be an NHS body.
- the contributors shall jointly nominate one contributor to exercise the functions below:
  - holding the fund;
  - preparing and maintaining financial accounts in respect of the fund;
  - preparing the quarterly reports on payments into and out of the fund; an annual return; an audited memorandum account; and other information reasonably required by each contributor to monitor the effectiveness of the agreement.
- the reports, returns and accounts shall be submitted to the other contributors as soon as practicable after they are prepared and, any other information, on request.
- the audited memorandum account must be reproduced in the accounts of each partner.

This is largely self-explanatory. The Executive will be developing the form of the memorandum account as part of the updating the financial control systems generally. It will be sent to local authorities and NHS bodies.

Role of host body

15. Regulation 10 requires one body in the partnership to take on the responsibility for managing the pooled fund. Local partners will need to agree which of them is best placed to take on this role and to record this in the written agreement. Although this body ('the host body') takes on the responsibility for management of the pooled fund that does **not** remove the other partner's responsibility for the functions it delegates.

16. The host body must appoint a manager for the pooled fund. This can be someone from either organisation (or a new appointment). Partners should agree a plan with the pooled fund manager, setting out the services to be included, the eligibility criteria, and the intended clients as well as any performance targets to be met. They should also agree financial strategies to address underspends, overspends, inflation and efficiency savings. The pool fund manager will be responsible for managing the budget and reporting to the partners on the management of the funds and the achievement of the aims and objectives.

17. The host body is responsible for preparing monitoring reports on at least a quarterly basis (or such other frequency as the partners have agreed) and at the end of the financial year must arrange for the audit of the pooled fund. A copy of the audited accounts should be retained by the partners to the pooled fund.

Access to pooled fund

18. The pooled fund enables both health and local authority staff to access and take decisions on the use of the resources in the pool. The Fund Manager is critical to developing how this should be achieved. Local partners will need to specify in their written agreement the staff they wish to access the fund and agree a process to that end. They will also need to agree separately eligibility criteria for services under the pooled fund. This does not need to be included in the written agreement.

<u>Financial arrangements for pooled fund</u>

19. The written agreement should cover:

- how much each partner will contribute to the joint fund.
- whether payments can be varied from year to year and by how much.
- whether the payments made during the year can be varied and by how much.
- how the budget will be managed and spending limits adhered to.
- how any underspends/overspends will be dealt with.
- arrangements for managing inflation.
- monitoring arrangements.
- any separate contract arrangements for delivery of services.
- charging arrangements.

Charging

20. NHS services are free, but local authorities may charge for services such as residential and domiciliary care, other than aspects classified as free personal care. Charges for services should be made clear in any material produced by the partnership and should be clearly explained to users as part of their assessment. The care plan should include a written explanation of any charges, and users should be advised of their rights to make representations.

21. The collection of charges under section 87 of the 1968 Act is not one of the functions delegable under the Regulations. This is because, as the ultimate recipient of the resources, only local authorities can decide whether or not to charge, and whether or not to pursue individual cases where recovery is an issue. Some partnerships have however made their own local administrative arrangements for the collection of income - and subject to the fundamental principle nothing in the guidance should prevent that.

Audit

22. The host body is responsible for the accounts of the pooled fund. At the end of the financial year the host body must arrange for the accounts to be audited and for an audited memorandum account to be produced for inclusion in the accounts of both partners.

23. In addition to these provisions the host body will be responsible for maintaining full and accurate accounts of income and expenditure which must be audited and copied to the partner body at the end of the financial year. They should also agree a procedure for receiving in-year reports on the accounts. These should be at least quarterly but may be more frequent if they choose.

Wider Implications

Clinical governance

24. Clinical governance is an overarching framework that demonstrates clinical accountability and continuous improvement. It is a framework for clinical audit research and development, continuing personal development, critical incident review, and reflective practice. With social care staff now requiring registration, and with the advent of Care Standards, such frameworks although originating in the NHS, can have useful application in social care. For example, Northern Ireland has a clinical and social care governance framework for primary care and social services. Manchester Mental Health Partnership has also developed a "Service Governance" policy that extends the principles of clinical governance to cover their joint services. Applying Best Value and clinical governance to joint services, as others have done, requires positive leadership, training, support and strong partnership working.

