HEALTH AND SPORT COMMITTEE
HEALTH AND CARE (STAFFING) (SCOTLAND) BILL
SUBMISSION FROM HEALTH AND SOCIAL CARE ALLIANCE SCOTLAND (the ALLIANCE)

The Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for a range of health and social care organisations. It brings together over 2,200 members including a large network of national and local third sector organisations, associates in the statutory and private sectors and individuals. Many NHS Boards, Health and Social Care Partnerships and Primary/Community Care practices are associate members and many health and social care professionals are Professional Associates. Commercial organisations may also become Corporate Associates.

This response has been informed by discussing the Bill directly with ALLIANCE individual members, all of whom have experience of health and care support and services, living with long term conditions and/or as unpaid carers.

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

The general principle of the Bill - to ensure appropriate staffing in the NHS - is important to ALLIANCE members. In discussion we heard experiences of understaffing in a number of NHS services which could be improved by the introduction of both appropriate and ambitious staffing tools and the resources required to make adhering to these tools possible. ALLIANCE members felt that outcome standards should be issued alongside any staffing tools to ensure uniformity of expected standards.

ALLIANCE members welcomed the emphasis placed on the local context in which healthcare is provided. They pointed towards the differences between the delivery of urban and rural healthcare and the problem of recruiting suitably qualified staff in remote and rural areas, whether to work in hospital wards or in the community, as justification for broadening consideration of the local context.
What are the key strengths of Part 3 of the Bill?

The general principle to ensure appropriate staffing of social care support and services is welcome. As the Bill identifies, suitable and competent individuals, who have been properly trained to complete their role, are critical to supporting people who use social care services to enjoy their human rights. ALLIANCE members remain concerned that social care support and services are challenged by the fallout of the United Kingdom leaving the European Union which could have a significant impact on the social care workforce and we would encourage the Committee to consider the Bill within this context.

What are the key weaknesses of Part 2 of the Bill?

Much of the future success of the Bill hinges on the development of new “speciality specific” staffing tools, which this Bill gives Ministers the opportunity to define through future regulations. As such, assessing the potential impact on existing support and services is difficult.

We are concerned that, as introduced, there is no obligation in the Bill to consult directly with people who use support and services in advance of publishing guidance in relation to the staffing tools. Whilst we welcome the commitment the Bill makes to ensuring that consultation will be carried out with “others” the Scottish Government considers appropriate, we believe a stronger commitment should be made to ensuring views of people who use support and services are heard. At the very least “representative groups of people who use NHS support and services” should be added to section 121F (3). This process should reflect best practice gathered through the Our Voice programme¹.

The ALLIANCE also believes that some further clarity should be added to outline how Health Boards are expected to “take into account” views to identify best practice it receives. This should note how this will be monitored and what action will be taken if a Health Board does not take these views into account. Health Boards must define the values expected of staff in the delivery of care around compassion, caring and person-centred care and the values staff can expect from Health Boards as supportive employers.

Members of the ALLIANCE also noted that more clarity was required in the Bill on what the consequences are for health and social care bodies if they do not meet their obligations under the Act. The Committee should consider whether the role of an independent body to oversee safe staffing levels would be appropriate.

¹ https://www.ourvoice.scot/
The ALLIANCE believes that more clarity is required on which health care services are NOT subject to the Bill and the reasons why. Our members have expressed concerns about shortages of GPs, particularly in rural and remote areas of Scotland\(^2\), yet they are not subject to the Bill. The ALLIANCE also believes that reference should be made to the range of services across Scotland which rely on the employment, training and engagement of a range of Allied Health Professionals (AHPs). Ensuring that these services are well staffed and governed is critical to the provision of safe, effective and person centred NHS services.

Section 12IC (i) of the Bill identifies that mental health and learning disability units are subject to Part 2 of the Bill. It also notes that the location of this type of healthcare is “Mental health and learning disability units in hospitals” and relevant employees are “Registered nurses”. Mental health services are often provided in the community through a Community Psychiatric Nurse, and not in a hospital. Forensic mental health services also have an important role in supporting people with mental health problems. We would encourage the Committee to make sure that these services are covered under Part 2 of the Bill.

**What are the key weaknesses of Part 3 of the Bill?**

Our members welcomed the reference in Part 2 of the Bill to taking account of the local context for healthcare, however this is not replicated for social care support and services in Part 3. We believe that this is just as, if not more, relevant to social care and therefore the Bill should be amended to add a reference to the local context within which support and services operate at Section 6 (2) in the Bill.

We would like Committee members to seek more clarity on the role of commissioners with regards to the bill. The procurement of care services should require for commissioners to bear some responsibility for ensuring that providers are adequately supported and funded to meet safe staffing obligations.

Part 3 of the Bill could be improved by ensuring that any assessment of appropriate numbers of staff for a care service makes explicit reference to the needs and number of unpaid carers in that area. The role unpaid carers can play in supporting the design of appropriate services, as well as requiring support and services themselves, is often undervalued and must be recognised within this Bill.

Part 3 outlines that Ministers may publish related guidance and outlines a range of consultees, however this does not currently include reference to Integration Authorities who plan, design and deliver social care services across Scotland. We

believe that the Bill should be amended to ensure they are appropriately consulted alongside people who use support and services.

The ALLIANCE also encourages the Committee to consider whether this Bill could have implications for people who manage their own Self-directed Support packages and may employ numerous paid carers to support them. We believe that the Scottish Government should closely consider the potential implications of this Bill in relation to the Social Care (Self-directed Support) (Scotland) Act 2013³.

What differences, not covered above, might the Bill make? (for example: will the Bill have any unintended consequences, will it ensure that staffing levels are safe, does the Bill take account of health and social care integration, how are 'safe and high-quality' assured/guaranteed by the Bill?)

The general principles define a “purpose of staffing health and care” at 1(1a), however our members believe that this is limited in its definition of the role health and social care staff can play in supporting people who use support and services. The ALLIANCE believes this should go further to make reference to staff as defenders and enablers of the rights of people who use support and services and/or in supporting people to achieve their personal outcomes (defined in the Self-Directed Support (Scotland) Act 2013)⁴.

We are concerned that the principles outlined in 1(1b) are reliant on a perceived consistency with the purpose of health and care staffing as outlined in 1(1a). We believe that a clearer explanation is required of the relationship dignity and rights have with the creation of “safe” and “high quality” services from the perspective of people who use support and as defined by Ministers.

We believe that the general principles of this Bill could be strengthened by also taking into account the following principles as included in the Public Bodies (Joint Working) (Scotland) Act 2013 for example:

- A focus on improvement of support and services
- Planning and engagement of the local community
- Anticipation of future need and prevention.

The general principles refer to the rights of “service users”. The Social Security (Scotland) Act 2018 avoided this and referred directly to “individuals who have received assistance”. We believe that it would send out a strong, positive message if the term “service user” was replaced throughout the Bill and “people who use support and services” was used in its place.

Reference also needs to be made to unpaid carers in the Bill’s general principles. The role unpaid carers can play in supporting the design of appropriate services, as well as requiring support and services themselves, is often undervalued and must be recognised within this Bill.

The ALLIANCE’s members particularly welcome the explicit mention of rights in the Bill’s general principles. Human rights based approaches (HRBA) are fundamental to the direction of travel of public service delivery in Scotland and embedding human rights explicitly within legislation, guidance and policy provides a powerful tool to drive improvement. The ALLIANCE encourages the Committee to explore with the Scottish Government how this development is aligned with Scotland’s new Health and Care Standards. We believe that the rights of staff should also be acknowledged in the guiding principles.

For More Information

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