

Scottish Government Consultation: Discussion document to support further engagement on Safe and Effective Staffing in Health and Social Care

Social Work Scotland is the professional leadership body for the social work and social care professions. We are a membership organisation which represents social workers and other professionals who lead and support social work across all sectors. Social Work Scotland welcomes the opportunity to comment on the discussion document on Safe and Effective Staffing in Health and Social Care

Question 1:

Question 1a: Do you think it is important to have a coherent legislative framework across health and social care to underpin workforce planning and appropriate staffing in health and social care?

In principle, Social Work Scotland does not consider legislation to be necessary in implementing meaningful safe and effective staffing arrangements. This is due to the challenges in implementing legislation relating to a highly complex, professional matter, coupled with the fact that there is already workforce and workload planning arrangements in place within Regulation 15 of The Social Care and Social Work Improvement Scotland (Requirements for Care Services) regulations 2011.

However, given that the Cabinet Secretary has indicated that legislation will be progressed, Social Work Scotland also recognises the difficulties which could emerge if social work and social care workforce were not to be included. This would miss the opportunity to ensure that all services are provided with opportunities to develop workload and workforce tools and methodologies. On this basis, Social Work Scotland is supportive of the inclusion of the social work and social care workforce, along with health.

Question 1b: How should organisations' progress in meeting requirements be monitored and facilitated, taking account of what currently works well?

To achieve the policy intentions of the bill to 'enable' organisations to provide high quality care and better outcomes for individuals, it is important that the bill does not place additional burdens on organisations.

For regulated care services, the current inspection arrangements already consider staffing, but also recognises that professional leaders and employers are best placed to make local judgements about safe and effective staffing. Any proposed monitoring role should focus on enabling functions, with a focus on the provision of clear organisational and professional rationale for decisions made. When evidence based tools and methodologies are available across disciplines, this will offer a framework for such decision making, while recognising the need for consideration of professional judgement; local context and quality measures.

Question 1c: Please provide any other comments you may have.

With the caveat set out at Question 1a, Social Work Scotland believes that non regulated social work services should also be included within the scope of the bill. Social Workers carry out complex work in support and public protection. In addition, a range of support staff carry out challenging work in communities, supporting child and adult protection work.

Social Work Scotland believes that there is a positive opportunity to share in the learning already undertaken within the nursing sector in developing nationally agreed evidenced based workforce planning tools. It is recognised that this will be challenging work, particularly given the complexities and diversity of the social work and social care workforce. However, this learning will enable organisations to plan more robustly and evidence requirements for staffing in this critical area. The cycle of joint and strategic inspections, with an increasing focus on self-evaluation, provides the mechanism for monitoring compliance with the legislation.

Question 2a: What is your view of the proposal that there should be guiding principles for workforce planning to provide NHS Boards and care service providers with a foundation on which to base their staffing considerations?

With the caveat set out at Question 1, Social Work Scotland agrees that there should be guiding principles for workforce planning across health, social work and social care.

Question 2b: Do you have a view on whether/how application of these principles should be monitored?

Social Work Scotland believes that it should be for organisations / employers, with the advice of professional leaders, to monitor how workforce planning principles are applied. At a local level, these arrangements will be located within clinical and care governance arrangements.

As set out in guidance, the Chief Social Work Officer already has a role to provide professional advice in relation to improvement and management of corporate risk. This includes workforce planning and decisions around safe levels of staffing within statutory settings.

As is consistent with the new Health and Social Care Standards, HIS and the Care inspectorate will have a strong focus on outcomes for individuals. On the basis of intelligence-led scrutiny, the inspectorates should identify areas for improvement, which may include workforce planning. The starting point for such scrutiny should be the impact of services on the individual, with the regulators seeking information about the application of principles and processes to decision making for workforce planning only where identified as an issue/concern.

With the caveat set out at question 1, Social Work Scotland believes that all services should come within the scope of the bill. It would be odd if the principles were to apply to all staffing groups, but the 'enabling' provisions and any attendant resource to develop methods and tools did not.

To improve outcomes for individuals, organisations are increasingly providing services in an integrated way. The bill should enable the development of methods that support workforce planning in multi-disciplinary settings, achieving equity of the resourcing for workforce planning across integration authorities. However, it should also be noted that integrated working extends beyond Health and Social Care Partnerships, and the bill will require to consider how this applies to social work and social care working in other integrated contexts, eg prisons; education; early years.