Best Value

25. The Local Government in Scotland Bill, currently in passage through the Scottish Parliament, places a duty on local authorities to secure Best Value. Ministers have made clear their intention to extend Best Value to the rest of the public services in Scotland. Although Best Value may be seen to be a local government concept at this time, the principles apply both to the NHS and to any joint working arrangements under the Joint Future Agenda. Local authorities will need to apply Best Value principles before entering into any joint working arrangements. And where a local authority decides to delegate a function as part of a pooled fund agreement, Best Value will apply. This will, in turn, require the co-operation of the NHS partner who is providing and managing the service on behalf of the local authority.

26. The provisions on community planning in the Local Government in Scotland Bill will, once enacted, underpin the requirement for co-operation on Best Value. The Bill includes a provision that it is the duty of a Health Board to participate in community planning. As Best Value will be an integral part of community planning it follows that Health partners should consider the same principles in identifying any services for inclusion in pooled fund arrangements. This should be reflected in the written agreement on delegation/joint funding.

Registration and Inspection

27. The delegation of functions may have implications for the registration and inspection of NHS and local authority care services. Whether or not that materialises will depend on the precise arrangements for delegation, and whether this changes the management responsibility for a particular service or premises. The critical issue is whether or not the particular form of delegation means that the person 'providing' the service would change. 'Providing' in the context of the legislation means 'carrying out' or 'managing' a care service.

28. It would be possible in the full scale delegation of a service for the management of a care service to transfer from one body to another. But equally, other less comprehensive approaches, within the framework of delegation, would also be possible. In the circumstances, we advise local partners contemplating the delegation of functions to have regard to the implications for registration and inspection, and to consult the Care Commission at the outset.

VAT

29. Local authorities and NHS bodies are subject to different VAT regimes. Local authorities are able to reclaim VAT where it is incurred in carrying out statutory duties. Conversely, NHS bodies are treated as government departments for VAT purposes. They get refunds of tax on contracted out services from and are recompensed through their funding for VAT which cannot be reclaimed. Although the net effect is the same, partners need to be clear on the procedures that apply to joint activity.

30. Partnership arrangements and related service developments should comply with current VAT legislation and existing guidance on joint working between NHS bodies and local authorities published by the HM Customs & Excise. Decisions on future arrangements should be service based; and although different VAT regimes apply VAT minimisation should not be a deciding factor in determining who takes the lead on any specific project. Any project which is apparently designed to minimise the VAT burden may be subject to review by Customs and Excise.

31. HM Customs and Excise and the Department of Health have published VAT guidance for pooled budget arrangements in England and Wales. The Scottish Executive expects the principles contained in this guidance to be followed for any pooled arrangements under the 2002 Act and Regulations. This guidance is available on the Department of Health website.

32. HM Customs & Excise and the Scottish Executive are currently drawing up VAT guidance for aligned budget arrangements in Scotland, which is expected to be available in April 2003. In the meantime, each partner should consider VAT implications in respect of aligned budgets with its VAT adviser and local VAT inspector.

Direct Payments

33. Where a local authority delegates a function to an NHS body, and part of that function includes the making of direct payments to individuals for local authority services, the NHS body will make such payments as part of the overall service.

Data protection and sharing information

34. The sharing of information between professionals and, indeed, between agencies - appropriately and with consent - is an important part of providing integrated responses. There are already in place a variety of statutory provisions, e.g. the Data Protection Act, and others, (e.g. Confidentiality and Security Advisory Group for Scotland (C.S.A.G.S.) and the guidance on Single Shared Assessment) that enable sharing. The new arrangements in this circular need to fit the principles already established.

35. The most important feature of information sharing is to ensure that local partners engage with their clients on obtaining and sharing of information. To this end it is essential that the staff in local partnerships have training on the requirements for information sharing and data protection and that clear guidance is available to them. Partners, as advocated in the guidance on single shared assessment, need a protocol on information sharing. This may form part of the written agreement covering delegation.

ANNEX D

FUNCTIONS THAT CAN BE INCLUDED IN JOINT WORKING ARRANGMENTS INCLUDING PAYMENTS FROM ONE BODY TO ANOTHER, DELEGATION AND POOLED FUNDING

A. "COMMUNITY CARE" FUNCTIONS OF NHS BODIES

1. Sections 19(1) ,25(1), 26(1), 27(1), 36, 37 and 45 of NHS Scotland Act 1978

Section 19(1), 25(1), 26(1), 27(1) - provision of general medical, dental, ophthalmic services and pharmaceutical services.

