

***Integration Joint Board***

**Date of Meeting: 27 March 2024**

**Title of Report: Health & Care Staffing Act Implementation Update**

**Presented by: Linda Currie Associate AHP Director**

**The Board is asked to:**

- Note the update on activity for assurance.
- Delegate action to the Clinical and Care Governance Committee to receive regular reporting from the Argyll & Bute Implementation Group and plan annual reporting

**1. EXECUTIVE SUMMARY**

The Health and Care Staffing Act (HCSA) will come into force on 1<sup>st</sup> April 2024 and at this stage statutory guidance will also be published. This paper provides a brief overview of the NHS Highland programme arrangements for implementation of the act the reporting, integration authority role and associated governance arrangements that will be required.

**2. INTRODUCTION**

On 16<sup>th</sup> February a summary paper was provided to the NHS Highland Staff Governance Committee for assurance. Employing partners and the IJB has responsibilities within the legislation to implement the act.

The Health and Care Staffing Act (HCSA) will come into force on 1<sup>st</sup> April 2024 and at this stage statutory guidance will also be published. NHS Highland has appointed an HCSA lead who is collaborating with colleagues across the organisation to prepare for the implementation of the act. This paper provides a brief overview of the programme governance arrangements for implementation of the act and the reporting and associated board governance arrangements that will be required.

**3. DETAIL OF REPORT**

The HCSA was approved by Scottish Government in 2019 and implementation was delayed due to the pandemic. The act will come into force on 1<sup>st</sup> April 2024 and:

- Makes provision about staffing in the NHS and in care services.

- Seek to enable safe and high-quality care and improved outcomes for service users and people experiencing care.
- Build on arrangements already in place for local and national workforce planning.
- Promotes transparency and an open and honest culture.

The act states that the main purposes of staffing for health care and care services are:

- To provide safe and high-quality services, and
- To ensure the best health care or (as the case may be) care outcomes for service users.

The Act then goes on to list a range of factors that should be taken into account, in so far as they are consistent with these main purposes, when relevant organisations are arranging staffing.

This is further articulated in the guiding principles of the act:

- Improving standards and outcomes for people using services
- Taking account of the views of staff and people using services
- Taking account of the particular needs, abilities, characteristics and circumstances of different people using services
- Ensuring the wellbeing of staff
- Allocating staff efficiently and effectively
- Respecting the dignity and rights of people using services
- Being open with staff and people using services about decisions on staffing
- Promoting multi-disciplinary services as appropriate

The act applies care provided by the NHS and Local Authorities including integrated services.

The act also places a requirement on NHS Boards, Local Authorities and integration authorities to ensure care providers they commission and services they procure can demonstrate compliance with the act.

The duties under the act for staffing in the NHS are:

- Duty to ensure appropriate staffing.
- Duty to have real-time staffing assessment in place.
- Duty to have arrangements to address severe and recurrent risks.
- Duty to ensure appropriate staffing: number of registered healthcare professionals etc.
- Duty to ensure appropriate staffing: training of staff.
- Reporting on staffing

- Duty to ensure appropriate staffing: agency workers.
- Duty to have risk escalation process in place.
- Duty to seek clinical advice on staffing.
- Duty to ensure adequate time given to clinical leaders.
- Duty to follow the common staffing method, types of health care and training and consultation of staff.
- Ministerial guidance on staffing

The duties under the act for staffing in Care Services are:

- Duty on care service providers to ensure appropriate staffing.
- Training of Staff
- Annual report on staffing in care services
- Ministerial guidance on staffing
- Functions of Social Care and Social Work Improvement Scotland regulations in relation to staffing methods
- Development of staffing methods
- Regulations: requirements to use staffing methods
- Review and redevelopment of staffing methods.
- Review of duty on care service providers to ensure appropriate staffing.
- Duty to consider multi-disciplinary staffing tools.

Care services currently have a duty to ensure appropriate staffing and staff training under Regulation 15 of the Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011. On 1<sup>st</sup> April this will be revoked, and care services will need to comply with the Act instead.

The requirements under the Act and under Regulation 15 are similar but there are some differences:

- Inclusion of volunteers more explicit
- Need to follow the guiding principles.

Reporting in health will require an annual report to be reviewed and published by the board. There is also a requirement for quarterly reports on compliance with the Act, are to be provided to the board by individuals with lead clinical professional responsibility for a particular type of health care and that the board must have regard to these reports.