Question 2c: Please rate the following examples of potential principles on a scale of 1 to 4, where 1 is very important, 2=important, 3=not very important, 4=not important at all (note that the following do not represent draft wording for the principles to be included in legislation).

- i. Workforce planning must ensure an appropriate number and mix of staff to provide high quality services.**
- ii. Workforce planning must ensure an appropriate number and mix of staff to provide effective and efficient use of resources.**
- iii. Workforce planning must ensure an appropriate number and mix of staff to provide services that meet service user needs.**
- iv. Workforce planning must ensure an appropriate number and mix of staff to provide services that respect the dignity and rights of service users.**

All of the above are very important and to meet outcomes for people, and all need attended to. However, the above noted points are not underpinning principles, they are workforce planning objectives.

Question 2d: Are there other principles you think should be included?

As outlined, the points in section 2c are not principles, but rather they are objectives for workforce planning. Principles should reference those enshrined in the Public Bodies (Joint Working) (Scotland) Act 2014, which focus on improving the wellbeing of service users. For this bill, the specific principles of workforce planning should include:

- a focus on achieving positive outcomes for people using services;
- be underpinned by a commitment to the improvement of quality and support for service users;
- adopt transparency of methods, communication, and reporting;
- ensure the involvement of the workforce and other stakeholders in workforce planning;
- be aligned to the principles of the Public Bodies (Joint Working) (Scotland) Act 2014 and the priorities of the organisation.

Question 3a: What is your view on the proposed requirements for Health Boards?

Social Work Scotland agrees with the proposals, noting that validated workforce planning tools exist for nursing and midwifery services. There will require to a joint commitment to the development of tools and methodologies across other disciplines for this bill to have any value.

There is a focus on ensuring that staff understand the staffing decisions made, however, there is also a need to ensure transparency of decision making to people using services.

Question 3b: Are there any other requirements you think should be included?

Question 3c: Please provide any other comments on the proposed requirements set out in section 3

Social Work Scotland welcomes the fact that the Executive Nurse Director must be 'enabled' to inform, influence and advise of nursing and midwifery staffing requirements prior to cooperate decisions being made. The nationally agreed methods and quality measures will support the Executive Nurse Director carry out this function in a robust and evidence based way. Further clarity, however, is required as to what 'enabled' means.

Each local authority is required to appoint a Chief Social Work Officer (CSWO). The CSWO role was established to ensure the provision of appropriate professional advice in the discharge of a local authority's statutory functions.

We therefore welcome the bill providing equity in the enabling functions of both the Executive Nurse Director and the Chief Social Work Officer. However, Social Work Scotland is concerned that if non-regulated services are not included in the bill, then the Executive Nurse Director will be in a stronger position to give advice on staffing from a validated evidence base.

The unintended consequence may be to divert resources towards those groups of staff where there are legally mandated methods. This could lead to tensions and challenges in fulfilling the requirements of the bill.

Question 4: Do you agree with the proposed role for the Care Inspectorate in leading work, with the social care sector, to develop workforce planning tools for application in specified settings, where there is an identified need?

Social Work Scotland disagrees and believes that the profession should lead this work, in collaboration with employers and regulators. This would be consistent with the approach adopted for nursing and midwifery.

Within the *Care Inspectorate Improvement strategy 2017-18*, they highlight that 'research tells us that improvement should be done by those closest to the front line in order to make changes that are appropriate, sustainable and truly improve the lives of those experiencing care' (p.7). This principle should apply to making improvements to workforce planning.

Social Work Scotland also notes that the Care Inspectorate offers partnerships 'at a strategic level' to organisations and providers in improvement activity. Although the development of tools should be led by the profession, Social Work Scotland believes the Care Inspectorate have a critical role in supporting this process.

Question 4b: Do you think that social work should be included within the scope of this legislation?

With the caveats outlined at question 1, strongly agree.

Question 4c: Please provide any other comments on the inclusion of social work within the scope of the legislation

Social Work Scotland believes that there are risks in social work not being within the scope of the legislation.

As the policy intentions behind Public Bodies (Joint Working) (Scotland) Act 2014 made clear, better outcomes for individuals are achieved through a reformed and integrated way of working and delivering services. Therefore, to exclude a significant component of the workforce, which deals with issues relating to public protection and which ‘affect personal lives, individual rights and liberties’¹ is at odds with the aims of integration.

