



The Scottish Parliament
Pàrlamaid na h-Alba

Michael Matheson MSP
Cabinet Secretary for NHS Recovery,
Health and Social Care

Via email only

Health, Social Care and Sport Committee
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7 November 2023

Dear Cabinet Secretary,

Health and Care (Staffing) (Scotland) Act 2019

1. The Health and Care (Staffing) (Scotland) Bill was passed on 2 May 2019 and became law on 6 June 2019. The purpose of the Bill was to ensure the provision of appropriate staffing in health and care service settings.
2. The Committee is seeking a written update on various aspects in relation to this legislation.

Implementation of the Act

3. The Act was passed by Parliament in 2019 but the Scottish Government reported that implementation was paused due to the pandemic. In June 2022 the Scottish Government set out its new [implementation timetable](#) committing to full commencement of the Act on 1 April 2024.

Please provide further detail on:

- Delays to implementation of the Act (prior to publication of the implementation timetable in June), including why this has been so delayed and if aspects of the implementation timetable have been undertaken earlier.
- The unintended problems that the Scottish Government is seeking to guard against in discussions with health boards.
- Work undertaken with trade unions to manage implementation of the Act.

Testing and consultation

4. The [public consultation](#) on the statutory guidance went live on 22 June 2023 and closed on the 19 September 2023. The Scottish Government website notes that an analysis of responses will be published by the end of 2023 and any proposed updates will be considered with key stakeholders.
5. The Scottish Government [states](#) that in the run up to implementation in April 2024, it is:
“working with 10 health boards to test the effectiveness of the legislative guidance, the preparedness of the health board and to understand the impact of implementation across all services”.
6. During the evidence session with the Cabinet Secretary on the [12 September 2023](#), the chief executive of NHS Scotland and director general for health and social care stated:
“This is not about our waiting until April then suddenly implementing the legislation. All our NHS boards are testing various aspects of the legislation and its operationalisation—that is, how it is put into practice. That will provide us with some important learning.”
7. During the Stage 1 debate on the Bill, in December 2018, Members raised concerns that, while the legislation covered both health and social care, the focus was primarily on healthcare.

Please provide further detail on:

- When the analysis of responses to the Scottish Government’s public consultation on the statutory guidance will be published and any plans to consult with stakeholders as a result.
- How the Scottish Government has engaged with all health and social care providers, professional groups and the public in developing guidance for health and social care providers.
- What aspects of the legislation has been tested with each NHS board, what has this involved and what lessons have been learned.
- Work undertaken to assess readiness of the social care sector, particularly in relation to the development of planning tools.
- Work underway with the Care Inspectorate (SCSWIS) on the development of staffing methods.
- Work undertaken to test operationalisation of the legislation with all social care providers.

Workforce planning, recruitment and retention

8. During the Stage 1 debate on the Bill, Members further raised concerns around the staffing methodologies in the Bill and that these were not linked to national workforce planning.
9. In the years following the passage of the Bill, the Committee has heard of extensive pressures on the health and social care workforce, and the pandemic has exacerbated this further.
10. During Stage 2 of the Committee's consideration of the Patient Safety Commissioner for Scotland Bill, Members discussed the interrelation between safe staffing and patient safety, noting that challenges with recruitment and retention are putting additional pressure on the existing workforce. During Stage 2, the Committee agreed to amend the Health and Care (Staffing) (Scotland) 2019 Act for the Commissioner "to be fully briefed on the progress of the safe staffing legislation and to be cognisant of the impacts on patients of its implementation, or lack thereof." [[Meeting of the Parliament: HSCS/13/06/2023 | Scottish Parliament Website](#)]

Please provide further detail on:

- Work the Scottish Government undertaking to address workforce issues, and, more particularly, national workforce planning issues in health and social care. Please include further detail on the government's strategic workforce planning to meet the demands of this and other legislation (such as Self-Directed Support and the National Care Service), complete with projections of staff in all categories required to fulfil these demands.
- Work underway in relation to recruitment and retention, pay and conditions, and fair work for health and social care staff.
- Work underway to tackle the over-reliance on agency staff, and how the Scottish Government foresees that implementation of the Act will reduce reliance on agencies.
- Work undertaken by the Scottish Government to ensure workload planning in particular health and social care providers is linked with national workforce planning.
- How the Scottish Government foresees implementation of this Act will work in conjunction with the proposed National Care Service.
- How the Scottish Government implementation team are collaborating with other teams in the Scottish Government, such as in relation to patient safety and the National Care Service, to align different programmes of work.

11. I would be grateful to receive a response by **12 January 2024** and look forward to hearing from you soon.

Yours sincerely

A handwritten signature in black ink that reads "CHaughey". The signature is written in a cursive style with a large, looped 'H' and 'y'.

Clare Haughey MSP

Convener, Health, Social Care and Sport