HEALTH AND SPORT COMMITTEE

Health and Care (Staffing) (Scotland) Bill

SUBMISSION FROM Social Work Scotland

Introduction
Social Work Scotland is the professional leadership body for the social work and social care professions. We are a membership organisation which represents social workers and other professionals who lead and support social work across all sectors. We have members from NHS, local authorities, third and independent sectors.

Social Work Scotland agrees with the principle that robust workforce planning and evidence based workload methods support high quality care and better outcomes for individuals. Social Work Scotland does not agree, however, with the necessity for legislation to advance staffing methods to ensure safe and effective staffing levels. Nevertheless Social Work Scotland has taken the approach that as legislation is enacted it is important that social work should be included in the provisions of any Act to promote integration and avoid any unintended consequences which could emerge if non regulated social work staff are, as is proposed, excluded.

The Position of Social Work

Social Workers, practising within non regulated services, undertake complex statutory work in supporting vulnerable people in the areas of public protection, including child protection, adult support and protection, mental health and justice work. This work is characterised by interventions which 'affect personal lives, individual rights and liberties'. This group of staff, often working within multi-disciplinary teams, are excluded from the provisions of the bill as proposed.

The bill as it is currently drafted represents a missed opportunity and Social Work Scotland is concerned that it will not fulfil its policy intentions in a number of ways:

- The exclusion of non-regulated social work staff runs counter to the ethos and intentions of the Public Bodies (Joint Working) (Scotland) Act 2014 and may lead to the unintended consequence of diverting limited resources to those groups of staff within the scope of the legislation
- The proposed duties for Care Inspectorate shifts the responsibility, and potential resource, for developing workload methods from the sector to the regulator. This risks compromising the role and flexibility of professional leaders in developing workload methods for their local context and services.

The Place of Social Work and Integrated Working

Social Work Scotland fully supports the aim of health and social care integration to provide flexible and responsive care around the needs of individuals. It is therefore

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Important that policy and legislation supports the development of new approaches and integrated teams in which professionals work together alongside individuals in preventative and personalised ways. In its exclusion of social work the bill does not provide a coherent legislative framework regarding appropriate staffing across integrated health and care services.

Social Work Scotland agrees with the policy memorandum to the bill in its assertion that it is important that robust evidence is available to support decisions about staffing when services are re-designed across multi-disciplinary teams. We remain concerned, however, that the bill will not achieve this aim. The exclusion of social work from the bill means that there is a risk that the effect given to findings of staffing methods within multi-disciplinary teams may be partial. While we anticipate that the principles of the bill and any staffing methods would be applied to the multi-disciplinary team as a whole, the legal to duty to decide what changes to staffing (if any) are needed as a result of the application of the staffing method will only apply to health care professionals. This may mean that priority is given to the health staff within any multi-disciplinary team and will send a mixed message about the value of other groups of staff. This will undermine the principles of integration and the flexibility of local partnerships to develop and deliver bespoke approaches to meet need.

**Development of Workforce Planning**

Social Work Scotland supports the ambition of the policy to enable further development of suitable approaches by and for the sector. We are impressed by the resource and commitment afforded to the nursing profession to develop, test, and evaluate staffing methods over a long period of time. In particular, we highlight the fact that these workload and workforce planning tools were developed by the profession. We note that they are described in the policy memorandum as ‘ground breaking’. Within the field of social work, Social Work Scotland believes there is a need for robust and transparent staffing methods to be developed for the social work workforce undertaking complex work in the area of public protection. During the consultation period Social Work Scotland argued that while legislation was not necessary, we saw the bill as an opportunity to enable robust and resourced development of staffing methods for this critical part of the workforce. As it stands, the bill does not afford development of workload methods for the social work workforce. Nevertheless the recently published Part 2 of the National Health and Social Care Workforce Plan, provides opportunity to progress workforce planning and we welcome the explicit recommendation to developing social care and multi-disciplinary workforce planning tools within the plan. It is vital, however, that this is professionally led and resourced adequately to achieve the aim of improving workforce planning within social work. It is also crucial that this bill does not divert resources and so diminish the potential impact of the National Health and Social Care Workforce Plan or that any activities associated developing tools within the recommendations of the plan are skewed towards legal requirements leading to a further diversion of resources from non-regulated social work.