Moreover, there is a significant risk that resources within integrated services may be directed towards meeting the any increased staffing costs of those services which have legally mandated methods and tools.

There are opportunities and potential gains for the profession with the inclusion of social work and social care services in the Bill. These include:

- A clear message to the workforce, and perhaps especially to those in integrated settings, that social work and social care is of equal value to health and education;
- It may impact negatively on recruitment and the attractiveness of social work / social care as a profession if other professions are seen to benefit from legal safeguards in relation to assessing safe and effective levels of staffing;
- Methodologies and tools for measuring workloads have not been well developed within the sector, and the evidence suggests that there are gaps in knowledge and availability of such tools. This bill offers the potential for resource to put in place for collaborative work between practitioners, professional leaders, employers, the universities, Government and regulators to take forward this work. People who use services would also have a valuable role to play in this work.
- In the context of reducing public expenditure, decision making about funding will increasingly require to take account of evidence, efficiency and effectiveness to ensure that reductions in funding do not create potential risks for people who use services.

Question 5a: In delivering the function described under 3 above, the Care Inspectorate could be required:

¹ (Circular: SWSG2/1995 May 1995)

- i. **To work with employers/service providers and commissioners from the sector to identify and agree specified settings where there is a need for the development of workforce planning tools and methodologies**

Social Work Scotland considers this to be **IMPORTANT**.

- ii. **To work with service providers and commissioners from the appropriate parts of the sector to develop and validate workforce planning tools and methodologies to demonstrate that they are practicable and beneficial for specific settings Service providers and commissioners might include, for example, service providers from the independent and third sectors, local government as service provider/service contractor and Integrated Joint Boards as commissioners.**

Social Work Scotland considers this to be **IMPORTANT**.

- iii. **To consult with the sector before a requirement to use validated workforce planning tools and methodologies is confirmed in regulations.**

Social Work Scotland considers this to be **VERY IMPORTANT**.

How important do you consider the suggestions above are in providing possible routes for the sector to be fully engaged in the development and validation of approaches appropriate for a specified setting? Mark each requirement on a scale of 1 to 4, where 1 is very important, 2=important, 3=not very important, 4=not important at all, 5= not desirable

Question 5b: Are there any other routes you think should be considered to ensure appropriate engagement with the sector?

The social care and social work landscape is complex in that it spans the statutory, third and independent sectors and includes very large to very small organisations and micro providers.

To exercise an improvement function and support employers develop evidenced based approaches to workload and workforce planning, the Care Inspectorate will need to use intelligence-led scrutiny to engage the sector and add capacity to their workforce planning activity.

To ensure coordinated and proportionate approaches, while maximising the opportunity for knowledge exchange, the Care Inspectorate should involve:

- Chief Social Work Officers;
- SOLACE;
- COSLA;
- The Chief Officers of Integrated Authorities;
- Social Work Scotland;
- Scottish Care;
- CCPS.

It is crucial that this legislation does not impose any regulatory burden and that tools or methods are not seen to be imposed by the regulator. As in nursing, they must be developed by the sector.

Question 5c: Please identify any settings where you think the development of appropriate workload and workforce planning tool or methodology is most important; and any care settings where you think this is not relevant or required.

Social Work Scotland believes that the development of workforce planning methodologies is important in the area of Social Work delivered by local authorities as defined by schedule 13 of the Public Services Reform (Scotland) Act 2010.

Question 6: What support do you think will be required / most useful to enable the development of validated tools and methodologies for the social care sector?

Please mark each suggestion on a scale of 1 to 4, where 1 is very important, 2=important, 3=not very important, 4=not important at all

- i. **Dedicated central expertise for the identification of specified settings where the development of workload and workforce planning tools and methodologies would be practicable and beneficial. 2 (centralisation may not be required)**
- ii. **Additional resource for the Care Inspectorate to enable the proposed functions 2**
- iii. **Training for key personnel in the sector in the development of workforce planning approaches. 1**
- iv. **Dedicated resource for service providers who engage in the development and validation of approaches, tools and methodologies. 1**
- v. **Training for key personnel in specified services once validated tools and methodologies are confirmed through regulations. 1**
- vi. **Other [please specify – large text box]**

Q7a: What risks or unintended consequences might arise as a result of the proposed legislation and potential requirements?

