HEALTH AND SPORT COMMITTEE

HEALTH AND CARE (STAFFING) (SCOTLAND) BILL

SUBMISSION FROM NHS Ayrshire and Arran

Do you think the Bill will achieve its policy objectives?

Nursing staff already have a professional accountability to the Nursing and Midwifery Council (NMC) to raise and escalate concerns about patient safety or the level of care people are receiving but the Bill if passed will put the use of the workforce tools, and the acknowledgement that the results need to be acted upon, onto a legislative footing.

The concern that most 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 being run but from a day to day perspective.

When developing guidance to support the Bill there will need to be clear information for Boards on how compliance will be monitored / measured. 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 is the expected response and accountabilities.

In those specialties and areas where there is an absence of an appropriate tool to provide reliable baseline data it is difficult to see how a credible consensus on staffing numbers could be derived, so including these specialities in the legislation will not provide any greater protection than already exists. It also needs to be acknowledged that the current workforce staffing tools are not all the same – some could be described as activity or time and motion tools, whilst others are much more in depth with regard to acuity, patient need and professional judgement. The H&SC landscape also requires the development of robust multi disciplinary team tools.

The Bill anticipates no increase in costs. There are potential costs if Health Boards are required to consider increasing staffing using a different risk based approach, this could also involve the use of supplementary staffing.

Colleagues in social work within the H&SCP s do not consider that legislation is necessary to achieve the outcomes specified, however, as legislation is being brought forward, it is important for social work to be included to avoid unintended consequences of:

- Limited resources within integrated authorities being diverted to those staff groups (nursing) where staffing methods are mandatory;
- An unhelpful message to the social work workforce that they are not as valued;
- Workforce planning methods having only a partial, or a distorting, impact in multi-disciplinary teams within integration authorities. This will have the paradoxical effect of undermining integration.
**Strengths**

**Part 2:** The intentions of the Bill are admirable and use of a standardised and robust approach across Scotland should support decision making to be more transparent and allow comparison. It clearly articulates responsibilities and expectations of health boards / agencies 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 skill mix 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 or individual requirements.

The professional advisory role of the senior nurse / Nurse Director is recognised in the “common method”; however this needs to be made much clearer, especially in relation to organisations’ accountability in the application of the legislation. The Executive Nurse Director must be the identified lead role for the provision of clinical advice to the process.

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 method”. This may however lead to conflict between the professional view and the operational requirements / Board priorities / available funding. It will therefore be important that ‘others’ such as service managers and senior operational managers and 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 a well designed local arrangement in place as escalation through national scrutiny bodies on a day to day basis would potentially be detrimental to effective delivery of care. It has to be supportive and have the capacity in place to take remedial measures operationally in a timely, realistic and pragmatic way.

**Part 3:** Some areas feel this is a welcome extension and the use of a standardised and robust approach across Scotland will allow decision making to be more transparent and allow comparison. However as noted there is concern not all staffing groups are included.

**Weaknesses**

**Part 2:** 121A ‘Duty to ensure appropriate staffing: It is the duty of every Health Board and the Agency to ensure that at all times suitably qualified and competent individuals are working in such numbers as are appropriate for- ...(b) the provision of high-quality health care’.
There are concerns that high quality is not always achieved currently, depending on changing service pressures and capacity to respond at short notice to changes. If this standard is to be achieved then additional investment in services is needed.

The tools in Community do not measure case load complexity and unlike ward environments which have an explicitly set out maximum capacity against resource required, community services currently have to absorb demand like sponges which can drive down quality.

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, there needs to be a shift in this to promote the tools as a management resource that can be utilised by HR colleagues, finance colleagues and service managers in relation to service redesign. The Bill, whilst making provision for both health and social care staffing and proposing tools specifically be developed for social care services, does not make provision for staff working across organisational boundaries where both groups of staff work in one multidisciplinary integrated team.

The lack of capacity within Boards to manage the “common method” of use of the tools 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 common method and the current tools do not lend themselves to frequent review, the aspiration of an annual rolling process in each area should be the entry level, any more frequently will create a hefty workforce planning and analysis ask that is not currently resourced in Boards.

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 in reference to the acuity of the patients.

The Bill as it stands does not offer the Executive Nurse Director as having the ultimate sign off for the nursing and midwifery staffing levels, this should be integral to the Bills provision.

The Bill might increase the challenges for staffing between the NHS and the Care Home sector. With the impending pay awards for NHS Staff there may be an additional pressure brought to bear in relation to Care Homes being able to compete with the health service in terms of their ability to recruit staff and in turn provide safe and effective staffing levels.

Part 3: There are 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. The Care Inspectorate, as an improvement service, has a critical role in supporting this process but not leading it.
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 silo approach to staffing across health and social care.

It is important to be explicit how this will apply to private/third sector partners that provide health and social care.

**What differences not covered above might the Bill make?**

- 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.
- Opportunity to develop workforce planning capacity and skills in the nursing profession.
- Engagement with staff and patients / families and carers around staffing levels.
- 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.
- The requirement to review / revise the predicted absence allowance and the consequential cost of implementing any increase.