

National Care Service Bill

Responsibility & Accountability of Scottish Ministers, Complaints Process and Ministerial Powers to Intervene

Section 2 makes Scottish Ministers responsible for providing a National Care Service (NCS) designed to improve people's wellbeing. They are required to run it in ways that best reflect the principles. It is not prescriptive about how they do this. However, the explanatory notes say that:

“Conferring functions on care boards to provide, or arrange for the provision of, services is one of the ways in which they might fulfil that duty, in the same way as the Ministerial duty under section 1 of the National Health Service Act is in part fulfilled by service-delivery functions being conferred on health boards and special health boards.”

Section 3 gives them responsibility for monitoring and improving the quality of services delivered by the National Care Service. It makes them directly accountable for its continuous improvement.

Sections 14 and 15 require Ministers to establish a complaints process with a single point of access for complaints about NCS services. Complaints made through this portal will then be passed to the appropriate body to be addressed. The Scottish Government will co-design the complaints system with those with lived experience. Ministers must also ensure care boards and service providers have suitable complaints systems.

Sections 16 to 22 establish powers for Ministers to intervene with respect to care boards and contractors. For instance, in case of an emergency or of service failure.

This includes the power to remove all members of a care board if, following an inquiry, they're satisfied that the board has failed to carry out any of its functions. Section 17 clarifies that failing to carry out a function means failing to comply with any direction issued to them by Ministers.

Ministers can direct another person to discharge a function of a care board for the duration of an emergency. They can also give themselves or another care board the role of performing a function of a care board if it is deemed to have failed.

Ministers also have the power to intervene in an agreement with a third party for social care and, subject to obtaining a court's authorisation, in relation to a supply of goods and services to the NCS. The court is given wide discretion about the terms of an emergency intervention order. Such an order could authorise a person nominated by Ministers to enter the premises of the provider and take effective control of operations.