The intent in this section of the Act is for compliance reports to members of the relevant organisation to be prepared and presented by the Executive-level clinicians on the board who have responsibility for clinical professions in the workforce in their board remit – currently the Executive Directors of Medicine and Nursing. These reports must cover all staff groups covered by the Act,

and the Executive level clinicians should liaise as necessary with heads of other professions when preparing these reports.

Reporting for care services will be through the existing mechanisms for Regulation 15 of the Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011.

NHS Highland has been preparing for implementation through use of self-assessment tools and this work is ongoing to develop an action plan. This action plan will set out where we need to strengthen or put in place systems, processes and governance to comply with the act.

NHS Highland has implemented a Programme Board with each operational area and the Health and Social Care Partnership. The partnership has representation at board level and its own operational group which is integrated and will consider both employer staffing groups. Groups will meet monthly and be co-chaired by the Associate Director for AHP and the Head of Adult Services for Acute and Complex care.

The project group will provide regular status update reports to the Health and Care Staffing Programme Board and through HSCP reporting structures as appropriate with a recommendation that the Clinical and Care Governance Committee has oversight for the IJB outwith the required annual reporting.

### **What does the Integration Authority specifically require to do?**

The Integration Authority specifically requires to adhere to guiding principles and have regard to the guidance issued by Ministers.

It requires to publish annual reporting on steps taken to meet compliance and ongoing risk and mitigation.

Both Health Improvement Scotland and Social Care and Social Work Improvement Scotland must consult with the Integration authority in respect of guidance and changes in guidance.

## **4. RELEVANT DATA AND INDICATORS**

The act requires real time staffing methodologies and Argyll & Bute are scoping the capability to deliver this data outwith current practice.

## **5. CONTRIBUTION TO STRATEGIC PRIORITIES**

Contribute to the safe delivery of care and supporting the workforce.

## **6. GOVERNANCE IMPLICATIONS**

### **6.1 Financial Impact**

There are potential financial implications in relation to addressing staffing risks and issues identified through the mechanisms required to demonstrate compliance with the duties of the act. However, it is important to emphasise that the act does not introduce anything new in terms of the principle that services should already be planned and delivered with an appropriate workforce plan in place to deliver the service to the required standards.

### **6.2 Staff Governance**

The HCSA is fundamentally about provide appropriate staffing to deliver services.

Boards and Scottish Government along with Healthcare Improvement Scotland have been working together to prepare for implementation of the HCSA. This includes testing a self-assessment tool which forms the basis of both reporting on compliance with the act and determining what actions the board needs to take to address any gaps or weaknesses identified.

It is recognised by Scottish Government officials that implementation of the HCSA will be the start of a continuous improvement approach where self-assessment will identify areas for improvements. So it is expected that 'full compliance' with the act will be challenging.

### **6.2 Clinical and Care Governance**

The HCSA is intended to support delivery of safe, high quality services.

## **7. PROFESSIONAL ADVISORY**

Both the programme board and operational implementation will be led by professional leadership and incorporate wider advisory. The recommended link to the Clinical and Care Governance Committee will provide regular oversight.

## **8. EQUALITY & DIVERSITY IMPLICATIONS**

No specific additional requirements in addition to current guidance.

## **9. GENERAL DATA PROTECTION PRINCIPLES COMPLIANCE**

Not specifically applicable to this paper.

## **10. RISK ASSESSMENT**

Within the operational implementation group we will continue to assess and develop:

1. how well we meet the staffing requirements.
2. that risks associated with staffing challenges are managed, mitigated and escalated appropriately.

3. professional advice is embedded and demonstrable in our day to day management of staffing and service delivery.

We will use the information from assessing staffing requirements and routine assessment of staffing risks and issues ‘in practice’ to develop short, medium and long term plans to provide appropriate staffing.

## 11. PUBLIC & USER INVOLVEMENT & ENGAGEMENT

None required for this report.

## 12. CONCLUSIONS

The Integration Joint Board is asked to note and give consideration of work being undertaken to move towards the implementation of the Health and Social Care Staffing Act and potential impacts for strategic planning. Also their specific role in the act and requirement to develop reporting on an annual basis.

## 13. DIRECTIONS

Directions required to Council, NHS Board or both.	<b>Directions to:</b>	tick
	No Directions required	x
	Argyll & Bute Council	
	NHS Highland Health Board	
	Argyll & Bute Council and NHS Highland Health Board	

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