HEALTH AND SPORT COMMITTEE

HEALTH AND CARE (STAFFING) (SCOTLAND) BILL

SUBMISSION FROM NHS Lothian

Do you think the Bill will achieve its policy objectives?

Yes, in part.

The Bill if passed will put the use of the workforce tools and the acknowledgement that the outputs from running the tools need to be acted upon, onto a firm legislative footing. However the failure to allocate funding to the policy threatens to either affect the rigour with which the findings will be applied or affect investment into other priorities with consequences in other parts of the health system.

The concern that most Health Boards and management teams will have is the capacity and the ability to be able to run the tools frequently and effectively and then to be able to respond not only to the outputs from the tools but from a day to day perspective of having staffing shortages.

This is where the escalation process will also be very important. We are supportive that there needs to be such a process but it will be important that this is contextualised and measured in terms of what the criteria are for escalation and what that response is and that the Executive Nurse Director has the ultimate sign off in relation to staffing levels. We would see escalation being within the various levels of management within a Board and only being escalated out-with a Board area when there is a failure to address shortages and where there may be staff and patient safety concerns that remain unresolved.

What are the key strengths of Part 2 of the Bill?:

It clearly articulates responsibilities and expectations of Health Boards / and other bodies and creates a “common method” across Scotland.

There is an opportunity for staff to be more widely engaged in reviewing safe staffing levels.

The ability to look at the roles that others e.g. Allied Healthcare Professional’s and that skill mix can play in ensuring safe and effective patient care, although the tools do not currently take other roles (except the Emergency Department tool) into account therefore it will be difficult to be consistent in the approach taken across Scotland in the extent of the contribution attributed to other roles. This will hopefully be considered in terms of future iterations of workforce tools for other professional groups.

That there is a focus around patient safety and the need to ensure that we have taken the appropriate steps to ensure that the right level of staffing/skill mix is in place to meet the needs of patient acuity/need.
The professional advisory role of the senior nurse / Nurse Director is recognised in the “common method”; however this needs to be made clearer, especially in relation to organisations accountability in the application of the legislation. The Executive Nurse Director should be the identified role for the provision of clinical advice to the process. In carrying out this function the Executive Nurse Director may opt to delegate this function to an appropriate deputy or chief nurses but the final accountability should rest with the Executive Nurse Director for all nursing and midwifery staffing across the Board area. Ideally the Executive Nurse Director would also provide professional advice to independent contractors (e.g. GPs) recruiting nursing staff.

Nurse staffing budgets will be based on professionally agreed, risk assessed, prioritised processes taking account of the tools and the other factors in the triangulation of the “common process”. This may however lead to conflict between the professional view and the operational requirements / Board priorities / available funding. It will therefore be important that other managers such as service managers and senior operational managers and hospital directors are also familiar with the tools and the process.

Escalation is a good thing and it will be important to ensure that this is well designed within local arrangements. Escalation through any national scrutiny body on a day to day basis would potentially be detrimental and would not be advocated. Escalation where there are pressures that are out-with a Boards area of control and where external support would add value would be welcomed.

Escalation from ward / department level has to be supportive and have the capacity to put in place remedial measures operationally in a timely, realistic and pragmatic way. The assurance / escalation from senior nurses / Nurse Directors may be more appropriately managed through governance groups with the remit to challenge on behalf of the Board, e.g. Board sub committees before escalation to Healthcare Improvement Scotland or the Scottish Government.

The legislation recognises that there is a requirement to review workload and available nursing and midwifery staffing resources daily at a ward / team level and to review the safety, quality and risk management at a hospital or community level. The policy memorandum refers to this as professional judgement. It must be noted that the extant professional judgement tool does not operate on a day by day basis and does not track changes in patient acuity in real time. There are tools available that have this functionality and one such tool is used by NHS Lothian to provide a real time assessment of the staffing levels against the patient acuity.

What are the key strengths of Part 3 of the Bill?:

That staffing will have an equal priority in the care sector.

