

POLICY NOTE

THE PUBLIC HEALTH SCOTLAND ORDER 2019

SSI 2019/336

The above instrument was made in exercise of the powers conferred by sections 2(1)(b), (1A), (1B), (1C) and 105(6) and (7) of the National Health Service (Scotland) Act 1978 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Purpose of the instrument: The purpose of the instrument is to constitute a new Special Health Board to be called Public Health Scotland and to specify the functions to be undertaken by it.

Policy Objectives

The new Board will consolidate a number of health functions into a single body, including functions and activities currently undertaken by NHS Health Scotland (a Special Health Board established under the Health Education Board for Scotland Order 1990), Health Protection Scotland and Information Services Division (both Divisions of NHS National Services Scotland (“NSS”). This instrument sets out the functions of Public Health Scotland. Public Health Scotland will have a key leadership, intelligence and innovation role in developing a whole system approach to improving and protecting the public’s health, with an increasing focus on early intervention, self-management, preventing ill health and reducing health inequalities. Public Health Scotland will be responsible at national level for the public health domains of health improvement, health protection and health care improvement (known as healthcare public health), supported by data and intelligence functions. The instrument also enables Public Health Scotland to provide services in respect of public health related research, development, training and education.

This instrument dissolves NHS Health Scotland and makes a number of consequential amendments to account for the transfer of functions and activities from NHS Health Scotland and NSS.

Consultation

A six week public consultation was launched in May 2019 seeking views on the role, structure and expected functions of Public Health Scotland, with discussion of its proposed interface with other bodies, partnerships and statutory frameworks. This followed recommendations from a Review of Public Health in Scotland (report¹ published 2016) and the publication of Scotland’s Public Health Priorities² in 2018 by Scottish Government and the Convention of Scottish Local Authorities (COSLA).

Respondents to the public consultation expressed broad support for the establishment of Public Health Scotland and the proposals contained within the consultation. Some sought more clarity on the specific use of the functions in practice and the detail of the anticipated relationship with other bodies and partnerships, however these comments did not affect the content of this instrument. Scottish Government will address those particular points as they further develop

¹ <https://www.gov.scot/publications/2015-review-public-health-scotland-strengthening-function-re-focusing-action-healthier-scotland/pages/1/>

² <https://www.gov.scot/publications/scotlands-public-health-priorities/>

the structure and operating model for Public Health Scotland. A full list of those consulted and who agreed to the release of this information is attached to the consultation report³ published on the Scottish Government website.

Impact Assessments

The establishment of Public Health Scotland should lead to improved health and wellbeing outcomes for the entire population in Scotland. The following impact assessments have been completed and are attached:

- *Equality*: no negative impacts.
- *Fairer Scotland Duty*: no negative impacts.
- *Child Rights and Wellbeing*: no negative impacts.
- *Data Protection*: no negative impacts.
- *Islands Communities*: no negative impacts.
- *Business and Regulatory*: no negative impacts that are not mitigated by positive public health impact. Public Health Scotland will participate in and report on public health investigations into commercial activities and the practices of private businesses where they pose a health hazard, through the powers inherited from Health Protection Scotland, but only in cases where it would be in the interest of public safety. In addition, health improvement activities and initiatives could adversely affect commercial activity and the sale of products that are detrimental to health and wellbeing, in order to achieve population health benefits.

Pre-screening was undertaken for environmental effects and it was identified that a strategic environmental impact assessment was not required. There are no strategic environmental impact issues arising from this instrument.

Financial Effects

The impact of this policy on businesses and the third sector should generally be positive. The focus on cross sector collaboration should enable more partnerships with private business and the third sector, using their products and expertise to improve key public health services. The only negative financial impacts on businesses would be in relation to evidence-based interventions necessary to protect or improve the public's health. The creation of Public Health Scotland will consolidate and strengthen the existing public health assets, enabling better targeting and coordination of resources through the effective use of intelligence and data science. This transition to integrated preventative and early intervention solutions based on proven evidence of need and impact, should ultimately help reduce financial pressure across the whole system of health and wellbeing.

In relation to the structural arrangements for public health, the Scottish Government is continuing to assess this but will work to the principle that funding will follow function. That is to say that where an existing function is moved to Public Health Scotland, existing funding resources will be moved in line with this. NHS Scotland is responsible for a budget of around £14 billion per year, approximately 156,000 staff and provides services to a population of around 5.5 million. Of that, Public Health Scotland will be responsible for functions that are currently funded by a budget of around £61 million. Of this, there is a core recurring budget of around £35 million and additional in-year funding of around £26 million (subject to demand). It is estimated that there will be approximately 1,100 members of staff within Public

³ <https://www.gov.scot/publications/public-health-scotland-analysis-responses-public-consultation/>

Health Scotland. Work is currently ongoing to conduct due diligence on the identified existing funding resources, which will then inform Public Health Scotland's starting budget.

There have been and will continue to be start-up costs associated with establishing Public Health Scotland and its Board. These are being met by Scottish Government and include the costs of the wider public health policy work and support for the whole system. The expenditure in 2017/2018 was £115,000, and in 2018/19 was £1,548,000.

Scottish Government
Population Health Directorate
October 2019