Health and Care (Staffing) (Scotland) Bill

Bill Number: SP Bill 31B
Introduced on: 28 May 2018
Introduced by: Shona Robison MSP (Government Bill)
Passed: 02 May 2019
Royal Assent: 06 June 2019

Passage of the Bill

This Scottish Government Bill was introduced by the Cabinet Secretary for Health and Sport, Shona Robison MSP, on 23 May 2018. The Health and Sport Committee was designated the lead committee on the Bill. The Committee issued a call for views on the general principles of the Bill which ran from 6 June to 1 August. A staff survey was also issued. The main themes to arise from the written submissions were included in the SPICe briefing on the Bill.

The Committee took oral evidence on the Bill at its meetings on 11, 18, 25 September and 2 October. It also took evidence in private and held an informal session with NHS staff. The Committee published its stage 1 report on 26 November 2018.

Consideration of amendments at stage 2 took place at the Committee meetings on 29 January and 5 February 2019.

Following the stage 3 debate on 2 May 2019, the Bill was passed and received Royal Assent on 6 June 2019

Purpose and objectives of the Bill

The purpose of the Bill was to ensure the provision of appropriate staffing in health and care service settings. The Policy Memorandum states that this requires the right people, in the right place, with the right skills at the right time to ensure the best health and care outcomes. To further this purpose, the Bill sought to place the use of an existing, but enhanced, workforce planning method (tools) on a statutory footing. The use of the 'common staffing method'
would be required in certain specified health settings. The Bill also enabled the development and validation of appropriate staff planning methods for other health and social care settings, initially for care homes.

The aim was to ensure safe and appropriate staffing using clear, evidence-based methodologies, and to create parity of legislation across health and social care settings.

The Bill also set out guiding principles for health and care staffing and staff planning to ensure safe and high-quality services while taking the views of service users and staff into account.

**Provisions of the Bill**

The key provisions in the Bill included:

- Setting out a set of guiding principles to apply equally to health and social care staffing arrangements, taking into account people’s needs, dignity, rights, views and ensuring that staff are allocated efficiently and effectively.

- Amending Section 121 of the National Health Service (Scotland) Act 1978 to create a duty to ensure appropriate staffing, while having regard to the guiding principles, working in such numbers as appropriate to provide high-quality health care and the health, wellbeing and safety of patients.

- A duty to follow a common staffing method using evidence-based methodologies

- A duty on care service providers to ensure appropriate staffing, having regard to the nature of the care service, its size and its aims and objectives.

- The development of staffing methods would start with care homes for adults and would be developed by Social Care and Social Work Improvement Scotland (SCSWIS) – commonly known as the ‘Care Inspectorate’.

**Parliamentary consideration**

In its [Stage 1 Report](#), the Committee made a number of recommendations and observations on the Bills’ provisions. The Committee concluded that the aim of the Bill was unobjectionable but it made suggestions on areas where improvements could be made, such as monitoring of compliance, real-time staffing pressures, the role of Ministers in national workforce planning to support the Bill’s objectives, and the wellbeing of staff.
A **SPICe Briefing** outlines consideration of the bill prior to stage 3. The briefing also discussed the key amendments that were laid at stage 2, and which were and were not agreed to. Over stages 2 and 3, the key areas of debate included:

- Outcomes focus for individuals, staff wellbeing and training
- The recognition of other health professionals, especially allied health professionals, in the context of multi-disciplinary working and teams
- The duties of commissioners of health and care services – IJBs and local authorities. Amendments sought to clarify responsibilities and accountabilities in the context of recruitment challenges
- Strengthening compliance and reporting requirements in relation to the duties
- The responsibilities of Ministers in ensuring an adequate supply of staff
- Introducing a duty to implement processes to assess and escalate real-time staffing issues and associated risks
- Non-caseload holding senior charge nurses
- Extending staff training and development beyond applying results of methodologies
- A new section placing a range of duties on NHS Healthcare Improvement Scotland in the monitoring and development of tools and methodologies to establish appropriate staffing requirements
- Enhancing the rights of staff working in social care
- Under Section 4(2) there is a new duty relating to limiting fees paid for agency staffing and reporting them when they exceed 150% of the full-time equivalent paid to an NHS employee doing the same job.