Section 36- provision of hospital accommodation, including accommodation at state hospitals; premises other than hospitals for any functions under the Act and medical, nursing and other services.

Section 37 - arrangements for the prevention of illness, the care of persons suffering from illness and the after-care of such persons.

Section 45 - provision of ambulance services.

Functions of a National Health Service trust conferred by order under section 12A(**a**), or by delegation under section12AA(a)(**b**), of the 1978 Act.

B. FUNCTIONS OF LOCAL AUTHORITIES

1. Sections 4, 5A, 5B, 12, 12A, 12AA, 12AB, 12B, 12C, 13, 13A, 13B, 14 and 59 of the Social Work (Scotland) Act 1968

Section 4 - ability to make arrangements with another local authority, a voluntary organisation or a person who can assist with the performance of the local authority function.

Section 5A - preparation and publication of plans for the provision of community care services.

Section 5B - establishment of complaints procedures.

Section 12 - promotion of social welfare by providing advice, guidance and assistance and providing adequate facilities for these services.

Section 12A - assessment of the community care needs of any person living in the area and to decide whether they need community care services.

Section 12AA - assessment of the ability of a carer (if requested to do so by a carer) to provide and continue to provide care to a person eligible for community care services **(This section is not included in the functions for payment by an NHS body to local authority).**

Section 12AB- notification to a person who appears to be a carer that they may be entitled to an assessment of their ability to care under section 12AA **(This function is not included in those for payment by an NHS body to local authority).**

Section 12B and 12C - direct payments in respect of community care services.

Section 13 - assistance of persons in need to dispose of produce of their work.

Section 13A - provision of residential accommodation with nursing.

Section 13B - provision for care and after-care or do to do so when directed by Scottish Ministers.

Section 14 - provision of home help and laundry facilities.

Section 59 - provision of residential accommodation.

2. Sections 1 and 2(1) of the Chronically Sick and Disabled Persons Act 1970 (as amended by the Chronically Sick and Disabled Persons (Scotland) Act 1972).

Section 1 - provision of information as to the need for and existence of welfare services.

Section 2 (1) - provision of welfare services including practical assistance in the home; assistance in, travelling to and from the home for the purpose of participating in any services provided; assistance in carrying out any works or adaptation in the home or additional facilities required for greater safety, comfort or convenience; the provision of meals.

3. Section 8 Disabled Persons (Services, Consultation and Representation) Act 1986

Section 8 - take into account abilities of the carer when assessing the needs of a disabled person receiving care at home.

4. Sections 47 and 48 of the National Assistance Act 1948.

Section 47 - ability to place people living in insanitary conditions, who are unable to look after themselves, and are not receiving proper care, in suitable accommodation.

Section 48 - provision of temporary protection for property of persons admitted to hospitals etc.

5. Disabled Persons (Employment) Act 1958 - section 3

Section 3 - provision of sheltered employment**.**

6. Sections 7, 8, 9 and 11 of Mental Health Scotland Act 1984

Section 7 - functions of local authorities in relation to anyone who is or has been suffering from a mental health disorder.

Section 8 - provision of after-care services for anyone who is or has been suffering from mental disorder.

Section 9 - appointment of sufficient mental health officers and includes a provision that all mental health officers must be approved by local authorities. **(This function is not included in those for delegation/joint funding)**

Section 11 **-** provision of or securing the provision of suitable training and occupation for anyone over school age suffering from a learning disability.

7. Section 10 of the Adults with Incapacity (Scotland) Act 2000

Section 10 - functions of local authorities in respect of the supervision of guardians - there are investigative powers too. **(This function is not included in those for delegation/joint funding)**

8. Parts I (sections 1 - 8) , II and XIII of the Housing (Scotland) Act 1987

Sections 1 - 8 of part I - provision of housing.

Part II - duties in respect of homelessness and threatened homelessness.

Part XIII - grants in respect of improvements, repairs and conversions.

9. Part 1 of the Housing (Scotland) Act 2001

Part 1 - duties in respect of homelessness and allocation of housing.

10. Section 6 of the Community Care and Health(Scotland) Act 2002

Section 6 - agreements to defer payment of accommodation costs.