

## **BRIEFING: Coronavirus Bill 2020**

The Royal College of Nursing (RCN) is the professional body and trade union representing 450,000 nursing staff across the UK.

### The Legislation

The Coronavirus 2020 Bill is time limited to two years, enabling governments across the UK to enact or cease emergency powers when required. There must be full parliamentary scrutiny of their use at regular intervals. **As soon as these powers are no longer needed, their use must be stopped with the advice of not only the Chief Medical Officers but also the Chief Nursing Officers of the four home countries.**

These temporary emergency measures must not set a precedent for what is accepted in normal conditions. Furthermore, powers included in this Bill must not be used to dilute standards or make changes to existing health and care regulations and standards which put nursing staff or patient care at risk.

### **1. Increasing the available health and social care workforce**

Registered nurses, midwives and nursing associates across the UK are required to be registered on the Nursing and Midwifery Councils' (NMC) register in order to practice. The Coronavirus Bill proposes a temporary emergency register which would come into force once an emergency has been triggered by Secretary of State. The temporary emergency register – held by the NMC - would enable some nursing students to choose to opt in voluntarily, those who have retired within the last three years, and those who are on the register but not working clinically at the moment, to register and enter service. Our members entering the workforce must be safe, supervised and remunerated. We are expecting further clarity on supervision arrangements for both students on placement and emergency registrants through guidance developed by CNOs across the UK, as set out in the joint statement<sup>1</sup>.

#### Nursing students

It is important that all appropriate measures for increasing registered nurses into the workforce are explored. Within temporary emergency measures if individual students choose to opt in they must be given contracts, job descriptions with roles that are evaluated and remunerated, and receive protection through employment status and conditions.

They must not enter the workforce as registered nurses until they have completed their programmes in full, have been assessed and are able to join the full register. If required, students must be supported to return to a full pre-registration degree on a supernumerary basis after the emergency measures have come to an end. Arrangements need to be made urgently to ensure the longer-term flow of newly qualified nurses into the workforce is not negatively impacted.

#### Registered nurses returning to practice

Retired nurses have a wealth of knowledge and experience to draw upon. With the right safety measures and regulation, they could provide important support for nurses currently working in the NHS. Recent retirees who have left the register within the past three years must be supported to return to practice with the necessary revalidation requirements fulfilled. We expect the NMC to be able to find ways in which revalidation can be completed effectively during this emergency.

If there is an issue relating to a member of nursing staff whilst temporarily registered that leads to consideration of their removal from the temporary emergency register, the NMC

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<sup>1</sup> Joint statement on expanding the nursing workforce in the Covid-19 outbreak: <https://www.nmc.org.uk/news/news-and-updates/joint-statement-on-expanding-the-nursing-workforce/>

would be expected to pay attention to the context in any cases that arise and ensure fair processes. A full human factors approach must also be considered when reviewing any incidents which occur including the staffing levels and skills mix at the time of the incident as well as working conditions.

### Indemnity

The NMC and employers are accountable for fulfilling their roles in ensuring patient and public safety. Under emergency measures, every effort must be taken to maintain safe staffing practices. There is already comprehensive indemnity cover for NHS nursing staff working across all sectors including primary care provided through the state-backed schemes of Clinical Negligence Scheme for Trusts (CNST) and Clinical Negligence Scheme for General Practice (CNSGP). This includes cover for those working via bank or agency and the self-employed.

In case any nursing staff provide backfill to release nursing colleagues in various settings, fall outside these schemes while responding to the Covid-19 crisis, the Government must provide a safety net of blanket indemnity cover in the Bill. Volunteers must also be confident that the indemnity clause in the Bill ensures they have comprehensive cover too in order to protect them while they carry out their roles.

### Pensions

We support the removal of the pension-related financial barriers for nursing professionals and health care staff affected by returning to work under these emergency measures.

## **2. Easing the burden on frontline staff**

We are commenting on the specific aspects of the Coronavirus 2020 Bill which have an impact on nursing staff and the people in their care.

### Mental Health Act detention and treatment

Increased periods of detention will undoubtedly have an impact on approved mental health professional (AMHP) resource; this workforce is already overstretched, and will no doubt see a decrease in staff numbers as sickness increases too. Mental health professionals are an essential part of the process of ensuring that patients get the care they need swiftly, and measures should be put in place to meet increased demand.

