



Royal College of Physicians of Edinburgh

**The Scottish Parliament Health and Sport Committee
Health and Care (Staffing) (Scotland) Bill
Call for views**

The Royal College of Physicians of Edinburgh (“the College”) is pleased to respond to the Committee’s call for views on the Health and Care (Staffing) (Scotland) Bill. The College is an independent clinical standard-setting body and professional membership organisation, which aims to improve and maintain the quality of patient care. Founded in 1681, we support and educate doctors in the hospital sector throughout Scotland and the world with over 12,000 Fellows and Members in 91 countries, covering 30 medical specialties.

The College has consistently called for the introduction of safe and sustainable staffing levels for all professions within hospital settings^{i ii}. The medical workforce faces a number of challenges and we must ensure that we continue to recruit and retain a world class workforce to deliver the best possible patient care. In this regard, it is essential that evidence-based approaches are taken to support workforce planning along with reassessment of the size and structure of the consultant workforce taking account of such changes as the rise of part-time working, extended working, and the needs of an ageing population.

Workforce planning needs a clear strategic direction to tackle the recruitment and retention issues that exist. There are workforce shortages across the country with rota gaps creating additional pressures in an already difficult environment. We must value healthcare professionals at every stage in their careers to ensure medicine remains an attractive career choice and offer support for medical professionals as they progress throughout their careers.

Investment in our current and future workforce is essential to create a culture where colleagues have the time to care, time to train and the time to research. We must value the role of EU nationals and other international colleagues during and post Brexit negotiations. It is vital that we retain high quality training programmes and value our junior doctors to ensure that Scotland remains an attractive place to train and work. The morale of the healthcare workforce must remain a priority in the short term as well as being a central part of future workforce planning. The benefits of having a valued and motivated workforce are important, as huge pressures exist in the sector, that are exacerbated by vacancies.

The introduction of safe staffing levels in legislation, based upon best evidence, along with improved

workforce planning will help improve the quality of care. However, the legislation alone will not ensure that our staff remain valued and motivated, and that colleagues have the time to care, time to train, and time to research. A coordinated and detailed approach is required across all levels – Government, Board, regional, and the integration authorities - to ensure that we have a high quality clinical workforce providing the appropriate models of care. Doctors and other healthcare staff have an important role to play in making decisions about workforce planning and focus should be given to profiling future demand on population health needs.

1. Do you think the Bill will achieve its policy objectives?

The College supports the principle of this legislation and we consider that the policy objectives of the Bill have the potential to be met over the course of the legislative process. The College remains committed to working with the Scottish Parliament, Scottish Government and healthcare partners throughout the legislative process to ensure that the Bill is fit for purpose and improves outcomes for patients in the Scottish NHS.

We welcome the introduction of the Bill, but recognise that the medical workforce faces a number of challenges. With or without legislation, unless we urgently resolve the many rota gaps at trainee and consultant level and address trainee attrition rates, safe staffing levels will remain a dream rather than a reality. We acknowledge that this involves a wide range of stakeholders and a variety of issues, and we have urged the UK Government to allow increased overseas recruitment in a structured way to support all involved and ensure high quality training.

2. What are the key strengths of:

Part 2 of the Bill?

Part 3 of the Bill?

In Part 2 of the Bill, the College welcomes the inclusion of professional judgement in the common staffing method. This will assist in promoting the highest clinical standards and implementation of robust, evidence-based medical practice through the input of clinicians who understand the local system structures, patient needs, skill requirements, specific local circumstances and more general environment.

The College notes that in Part 2, 121B (2) (c) (i) it is set out that current staffing levels and vacancies are taken into account. As described above, legislation alone will not fill rota gaps and vacancies in the workforce. The recognition in paragraph 97 of the Policy Memorandum that *“there are currently significant challenges in recruitment in both health and care service settings. This legislation will not, in itself, address these challenges and should be viewed in conjunction with other measures that we are taking to support and sustain the health and care workforce”* is therefore welcome and it is vital that concurrently we continue to seek to address these issues while the Bill is progressing.