**Part 3: Functions of the Social Care and Social Work Improvement Service**
Social Work Scotland has concerns about the significant powers given to the Care Inspectorate within Part 3 of the bill in respect of both developing staffing methods and recommending their use to Scottish Ministers.

Social Work Scotland believes that professional leaders should lead the work of developing staffing methods, in collaboration with employers and regulators. This would be consistent with the ‘ground breaking’ approach adopted for nursing and midwifery. Within the Care Inspectorate Improvement strategy 2017-18, they highlight that ‘research tells us that improvement should be done by those closest to the front line in order to make changes that are appropriate, sustainable and truly improve the lives of those experiencing care’ (p.7). This principle should apply to making improvements to workforce planning. We note that within the provisions of the bill the Care Inspectorate ‘must collaborate’ with employers and representatives of providers and users of services whom the Care Inspectorate consider appropriate. However, we think this falls short of the policy objective of developing suitable staffing methods by and for the sector and will risk losing sight of local professional knowledge and expertise. Social Work Scotland believes the Care Inspectorate, as an improvement service, has a critical role in supporting this process but not leading it.

Social Work Scotland is also concerned that the Care Inspectorate will have the power to recommend to Scottish Ministers tools it has developed. This leaves them in a very powerful position without due checks and balances. It is important that care providers are part of recommending the use of staffing methods under regulation to Scottish Ministers. The duty placed on the Care Inspectorate to “collaborate” does not afford such a guarantee.

Within Part 2 of the bill, Health Improvement Scotland does not have an equivalent role. Under Section 121B(c) the Health Board is only required to take account of any assessment of HIS in applying a common staffing method. HIS will not lead their development, which we presume will continue to be professionally led. In terms of the policy objective to create a coherent legislative framework regarding appropriate staffing across health and care, we do not think the differences in provisions for developing and applying the tools support this.

**Unintended Consequences**
Social Work has concerns about unintended consequences arising from the exclusion of social work from the bill.

- It may impact negatively on recruitment and the attractiveness of social work/social care as a profession if other professions are seen to benefit from legal safeguards in relation to assessing safe and effective levels of staffing
- The bill does not represent a whole systems approach and may compromise the intentions of integration to provide innovative local multidisciplinary services around the needs of individuals.
- There is a significant risk that limited resources within integration authorities may be directed towards meeting any potential increased staffing costs of those services which have legally mandated methods and tools. The bill, as it is currently drafted, may
therefore have the paradoxical effect of undermining the integration principles of improving outcomes for individuals that it is designed to assist.

- Social Work Scotland notes that Fostering and Adoption services are regulated. The provisions of the bill will apply to this group of social workers, whereas social work teams carrying out public protection duties do not. The bill has therefore created the perverse position in which social workers managing high levels of risk in the community will not be covered by the same safe staffing legislation as their colleagues assessing and supporting foster carers.

Financial Consequences
There is a risk if financial constraints mean there are insufficient resources to provide staffing resources to the required safe and effective levels. There is also a risk that local authorities and NHS Boards would require to absorb such costs by reducing services elsewhere that do not fall within the scope of the legislation.

The focus on regulated services may have the unintended consequence for commissioning and procurement if staffing cannot be agreed in a collaborative way. Commissioners may see smaller providers as unsustainable and this will reduce choice for individuals and impact on market facilitation.

The language adopted to describe these tools and methodologies – safe and effective – is largely used in health settings. While, applicable to social work and social care settings, this requires caution. Social care practice involves the management of risk in community settings, and this means managing uncertainty. Consequently, the introduction of such tools and methodologies should support risk based practice, but can never eliminate the potential for unplanned or undesired outcomes.