

STAGE 1 DEBATE: HEALTH AND CARE (STAFFING) (SCOTLAND) BILL

The Royal College of Nursing (RCN) position on the Health and Care (Staffing) (Scotland) Bill

The RCN supports the principles of the Health and Care (Staffing) (Scotland) Bill.

Nurses and health care support workers across Scotland are working tirelessly to provide the very best care that they can to patients. The reality is, however, that because of staff shortages, issues with the skill mix of teams and ever increasing demands on services, there are times when the staff working are not able to meet the care needs of their patients.

The Bill before the Parliament presents an opportunity to get the right number of staff, with the right skills in the right place so that patients receive safe and effective care.

Ahead of the publication of the Bill, the RCN set out six key tests which the legislation should meet if it is to have a positive impact on patients and staff in practice. Those six tests are set out below.

Positive outcomes: Positive outcomes for people and staff must be at the heart of decision making.

A strong professional voice: Nursing leaders, whether at a ward, team or governance level, should be able to exercise their professional judgement about whether there are the right number of nursing staff with the right knowledge, skills and experience, in the right place and at the right time.

Informed decision making: All decisions about staffing for nursing teams must be based on data and evidence, which is robust, up to date, and used appropriately.

Responsibility, accountability, real-time action and long-term planning: Organisations must take responsibility for providing the right number of nursing staff. Staff should have the right knowledge, skills and experience and be deployed in the right place and at the right time to provide safe, high quality care to patients.

Scrutiny and sanction: There must be public scrutiny of staffing for safe and effective care and sanction if the law is not met.

Staff to care for people across Scotland: This legislation is a starting point. Work must continue to ensure that Scotland has the health and care staff it needs across nursing and other disciplines. The Scottish Government must take responsibility for ensuring a supply of nursing staff that meets demand.

The Bill before Parliament - Part 1

The guiding principles set out in Part 1 ground the Bill in delivering positive outcomes for those using and delivering services. The RCN supports these principles which will apply across health and care settings.

The RCN believes further debate is necessary at stage 2 on the principles which apply when commissioning health and care services. People should be assured that wherever they receive care there are the right staff to provide it safely.

The RCN seeks assurance that accountabilities on commissioners will enable health and care providers to staff services appropriately.

Part 2

A duty on NHS boards to provide appropriate staffing at all times is established.

NHS boards are also placed under a duty to follow the common staffing method in certain health settings where a nursing and midwifery workload and workforce planning tool exists. The common staffing method must remain relevant. Methodologies and tools should therefore be well maintained; reviewed and developed timeously, and retired as appropriate.

The Bill should be amended to state that HIS would lead such work in partnership with stakeholders.

The common staffing method is a process to set a staffing establishment. It does not work in real time to assess whether the right number of staff, with the right skills are deployed to provide safe and effective care. The lack of a process by which to identify, monitor and mitigate risks related to staffing in real time is a significant omission.

The RCN has serious reservations that the Bill will not deliver in practice if it is not amended at stage 2 to capture the need for ongoing monitoring and escalation of risks related to staffing. Such real time risks would put the NHS board's ability to meet its duty to provide appropriate staffing in jeopardy. Patient care would likely suffer.

The RCN agrees with the Health and Sport Committee's report which states at section 88 that "professional judgement must be an essential part of this Bill". Whilst the Policy Memorandum makes clear the importance of a triangulated process for decision making which takes into account professional judgement, professional advice is not included in the provisions of the Bill, apart from at the conclusion of the common staffing method.

There is substantial further work required at stage 2 to strengthen the role of the professional nursing voice. Nurses should be enabled to exercise their professional judgement in the process to set the staffing establishment. They also have a central role in considering whether staffing levels and skill mix are appropriate to the situation on the ground. The RCN will seek amendments to this effect at stage 2.

Senior charge nurses are integral to the daily delivery of safe care in acute settings. They must be given the time they need to fulfil their clinical leadership role. Senior charge nurses should have non-caseload holding status; meaning that they are not counted in the number of nursing staff required to provide direct care to patients. Similar provisions should be made for clinical leaders in community teams.

The RCN will seek an amendment at stage 2 on the non-caseload holding status of senior charge nurses and clinical leaders in community teams.

The sole provision on reporting set out at 12IE is insufficient. A robust reporting and scrutiny process must form part of legislation which seeks to set standards by which to assure the public on staffing for safe care. The RCN believes some form of sanction is appropriate where there is a persistent failure on the part of an NHS board to fulfil its duties. A robust reporting, scrutiny and sanction framework can support improvement.

Any scrutiny and sanction must enable frank discussions around the reasons for NHS boards being unable to meet their duties.