For the legislation to have a sustainable and positive impact, it is vital that staff are included and

respected in its delivery. Part 2, 121D on training and consultation of staff is therefore welcome and we note the recognition of staff receiving “adequate time” to use the common staffing method, which is essential, although the reality of “adequate time” does need to be reasonable: how will this be measured or enforced?

Reporting is an important part of this process and we welcome the inclusion of 121E in Part 2 which sets out that health boards must report how they have “carried out (their) duties” in regard to the legislation. However, this does not offer full transparency or the opportunity to scrutinise how successfully the implementation of the legislation is in practice. What action would be taken if a health board fails to “carry out their duties”? Who would decide if the duties were adequately or inadequately carried out? Is there any external scrutiny? We would therefore welcome strengthening this area of the Bill to allow for greater scrutiny and transparency, to ensure the confidence of healthcare professionals and the public is maintained.

Part 3 of the Bill focuses on care services and as such we will leave comment on this section to organisations with more direct expertise.

3. What are the key weaknesses of:

Part 2 of the Bill?

Part 3 of the Bill?

The College considers it vital that the legislation is meaningful, and we therefore query the use of “appropriate” in Part 2 of the Bill. 121A does not offer any guidance as to how “appropriate” levels of staffing should be decided. We note that in Part 3 of the Bill, “appropriate staffing” is addressed through 6 (2) for care services, and we would welcome a similar approach being taken to Part 2 to ensure that there is clear guidance set out in the determination of what would constitute “appropriate”.

In Part 2, 121C, on the types of health care included in the common staffing method, of considerable concern to the College is the sole inclusion of medical practitioners in “emergency care provision”. We acknowledge that the rationale behind this inclusion is the existence of the Emergency Department/Emergency Medicine (EDEM) tool, which takes account of the workload attributed to both nursing and medical staff rather than being specific only to nursing. We support medical practitioners being included by the provisions in the Bill, however, we have concerns that by only including them in one specialty area, emergency care provision, on the “face of the Bill”, there could be detrimental unintended consequences for other areas of care where medical practitioners are not specifically named.

We acknowledge that that the Bill seeks to implement a general duty to ensure appropriate staffing. While paragraph 93 of the Bill’s Policy Memorandum sets out *“The intention of applying this general duty to all employees providing care is to ensure that one staff group is not protected to the detriment of other staff groups. Even if there is not currently a tool or methodology for a particular*

staff group Health Boards will still have to ensure appropriate levels of staffing for that group”, the College is still not reassured that the specific inclusion of one sole group of medical practitioners in the Bill will not have unintended detrimental consequences for others.

The Policy Memorandum goes into detail on this at paragraph 99 *“They (health boards) will be required to take them into account in carrying out their general duty regardless of whether a tool and/or defined methodology is available “* and paragraph 101, *“The principles are also intended to ensure equity and parity in decision making regarding staffing requirements across all staff groups. This will mitigate the risk highlighted by the initial consultation that resources may be diverted away from staff groups and settings not covered by existing workload and staffing tools.”* However, if only emergency care is specified, there will remain concern that focus will be applied to this one area to the detriment of all others which are not explicitly named.

Part 3 of the Bill focuses on care services and as such we will leave comment on this section to organisations with more direct expertise.

4. What differences, not covered above, might the Bill make? (for example: will the Bill have any unintended consequences, will it ensure that staffing levels are safe, does the Bill take account of health and social care integration, how are 'safe and high-quality' assured/guaranteed by the Bill?)

The College has no further comments.

ⁱ Royal College of Physicians of Edinburgh: Health Priorities (2017)

http://www.rcpe.ac.uk/sites/default/files/files/rcpe_health_priorities_2017.pdf

ⁱⁱ Preventing 'Where Next?': Political parties urged to commit to Minimum staffing to prevent serious failings in NHS care (2015) <http://www.rcpe.ac.uk/preventing-where-next-political-parties-urged-commit-minimum-staffing-prevent-serious-failings-nhs> and http://www.rcpe.ac.uk/sites/default/files/documents/pressreleases/rcpe_editorial_on_serious_failings_in_care_final_feb_2015.pdf