

HEALTH AND CARE (STAFFING) (SCOTLAND) ACT IMPLEMENTATION

A monthly newsletter brought to you by the Scottish Government

ISSUE 5

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In this newsletter

Welcome to the latest edition of our newsletter on Act implementation. In this issue we look at the duties for care service providers under the Act and how these compare with current legislation, provide feedback on the Health Board engagement sessions and the Q2 reports, an update on the development of staffing methods by the Care Inspectorate and some more myth busting.

From the Health Board engagement sessions



Engagement sessions are ongoing and have provided a great opportunity to see the great work Boards are doing to implement the requirements of the Act and how that is encouraging staff to think about the best approach to delivering their services. It also helps us to tailor our messaging to address any misunderstandings and share good practice. Here are some key messages we'd like to share:

When the Act is commenced in April 2024 all Health Boards will be required to comply with all duties set out in the Act. We do however recognise that preparedness isn't binary and as more resources become available and learning takes place over the first year, and years to come, we will expect to see incremental improvements and compliance.

The Act gives opportunities to test service redesign and different ways of staffing and providing care.

The Duty to have real-time staffing assessment in place requires real-time assessment and recording of risk associated with staffing, rather than real-time assessment and recording of numbers of staff.

Although there is a list of professional groups covered in the Act, we shouldn't be thinking about each group in isolation. We should consider what skills and competencies are available across all members of the team to deliver the care required, rather than how many of each professional group we have.

Health Board progress towards implementation

We have almost received all of the Q2 reports and are in the process of working through them. This is the first time that Boards have been asked to report using the Annual Reporting Template and this is a good learning process for both the Act Team and the Boards in using the template.

We have received feedback on challenges with filling out the template and we will take all of this into consideration, although we are limited by needing to include the information required by the Act. We are in the process of finding a digital solution for the Annual Reporting Template too, which should help improve the experience of completing the form.

We will provide individualised feedback for each Board on their Q2 report and aim to provide this by the end of January. We are happy to discuss Q2 reports in the engagement sessions that are ongoing and also through reaching out to the team. Please email with any questions or concerns to HCSA@gov.scot

Developing staffing methods for care services

The Act gives a power to the Care Inspectorate to develop and recommend to Scottish Ministers a staffing method for use by care home services for adults. Following this recommendation the Scottish Ministers can make regulations that require care home services for adults to use this method.

It is important to note here that this is a long-term project and no regulations will be made before 01 April 2024 requiring the use of a specific staffing method. The Act requires the Care Inspectorate to collaborate with stakeholders when developing staffing methods.

The Safe Staffing Programme Team within the Care Inspectorate have been busy testing with volunteer care homes, consulting stakeholders on Citizen Lab and developing a staffing method framework that both can be used by all services right now as a tool when making decisions on appropriate staffing, and as a base going forward when looking at developing specific staffing methods.

The latest draft of the staffing method framework is shown here; for more information, contact the Care Inspectorate Safe Staffing Programme on safestaffingproject@careinspectorate.gov.scot



Care services: what will change on 01 April 2024?



When the provisions of the Health and Care (Staffing) (Scotland) Act 2019 come into force on 01 April 2024, care service providers will need to comply with the duties to ensure appropriate staffing and staff training. But how different is this to the current regulation?

Care service providers are currently required to comply with Regulation 15 of the Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011 on staffing and staff training and we thought it may be useful to compare the two side by side as shown in the table below.

As you can see they are very similar and it is anticipated that care services will, by complying with the current legislation, also be able to comply when the Act comes into force next year. We hope this comparison allays some fears about what the Act will mean and whether it will involve significantly more resources compared to the current system. Regarding monitoring compliance, the Care Inspectorate currently look at staffing in care services as part of registration, inspections and complaints and this will continue to be the case following Act commencement.

Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011

Health and Care (Staffing) (Scotland) Act 2019

15(a) Staffing

A provider must, having regard to the size and nature of the care service, the statement of aims and objectives and the number and needs of service users, ensure that at all times suitably qualified and competent persons are working in the care service in such numbers as are appropriate for the health, wellbeing and safety of service users

7 Duty on care service providers to ensure appropriate staffing

Any person who provides a care service must ensure that at all times suitably qualified and competent individuals are working in the care service in such numbers as are appropriate for:

- (a) the health, wellbeing and safety of service users
- (b) the provision of safe and high-quality care, and
- (c) in so far as it affects either of those matters, the wellbeing of staff

In determining what constitutes appropriate numbers, regard has to be had to:

- (a) the nature of the care service
- (b) the size of the care service
- (c) the aims and objectives of the care service
- (d) the number of service users, and
- (e) the needs of service users

Guiding principles

When carrying out the duty to ensure appropriate staffing, any person who provides a care service must have regard to the guiding principles.