Availability of appropriately situated inpatient beds is a further concern as well as the capacity for visits and further assessment prior to discharge which is usually performed by Community Mental Health Teams and Care Coordinators.

The majority of AMHP roles are filled by social workers. This overreliance on a single profession has resulted in a higher level of risk during this crisis. This situation highlights the need to increase opportunities for registered nurses to take on this role in order to make sure that vital services remain available to the public.

### Local Authority care and support in England

The Care Act 2014 currently imposes explicit duties on Local Authorities (LAs) to ensure they provide support to some of the most vulnerable people in society. However, Covid-19 may make it impossible for LAs to continue to undertake the usual detailed assessments and need to be able to prioritise care in order to protect life and reach rapid decisions.

Nursing staff and carers alike remain concerned about the implications of LAs reprioritising their services. We require clarification on what happens to patients who are currently receiving care but are then assessed as not a priority during the crisis. This would put pressure on other frontline services such as A&E. Guidance must be made available to LAs and to health care staff to ensure consistency and transparency about decision making.

We are concerned that in this crisis, individuals may be placed in care settings because of a lack of capacity in other parts of the health and care system. In these cases, individuals should not be liable to pay for their care as suggested in the Bill.

### **3. Containing and slowing the virus**

#### Detention of people with or suspected to have Covid-19

Any measures to detain people who may have or who are suspected to have Covid-19 must be proportionate, fair and include access to health care and advice as required.

### **4. Managing the deceased with respect and dignity**

#### Registration of deaths

The Bill allows a medical practitioner to certify death irrespective of whether he/she was in medical attendance during the deceased's last illness. Nurses cannot sign death certificates under current legislation, despite verifying death on a routine basis and they will be faced with having to verify death and input into decisions as to whether a death is expected or not. We believe this should be extended to include nurses as well as medical practitioners. There needs to be guidance to support this in the context of COVID-19 and what to do if the deceased has not seen their GP in last 14 days. The Chief Coroner must publish guidance.

### **5. Supporting people**

#### Statutory Sick Pay (SSP)

Changes to rules on SSP are a step in the right direction. However, the RCN is calling for the government and employers to ensure that staff who are absent from work due to Covid-19 receive full occupational sick pay from day one and that staff in all health and social care settings do not suffer any financial detriment while absent from work during the pandemic. Their terms and conditions must be protected in full.

SSP is an important measure that will support individuals for the duration of the pandemic. We welcome the decision that measures surrounding SSP will be switched on for the duration of the pandemic. Although we believe this amendment should be permanent and that levels of SSP be raised to maintain workers' incomes levels during periods of sickness.

#### **Additional information crucial for debate**

#### Personal protective equipment for health and care staff

While PPE is outside of the remit of this Bill, our members are extremely concerned they do not have adequate or correct PPE which is crucial for keeping them staff safe and well throughout this crisis. We need urgent clarity from the UK Government and health authorities that there will be access to the right PPE and hand sanitiser for all health and care professionals for use at the point of care, in all settings, to minimise the spread of infection.

It is critical that the government urgently resolve distribution issues and continue to monitor the situation and act so that PPE is there for everyone in all settings. Our members feel that action to resolve distribution issues isn't happening fast enough or at scale.

#### Harassment of nursing staff

Nursing staff working in the community – delivering treatments and support in people's own homes – are reporting to us that they are experiencing harassment and abuse from members of the public. This includes verbal intimidation as they carry out their duties. It is escalating, which historical research shows is consistent in pandemic but now more than ever, nursing staff are relying on their representatives to condemn this abhorrent behaviour.

#### Testing

Testing for health care professionals must be undertaken across all settings without delay. It allows for better staff planning and public confidence, however, testing is currently not being universally undertaken. This means that health care staff are self-isolating as a precaution unable to determine whether they do or do not have the virus. This is further limiting our available workforce to be deployed.

For more information, please contact: Rachael Truswell, Public Affairs Adviser, on [Rachael.Truswell@rcn.org.uk](mailto:Rachael.Truswell@rcn.org.uk)