Given the record high vacancy rate of 5.3% in June 2018 and current vacancy rate of 4.8% in nursing and midwifery across Scotland's NHS, for example, it is conceivable that supply could be a national issue.

Robust reporting, scrutiny and sanction frameworks should be added to the Bill at stage 2.

The Scottish Government must take responsibility for ensuring an adequate supply of health and care professionals. Likewise, it must be open to the additional funding which may be required as a result of the legislation. This could be required for additional staff; investment in education and training; and/or the rolling review of the methodologies and tools being used.

The Scottish Government should be under a duty to ensure supply.

Part 3

The RCN agrees with the principle expressed by the Health and Sport Committee that the public should be assured that they 'are being looked after adequately with care, professionalism and dignity' no matter where care is received.

The RCN is concerned about services where clinical care is delivered by nursing staff. The increasingly complex clinical needs of many people in care homes require the professional knowledge and skills of registered nurses. The focus on the Bill in considering a staffing methodology for adult care homes is welcome. The commissioning process and the multiplicity of providers in the care sector does make agreement on the way ahead a significant challenge. Nevertheless, it is a challenge which must be met if the integration of health and social care is to succeed.

Conclusion

The Health and Sport Committee's stage 1 report echoed the tone of its evidence sessions in recognising that delivering staffing for safe and effective care is about more than putting workload and workforce planning tools on a statutory footing. The report highlights the need to listen to the judgement of highly skilled professionals when taking staffing decisions; recognises the need to have sufficient flex in the system to adapt to real time changes in patient dependency/acuity; and it grasps the need to use robust data and methodologies to deploy staff effectively and to plan for the future. **The RCN asks MSPs to vote in favour of the general principles of the Bill at stage 1.**

RCN member survey on staffing

Last year the RCN carried out a survey of its members. The survey asked members about staffing on their last shift. Over 3000 frontline nurses and health care support workers from Scotland responded.

- Half (51%) said that their last shift was not staffed to the level planned and 53% said that care was compromised as a result.
- 54% reported that they didn't have enough time to provide the level of care they would like.
- 47% said that they felt demoralised.
- 61% of respondents worked extra time – on average 46 minutes at the end of their shift.
- Over a third (34%) said that because of a lack of time they had to leave necessary care undone.

Key workforce statistics

- The nursing and midwifery vacancy rate stood at 5.3% (3,311.2 WTE) in June 2018, the highest number of vacancies ever reported. One in twenty nursing and midwifery posts in NHS Scotland is vacant (4.8% vacancy rate at Sep 2018, 3022.2 WTE; up from 4.5%, 2791.2 WTE, Sep 2017). [ISD](#).
- There has been an increase in the number of nursing and midwifery posts vacant for three months or more - over 1000 WTE. This stood at 1.6% (1,017.0 WTE) Sep 2018; up from 1.3% (827.9 WTE) Sep 2017. [ISD](#).
- As at Sep 2018 38% of the nursing and midwifery workforce in Scotland was aged 50+. [ISD](#)
- For the 2019/20 academic year there is to be a 7.6% increase in the intake, bringing the total to 4006 nursing and midwifery places. [This means an additional 283 students across Scotland's universities.](#)
- The Auditor General's report on the NHS in Scotland published 25th October 2018 set out workforce pressures facing the NHS in Scotland. [Audit Scotland Report.](#)

What do RCN members say on staffing levels, the difference having the right staff makes, and why the Scottish Parliament should legislate?

"The only reason we had enough staff today is because we had bank staff." [Band 5 nurse, community]

"We had enough staff for the patients. But in mental health we have attack respond situations and, no, for most of the night we wouldn't have been able to assist staff if a colleague had been under threat of physical violence." [HCSW, mental health]

"Within theatre we always have the right staff – you can see patients getting the right care. But we get patients back on the ward saying we're not going to ask for help because we can see there are not enough nursing staff. That means that they suffer." [Band 6 theatre nurse, maternity]

"I don't think there are any problems which we have at the moment which better staffing wouldn't solve." [HCSW, mental health]

"It would mean that I wouldn't leave work feeling guilty; I wouldn't feel bad that patients hadn't received the care that they needed; I wouldn't feel bad that I was leaving colleagues short and unable to manage the workload." [Band 5 nurse, mental health]

"When you're short staffed, the workload is the same, you have to get round everything. You are constantly chasing your tail; you're anxious; you're rushed. Having the right staff changes that." [Band 5 nurse, out of hours care]

"I would like to believe that things can change." [Band 5 nurse, primary care]

"It's quite obvious now that leaving it up to individual employers isn't good enough. The inducements aren't there to do it. There's no push, there's no pull. It won't happen otherwise." [HCSW, mental health]