The bill as it is currently proposed is potentially a missed opportunity if it is confined to regulated social care services. The proposals outlined in the discussion paper do not represent a whole systems approach if some staffing groups are excluded from the specific parts of the legislation that are designed 'to enable' workload and workforce planning methods and tools to be developed.

There is a significant risk, therefore, that limited resources within integration authorities may be directed towards meeting any potential increased staffing costs of those services which have legally mandated methods and tools. This may be inevitable as Integrated Authorities have a legal duty to 'report on the requirements placed under the bill' and account for how they have used the tools in planning for their workforce. The bill, as it is currently drafted, may therefore have the paradoxical effect of undermining the integration principles of improving outcomes for individuals that it is designed to assist.

Social Work Scotland notes that Fostering and Adoption services are regulated. If this means they come within the provision of the bill, whereas local social work teams carrying out public protection duties do not, the bill will have created the perverse position in which social workers managing high levels of risk in the community will not be covered by the same safe staffing legislations as their colleagues assessing and supporting foster carers.

Financial Risks

There is a risk if financial constraints mean there are insufficient resources to provide staffing resource to the required safe and effective levels. There is also a risk that local authorities and NHS Boards would require to absorb such costs by reducing services elsewhere that do not fall within the scope of the legislation.

We welcome the opportunity the bill presents to transparently plan for safe and effective social work staffing levels. However, these staffing levels need to be resourced if validated tools are developed which demonstrate additional requirements. The National Audit Office had noted that one of the main predictors of a good quality service was financial investment in ensuring manageable caseloads for social workers and retaining a stable workforce²

We also note that social work and regulated service providers (provided by the local authority, NHS, independent or third sectors) work together to meet an individual's needs. This whole-systems approach should be reflected in the legislation.

² <https://www.nao.org.uk/wp-content/uploads/2016/02/Children-in-need-of-help-or-protection-Summary.pdf>

Moreover, if the focus remains on the provider this may have the unintended consequence for commissioning and procurement if staffing cannot be agreed in a collaborative way. Commissioners may see smaller providers as unsustainable and this will reduce choice for individuals and impact on market facilitation.

Social Work Scotland notes from the discussion document that the Nursing and Midwifery Workload and Workforce Planning Programme has taken a 'ground breaking approach' and developed tools and methodologies over a number of years 'with considerable time and resource'. Social Work Scotland welcomes such an approach. The complexity of the social work and social care sector suggests that this learning and development is needed, recognising that this will be highly challenging.

There is a risk, however, that if the development of tools within social care and social work are not resourced to the required levels, such tools and methods may not deliver the anticipated benefits. Similarly, the use of any agreed tools will require resources to ensure they are used well by appropriately trained staff.

Finally, the resourcing of continual evaluation and updating of these tools will need to be in place. Without this resource, the bill will have the unintended consequence of highlighting differences between staff groups within integration authorities and across other integrated contexts.

The bill should also take account of Self-Directed support and that some care services are purchased and arranged directly by individuals.

Reputational Risks

The language adopted to describe these tools and methodologies – safe and effective – is largely used in health settings. While, applicable to social work and social care settings, this requires caution. The application of workforce planning and workload planning methodologies can support the development and improvement of services, and can contribute to creating the right conditions for our workforce to practice at optimum levels. However, social work and social care practice involves the management of risk in community settings, and this means managing uncertainty. Consequently, the introduction of such tools and methodologies can support risk based practice, but can never eliminate the potential for unplanned or undesired outcomes.

Question 7b: What steps could be taken to deal with these consequences?

- A whole system approach is adopted consistent with the policy intentions of the Public Bodies (Joint Working) (Scotland) Act 2014 and this bill. This means the inclusion of Social Work as defined in the 2014 Act and making it explicit that the bill also includes AHPs. It should be clear that any

measurement for safe and effective staffing includes the total contribution to care and support of individuals - not just nursing and midwifery.

- That adequate funding is made available for the development of tools and methods in a way that involves the whole sector.....professional leaders, employers, the universities, Government and regulators to ensure that methods and tools are fit for purpose and 'owned' by the sector. This will ensure that the bill adds value and capacity and does not draw resource from elsewhere in NHS boards, providers, integration authorities and local authorities.
- Resource is available for the training of the use of tools and their evaluation of effectiveness.