That tools will be developed to support the care sector in setting realistic staffing levels.
What are the key weaknesses of Part 2 of the Bill?:

The tools are almost exclusively nursing and midwifery focused (with the exception of the emergency care tool) yet the entire Multi Disciplinary Team impacts on the quality of care and the patient experience not nursing / midwifery alone. Additionally the tools are viewed as a nursing and midwifery resource, therefore there needs to be a shift in this to promote the tools as a management resource that can be utilised by Human Resource, finance and service managers in relation to service redesign.

The Bill relies on the extant NMWWP tools which would benefit from a refresh both in relation to the platform (technical) upon which they sit and the sensitivity to patient acuity (the measurement of the intensity of nursing care required by a patient. e.g. nurses operating in advanced roles and higher levels of functioning with patients with more intense needs, such as the administration of intravenous drugs in the patients home) as opposed to patient dependency which the current adult inpatient tool uses.

There is a lack of capacity within Boards to manage the common method across the full range of tools and to align the outputs with the workforce and financial planning cycles with the current resources available to do the analysis required in this work. The capacity is also linked to the frequency with which tools are used. The current NHS Lothian resource could not facilitate any more frequent use than the annual rolling programme that is currently in place. The benefits of any more frequent use in relation to budget and establishment setting is not clear, unless there is significant service development.

The Bill is trying to do two different things using one set of tools. The common method describes a distinct process which uses the extant tools to do the finance / workforce planning for the establishment setting on an annual basis.

The day to day review of staffing requires a different approach to provide an assessment of the right number of nursing staff with the right knowledge, skills and experience, in the right place at the right time in real time and appropriate tools such as the SafeCare Tool, used by NHS Lothian, which applies a twice (or three times) daily census of patient acuity to the available staffing determine the extent to which patient needs can be met and allows senior decision makers to deploy the resources to the optimum.

Other factors to bear in mind:

- Those tools used only annually are not familiar to staff
- Those tools used annually do not consistently deliver outputs useful to the planning cycle (as may not be used / reported on at a time that feeds the planning or financial cycles)
- Some tools (Community, Perioperative, Emergency Department) are extremely time consuming and staff are unwilling to participate

The perception of what is safe and what has been agreed may differ and we need to ensure that this doesn’t in turn become an area of tension between staff and managers.
What are the key weaknesses of Part 3 of the Bill?:

Whilst it is recognised that the Bill is set out in two parts to reflect the two different regulatory bodies the Bill is not capitalising on integration between health and social care in blurring the staffing that may be deployed across the partnerships. By this we mean the opportunity to look at staff education and training and the opportunity for enabling skill mix and cross cover at times when staffing levels may be reduced in one area.

The current complete absence of tools for social care and the proposal to develop only one tool over the next five years will continue to give a siloed approach to staffing across health and social care.

What differences not covered above might the Bill make?

Other staff groups might feel that their contribution is not appropriately recognised.

The potential for resources to be diverted to nursing and midwifery to meet the mandatory requirement could be to the detriment of other professional's contribution to the care of patients.

Increased competition for the available workforce across health and social care.

Consistent approach and ability to benchmark staffing levels across Scotland.

Opportunity to develop workforce planning capacity and skills in the nursing profession.

Engagement with staff and patients / families and carers around staffing levels.

The consequences on workforce requirements and the need for the Scottish Government to make provision to train more nurses and midwives.

The scrutiny and sanction is not clear in the Bill. The scrutiny of application should be independent to the bodies charged with developing the tools (HIS and the Care Inspectorate). It is important that the sanction is proportionate, applied only where there is persistent, prolonged failure to act by a Board. The scrutiny and sanction arrangements should provide a first level opportunity for organisations to flag with the Scottish Government wider issues, like supply or financial resources to engage the required level of staffing. This may be best reviewed by Audit Scotland.

There is a lot of work going on in Scotland to develop new roles, to encourage modern apprenticeship and other access to employment. The tools do not lend themselves to embracing these roles which do not make a full contribution during training periods.