

**SUBMITTING EVIDENCE TO A SCOTTISH PARLIAMENT COMMITTEE
DATA PROTECTION FORM**

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Organisation: (if required)	Scottish Care
Topic of submission:	Call for written views on the Health and Care (Staffing) (Scotland) Bill

I have read and understood the privacy notice about submitting evidence to a Committee.

I am happy for my name, or that of my organisation, to be on the submission, for it to be published on the Scottish Parliament website, mentioned in any Committee report and form part of the public record.

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Non-standard submissions

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HEALTH AND SPORT COMMITTEE

HEALTH AND CARE (STAFFING) (SCOTLAND) BILL

SUBMISSION FROM SCOTTISH CARE

Scottish Care welcomes this opportunity to contribute to the Health & Sport Committee's call for written views on the Health and Care (Staffing) (Scotland) Bill.

Scottish Care is the representative body for independent social care services in Scotland. This encompasses private and voluntary sector providers of care home, care at home and housing support services across the country. Scottish Care counts over 400 organisations as members, which totals just under 1000 individual services. Scottish Care is committed to supporting a quality orientated, independent sector that offers real choice and value for money. Our aim is to create an environment in which care providers can continue to deliver and develop the high-quality care that communities require and deserve.

In relation to older people's care, this sector provides 89% of the care home places in Scotland, both residential and nursing. There are more older people in care homes any night of the week than in hospitals – as at 31st March 2016 there were 873 care homes for older people providing support to 33,301 residents any night of the year.

It is in this representative capacity that we are responding to this consultation. Our responses are in relation to Part 3 of the Bill given that Scottish Care represents social care providers.

Do you think the Bill will achieve its policy objectives?

In principle, Scottish Care agrees with the need for mechanisms and/or models that can assure the public and others that staffing levels are appropriate to meet the often complex needs of individuals supported by health and social care services.

We believe that the creation of a tool to measure capability levels is a key first step in achieving the Bill's policy objectives. It is only through understanding the needs of individuals supported by services that we can better determine the staffing required to meet these. Out of this, there should be an algorithmic tool to show appropriate staffing requirements to deliver quality care and support and provide assurance of this. For care home environments in particular, this must take account of varying capabilities and recognise the fluctuating and often unpredictable nature of this.

**What are the key strengths of:
Part 2 of the Bill?
Part 3 of the Bill?**

It is positive that this Bill represents a desire for an integrated approach to legislation between health and social care services. However, it is absolutely critical that the 'how' of achieving an integrated approach is prioritised, through the proper recognition and engagement of the social care sector. If we are not heard and enabled to influence the process in a meaningful way then the Bill will not be effective, efficient or workable in the reality of the social care landscape

**What are the key weaknesses of:
Part 2 of the Bill?
Part 3 of the Bill**

Scottish Care continues to have a number of concerns relating to the Bill which we strongly believe need to be addressed in order for the Bill to meet its objectives and to contribute positively to a safe and effective health and social care sector.

We believe there remains a lack of clarity and scope around professional responsibility. The Bill as it stands can only serve as a blunt instrument for directing staffing levels based on compliance or non-compliance. It fails to account for abilities, skills mix and future models of care. It needs to recognise different roles within care services, the nuances, complexities and skillsets associated with these roles and the circumstances within which particular staffing components would or would not be appropriate or achievable. It is therefore essential that it allows for contextual flexibility and risk enablement in order to maintain appropriate trust and respect for providers in directing what staffing levels and staff mix support the best care to be delivered in a particular circumstance or environment.

However that professional responsibility also extends the other way and must include the ways in which different roles involved in determining staffing levels are held accountable. The Bill needs to make clear that the duties placed upon providers have equivalence with the duties placed on commissioners of services to ensure achievable staffing levels and sustainable services, including the covering of any financial burden incurred through compliance with the Bill. The importance of short and long term workforce planning has long been acknowledged by social care providers; however, current commissioning practices, such as year on year commissioning and contracting, make this impossible in a meaningful way. By avoiding having a duty placed on commissioners in the Bill, this is unlikely to change meaning providers will not be able to meet any increased staffing requirements indicated through this process. The NHS is not only a service provider but also a

commissioner of services and therefore has far more ability to directly act in order to comply. The Bill is not only inequitable in this regard but creates a situation where care services have a duty to act without the tools to do so – in effect this Bill could be trying to force them to breathe underwater. It has the potential to create conflict and combative relationships between care services and those who commission them which is far from conducive to an environment that ensures 'high quality services'; this Bill therefore undermines its own Guiding Principles.

The Bill must also provide operational flexibility in order for it to be achievable, realistic and meaningful. The mechanisms currently in place around staffing levels offer this degree of flexibility in enabling providers to manage unexpected scenarios, for instance in a context where an individual doesn't turn up for a shift. This must be maintained through any new legislation.

The Bill as it is written for health services will ensure that existing reporting mechanisms are used to avoid it creating additional work. Social care organisations already have reporting mechanisms in place to the Care Inspectorate and Local Authorities/Commissioners. Our concern is that another reporting mechanism could be enforced with this legislation, therefore putting further administrative burden onto already over-stretched social services and making the Bill inequitable between health services and social care services.

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?)

A body of work has already been undertaken to increase the number of nursing student places at the next intake, the main reason for this being the critical state of nursing numbers within social care and the strain that this is placing on nursing homes across the country. While it will be around 3 years before these students qualify and are ready to take up work, it has been well received by Scottish Care members and the social care sector more widely. If, however, this Bill shows a need for an increase in nursing within hospital settings (as is anticipated) then these additional places will be swallowed up by the NHS, leaving our members in the same position but 3 years closer to a doomsday scenario. Added to this the impact of Brexit upon care home staffing is a cause for significant concern. This could result in closures or partial closures of nursing homes, leaving thousands of vulnerable people without appropriate care and the burden falling on the State.

Social workers and the workforce planning of the Social Work Department are omitted from the Bill. Social workers are an integral part of the social care workforce with an incredibly important role to play in many of the processes that inform safe and effective staffing of services, such as initial assessments, care planning and reviews. Should an increase of staff be assessed as necessary by a service via risk assessment, this would need to be agreed with a social worker in many circumstances as they have control of the budget. Should there be insufficient social workers available in any given area this can limit social care providers in advancing the support required for vulnerable people. This being the case, it is essential that the social work department are workforce planning to ensure sufficient numbers of social workers are available in order for true integration to be possible in this regard.

It is commonly accepted that we are currently in a recruitment and retention crisis within social care, across all roles and areas of the sector. We are therefore concerned about where any higher numbers of carers and nurses that are stipulated as a result of the Bill are going to be sourced from. There is a body of work that requires undertaking across the country to meet the current demand for care workers before the Bill can be implemented effectively. Otherwise, it risks the unintended consequence of crippling and closing care services rather than meeting its objective of assuring safety and quality.

Finally, the Bill states that the Care Inspectorate have a duty to collaborate with care providers should it be determined that the Bill extends to other services such as care at home and housing support services. We believe this needs to be strengthened to the extent that the Care Inspectorate has a duty to gain agreement of providers before developing and recommending such extension. Otherwise, there would be a very real risk of services being compromised due to a lack of sufficient understanding of the Bill's impact in these domains.

Scottish Care is happy to be contacted and to provide any further information required.

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