

## **Appendix 1: Health and Care Staffing (Scotland) Bill: A Briefing**

### **Introduction**

In the spring of 2017, the Scottish Government began consulting on [proposals](#) to require health and social care organisations to apply nationally agreed, evidence based workload and workforce planning methodologies and tools; and ensure that key principles underpin workload and workforce planning and inform staffing decisions.

In a [second consultation](#), the Scottish Government also proposed a duty that would maintain but replace the existing requirement placed on care service providers through Regulation 15 of The Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011; and for the Care Inspectorate to work with the social care sector to develop and validate workload and workforce planning tools for use in specified settings.

This engagement culminated in the introduction to Parliament of the [Health and Care \(Staffing\) \(Scotland\) Bill](#) on 23 May 2018.

### **Overview**

The aim of the Bill is to “provide a statutory basis for the provision of appropriate staffing in health and care service settings, thereby enabling safe and high quality care and improved outcomes for service users”. The Bill will place a legal requirement on NHS boards and care services to ensure appropriate numbers of suitably trained staff are in place, irrespective of where care is received. Expected commencement of duties is 2019-20.

### **Key implications for the SSSC**

The Bill includes provision for the Care Inspectorate to work in collaboration with the care sector to develop and validate appropriate staffing methodologies and tools. This will apply to care home settings for adults in the first instance, with powers for ministers to extend this function to other settings in the future.

This legislation is just one aspect of the workforce planning activities undertaken by the Care Inspectorate and SSSC. The Care Inspectorate and the SSSC worked with a wide range of experts to support the development of the Safe Staffing Bill and subsequent legislation. As part of the implementation, the Care Inspectorate in partnership with the SSSC is leading the work on tools for care homes for adults including workload planning and workforce planning. The SSSC is leading work on the implementation of the National Workforce Plan, which includes work on career pathways and the development of a professional framework for practice in social care and social work

The Policy Memorandum also states:

It is the Scottish Government's intention that care homes for older people would be the first care setting for which a tool is developed, building on existing work on a dependency tool for use in care homes. Given the timescale experienced in developing a tool in health settings and the importance of ensuring that the process of developing a tool suits the care settings and does not simply impose a process developed in health settings, the Scottish Government anticipates that there will only be one tool developed in the next five years within the care setting.

Focusing on care homes for adults in the first instance acknowledges uncertainties raised during recent engagement on the workability of the policy approach in other settings. This will provide an opportunity to test out and evaluate an appropriate approach and its impact on quality of care and people's experiences, and will assist the Care Inspectorate and the Scottish Ministers in considering whether this scope should be extended in future.

## **Summary of the Bill**

### Part 1 – Guiding Principles for Staffing

Section 1 sets out guiding principles for the provision of health and care staffing, stating that the primary purpose of staffing for health and care services is to provide "safe and high-quality services" while taking account of a number of factors, such as needs and rights of 'service users' and the views and wellbeing of staff.

Section 3 also places a duty on local authorities and integration authorities to have regard to the guiding principles, and the duties imposed by the Bill on care service providers, when commissioning care services.

### Part 2 – Staffing in the NHS

This part makes a number of changes to the National Health Service (Scotland) Act 1978 to introduce duties on ensuring appropriate staffing for all geographical Health Boards, Common Services Agency and Special Health Boards. New section 12IA makes equivalent provision for the NHS to the existing staffing duty on care service providers in Regulation 15 of the Social Care and Social Work Improvement Scotland (Requirements for Care Service) Regulations 2011.

### Part 3 – Staffing in Care Services

Section 6 restates in primary legislation the existing duty on care service providers in Regulation 15 of the Social Care and Social Work Improvement Scotland (Requirements for Care Service) Regulations 2011. Section 11 repeals the existing provision set out in Regulation 15.

Section 6 (1) places a duty on a person who provides a care service to ensure that they have a sufficient number of qualified and competent individuals working in their service to be able to provide care that ensures, at all times, both the health, wellbeing and safety of their service users and the provision of high quality care. Subsection (2) then lists the factors which providers must

have regard to in ensuring they have the appropriate number of staff to achieve those aims, including the nature, size and aims of the service, as well as the number and needs of service users.

Section 7 replicates a further aspect of Regulation 15, setting out that a care service provider must ensure staff have received appropriate training for their role, as well as providing assistance to employees to obtain relevant qualifications. This includes providing time off work. Subsection (2) provides that the training duty includes the use of any staffing method prescribed in this Bill.

Section 8 allows ministers to publish guidance on carrying out duties introduced by the previous sections but establishes that certain people and organisations must be consulted.

Section 9 defines key terms for this section, including that a “care service” means a service mentioned in section 47(1) of the Public Services Reform (Scotland) Act 2010 and that “working in a care service” includes working paid or unpaid, and working as a volunteer.

Section 10 amends the Public Services Reform (Scotland) Act 2010 by introducing powers for the Care Inspectorate to develop staffing methods for use by those providing care home services for adults, in the first instance, but with the possibility of extension to other care services through future regulations.

### **Scrutiny of the Bill**

The [Health and Sport Committee](#) is leading scrutiny of the Bill. The Committee issued a call for evidence, receiving [70 submissions](#), followed by a range of oral evidence sessions. The Committee heard from witnesses such as Health Secretary Jeane Freeman, the Care Inspectorate, Healthcare Improvement Scotland, the Scottish Social Services Council and several representative bodies.