The guiding principles are:

- (a) that the main purposes of staffing for health care and care services are:
 - (i) to provide safe and high-quality services, and
 - (ii) to ensure the best health care or care outcomes for service users
- (b) in so far as consistent with these main purposes, staffing is to be arranged while:
 - (i) improving standards and outcomes for service users
 - (ii) taking account of the particular needs, abilities, characteristics and circumstances of different service users
 - (iii) respecting the dignity and rights of service users
 - (iv) taking account of the views of staff and service users
 - (v) ensuring the wellbeing of staff
 - (vi) being open with staff and service users about decisions on staffing
 - (vii) allocating staff efficiently and effectively, and
 - (viii) promoting multi-disciplinary services as appropriate

15(b) Staffing

A provider must, having regard to the size and nature of the care service, the statement of aims and objectives and the number and needs of service users, ensure that persons employed in the provision of the care service receive:

- (i) training appropriate to the work they are to perform
- (ii) suitable assistance, including time off work, for the purpose of obtaining further qualifications appropriate to such work

8(1) Training of staff

Any person who provides a care service must ensure that individuals working in the care service receive-

- (a) appropriate training for the work they are to perform, and
- (b) suitable assistance, including time off work, for the purpose of obtaining further qualifications appropriate to their work

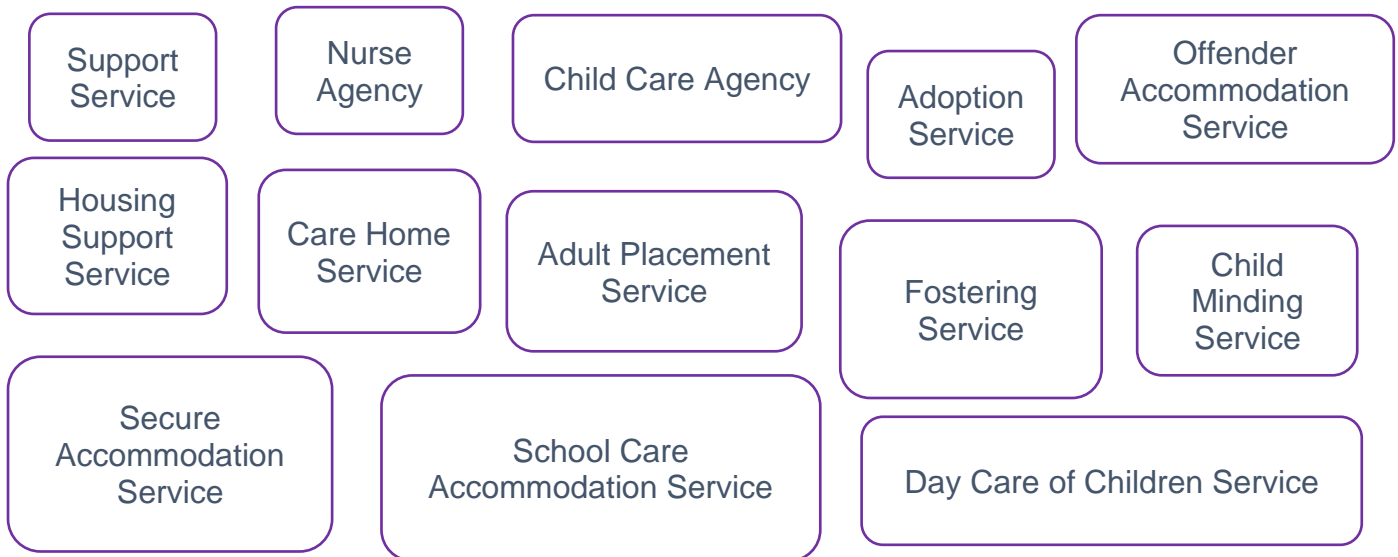
Myth busting

Following on from our last newsletter, we continue our series of myth busting.. .

1) *For care service providers, the Act only applies to care homes for adults.*

FALSE:

The Act applies to all care services listed under section 47(1) of the Public Services Reform (Scotland) Act 2010 (see boxes below)



2) *The statutory guidance should detail minimum numbers of staff required for a service.*

FALSE:

There are two reasons why the guidance does not include specific numbers of staff for services:

- I. This was specifically stated as not being the intention of the legislation, right from the start when the Bill was introduced to Parliament. The policy memorandum, accompanying the Bill states “The legislation is not intended to set out or prescribe minimum staffing levels or fixed ratios; this would be at odds with the Scottish Government’s established policy approach and could potentially undermine innovation in service provision. Rather, the legislation will support local decision-making, flexibility and the ability to redesign and innovate across multi-disciplinary and multi-agency settings.”
- II. It would not be practicable. The legislation covers all services, from acute to outpatients to community to laboratories, all professional groups from doctors to nurses to allied health professionals and healthcare scientists and all locations, from large cities to remote and rural to islands. We cannot prescribe numbers of staff for every different situation, which will fluctuate on a daily basis anyway depending on demand.

If you have any queries or would like to get in touch, please email us at HCSA@gov.scot

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Next edition: December 2023