

These notes refer to the Health and Social Care (Community Health and Standards) Act 2003 (c.43) which received Royal Assent on 20 November 2003

HEALTH AND SOCIAL CARE (COMMUNITY HEALTH AND STANDARDS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 –Standards

Chapter 10 – Supplementary and General

Joint working

Section 120: Co-operation etc

271. *Section 120* places a duty on both the CHAI and the CSCI to co-operate with one another where it seems to them appropriate to do so for the efficient and effective discharge of their respective functions. This will in particular allow the CHAI and the CSCI to co-ordinate their work programmes.
272. *Subsection (2)* provides for regulations to prescribe circumstances where the CHAI and the CSCI must consult each other in relation to the proposed exercise of their functions. It is envisaged that in many of the instances where it would be desirable for the CSCI and the CHAI to co-operate, that they would do so without needing to be asked by the Secretary of State. However, there will be instances where co-operation will be essential and it is considered necessary to be able to make regulations to specify the circumstances in which co-operation may be necessary. Regulations may require the CHAI and the CSCI to consult each other before carrying out inspections of a particular type of service, for example, a mental health facility providing integrated health and social services provision, in order to reduce the burdens on those subject to inspection, or could require the CHAI and the CSCI to consult each other on the contents of their respective work programmes.
273. *Subsection (3)* gives the CHAI and the CSCI the power to delegate their functions to one another. *Subsection (4)* allows for the CHAI and the CSCI to enter budget-pooling arrangements, subject to prescribed conditions. It is anticipated that these conditions will relate to matters such as the requirement to keep proper accounts in respect of pooled funds.

Section 121: Reviews and investigations

274. *Subsection (1)* provides for the CHAI and the CSCI to conduct joint reviews and investigations with one another. This will allow for the joint inspection of bodies such as NHS Care Trusts.
275. *Subsection (2)* with *subsection (6)* provides that, without prejudice to any other powers which they may have, (for example by virtue of their general power to do anything which appears to them necessary or expedient in connection with the exercise of their respective functions) the CHAI may conduct a joint review, investigation or study

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with any other body (for example Audit Commission or the Housing Commission) that is carrying out a review or investigation relating to the functions of an NHS body. *Subsection (3)* makes the same provision for the CSCI where another body is conducting a review, investigation or study of the functions of a local authority. Following a joint review, investigation or study, the CHAI and the CSCI may publish, under *subsections (5) and (6)* a report in conjunction with the body they worked with.

Section 122: Joint Annual Reviews

276. *Section 122* allows the Secretary of State to make regulations that would specify that CSCI and CHAI must carry out a joint review and award a star rating of certain health and social care services provided jointly where a local authority and a health service body (such as an NHS trust or Primary Care Trust) have entered into a partnership arrangement under a section 31 of the Health Act 1999.
277. *Section 31* allows health and social care bodies, such as local authorities, primary care trusts (PCTs) and NHS trusts to form partnerships to improve the provision of health and social care services. This is used to provide services which involve elements of both health and social care provision. The key powers that section 31 provides are the abilities to pool funds and delegate functions to enable integrated provision and lead commissioning (where partners come to an agreement that one of them will take the lead in commissioning services for their mutual benefit). Many different types of health and social care services are provided under the arrangements and these can vary widely with respect to size and the amount of resource involved. Services commonly provided under a section 31 partnership include services for older people, rehabilitative care, child and adolescent healthcare and mental health services.
278. This section introduces a broad regulation making power that would enable Secretary of State to prescribe certain services for which a review should be carried out should this be deemed appropriate in the future. For example, regulations could specify that all jointly provided mental health services provided under a section 31 partnership should be subject to a joint annual review by the CHAI and the CSCI.
279. Such a joint review would enable a separate performance rating to be given for the jointly provided service, in addition to separate health and social care ratings. This would recognise the jointly provided service as something distinct and would be able to demonstrate whether it had added any value to the service provision.

Section 123: Power to assist

280. *Section 123* provides for the CHAI or the CSCI to assist other UK public authorities with the exercise of their functions. This will allow for the CHAI or the CSCI to provide assistance to each other, or to other bodies, for example, the Office for Standards in Education (OFSTED), the Housing Inspectorate or Her Majesty's Inspector of Prisons. Assistance could include matters such as seconding employees to the other inspectorate, assisting them in devising their inspection criteria or providing one off advice in relation to areas where the other body has expertise.