

# NHS Ayrshire & Arran



<b>Meeting:</b>	<b>Ayrshire and Arran NHS Board</b>
<b>Meeting date:</b>	<b>Monday 4 December 2023</b>
<b>Title:</b>	<b>Preparation for implementation of the Health and Care (Staffing) (Scotland) Act 2019</b>
<b>Responsible Director:</b>	<b>Jennifer Wilson, Nurse Director</b>
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## 1. Purpose

This is presented to the Board for:

- Discussion

This paper relates to:

- Government policy/directive
- Legal requirement

This aligns to the following NHS Scotland quality ambition(s):

- Safe
- Effective
- Person Centred

## 2. Report summary

### 2.1 Situation

This paper provides a summary of the Health and Care (Staffing) (Scotland) legislation and updates Board Members on local progress towards readiness for implementation in April 2024.

### 2.2 Background

The Health and Care (Staffing) (Scotland) Act was passed by Parliament on 2 May 2019 and received Royal Assent on 6 June 2019. The Act seeks to facilitate high quality care, and improved outcomes for people using services in both health and care by helping to ensure appropriate staffing. The Act places specific duties on Health Boards, care service providers, Healthcare Improvement Scotland (HIS), the Care Inspectorate and Scottish Ministers.

The overarching ambition of the legislation is to ensure that at all times, suitably qualified and competent individuals, from such a range of professional disciplines as necessary, are working in such numbers as are appropriate for the health, wellbeing and safety of patients, and the provision of high-quality health care.

Effective application of the Health and Care (Staffing) (Scotland) legislation aims to:

- Improve standards and outcomes for service users
- Take account of the particular needs, abilities, characteristics and circumstances of different service users
- Respect the dignity and rights of service users
- Take account of the views of staff and service users
- Ensure the wellbeing of staff
- Promote openness and transparency with staff and service users about decisions on staffing
- Ensure efficient and effective allocation of staff
- Promote multi-disciplinary services as appropriate

Following enactment, Health Boards will submit annual reports to Scottish Ministers on their compliance with the Act, including high cost agency use and any severe and recurrent risks.

Scottish Ministers will then report on legislative compliance and offer recommendations to Parliament. The detail of these reports will help inform local and national workforce planning, along with health and social care policies.

### **Professions included**

Recent national focus has clarified the range of clinical professions which will be included under the scope of the legislation. These include:

- Nursing
- Midwifery
- Allied Health Professions
- Healthcare Science
- Pharmacy
- Dentistry
- Medicine
- Psychology
- Optometry
- Ambulance staff
- Health care support workers, Assistant and Associate practitioners linked to the above professions.

Full detail of the professions and roles impacted by the legislation can be found here:

<https://www.gov.scot/publications/health-and-care-staffing-scotland-act-2019-overview/pages/roles-in-scope-of-the-act>

### **Legislative duties**

The majority of legislative duties, as detailed below, are applicable to all of the clinical professions detailed above:

- 12IA - Duty to ensure appropriate staffing
- 12IB - Duty to ensure appropriate staffing: agency workers
- 12IC - Duty to have real-time staffing assessment in place
- 12ID - Duty to have risk escalation process in place
- 12IE - Duty to have arrangements to address severe and recurrent risks
- 12IF - Duty to seek clinical advice on staffing
- 12IH - Duty to ensure adequate time given to clinical leaders
- 12II - Duty to ensure appropriate staffing: training of staff
- 12IM - Reporting on staffing

There are additional duties associated with application of the common staffing method. These duties apply only in areas where speciality specific workload tools are named within the legislation. At present, this includes nursing, midwifery, and (in the Emergency Department only) medicine:

- 12IG - Duty to ensure appropriate staffing: number of registered healthcare professionals etc.
- 12IJ - Duty to follow common staffing method
- 12IK - Common staffing method: types of health care
- 12IL - Training and consultation of staff

### **Timeline and reporting**

The timeline for enactment of Health and Care (Staffing) (Scotland) legislation has now been confirmed, with associated monitoring and governance due to commence on the 1st April 2024.

National work has progressed to produce guidance chapters for each legislative duty, and a series of webinars have been delivered by Scottish Government and Healthcare Improvement Scotland to raise awareness of the legislation and its implications.

Boards are required to submit quarterly reports in the period leading up to Act implementation, with the first formal annual report due by Boards by the end of March 2025.

## **2.3 Assessment**

There has been significant focus recently in supporting local preparation for enactment of the legislation.

### **Local workforce lead capacity**

A Nursing and Midwifery Workforce Lead and Data Analyst are currently in post within NHS Ayrshire & Arran to support the nursing workforce with the running of the professional judgement tools, specialty specific workload tools, running reports for various teams and supporting application of the components of the Common Staffing Method. More recently they have been involved in facilitating application of the real time staffing resources introduced by the Healthcare Staffing Programme, and widening the lens of support as further professions become involved in preparation for enactment.

Further support has also been welcomed through the part time focus of an experienced Chief Nurse, to enable further preparatory activity.

### **Programme Board now established**

NHS Ayrshire & Arran's Health and Care Staffing Bill Programme Board has now been established and commenced a regular schedule of meetings. Chaired by the Nurse Director, and with multi professional representation, the Programme Board seeks to direct and coordinate the activity required to enable local readiness for enactment of the legislation.

### **Influence of the national programme**

NHS Ayrshire & Arran continue to be well connected to, and have opportunity to influence the national direction of the Healthcare Staffing Programme:

- NHS Ayrshire & Arran's Nursing & Midwifery Workforce Staffing Lead is a regular participant in the national Workforce Leads Hub, ensuring regular, contemporary position and update, with ability to field relevant representatives to expert working groups and reference panels as required.
- NHS Ayrshire & Arran's Executive Nurse Director is Chair of the Healthcare Staffing Programme's national Tools Maintenance and Development Oversight Group, again ensuring influence and direction to the expanding suite of workload tools and real time staffing resources available for local application.
- As co-chair of the Healthcare Staffing Programme's national Professional Advisory Group, NHS Ayrshire & Arran's Director of Allied Health Professions has been able to influence progress around preparation for professions beyond nursing and midwifery, and to guide direction of the national Healthcare Staffing Programme.
- In their chair roles of the respective national groups, NHS Ayrshire & Arran's Executive Nurse Director and Director of Allied Health Professions are both members of the Healthcare Staffing Programme Board which has overarching responsibility for delivery of the programme.

### **Specialty specific workload tools**

In line with the legislation, there is a requirement to use the common staffing methodology as a minimum once per year. A suite of specialty specific workload tools are named within the legislation, and available to support Boards with this. There are currently 12 tools available for use in the nursing and midwifery healthcare setting, of which one, the Emergency Department Emergency Medicine, is multi-disciplinary and should also be used by medical colleagues.

Within NHS Ayrshire & Arran, there has been a commitment to continue to run the Nursing Workload tools since the end of the pandemic. In addition to the local approach to the running of the Nursing Workload tools, NHS Ayrshire & Arran's Nursing & Midwifery Workforce Staffing Lead has worked closely with the national Healthcare Staffing Programme to ensure engagement with recent national runs of the Community Nursing, Community Children Specialist Nurses and Clinical Nurse Specialists workload tools.

### **Real time staffing assessment**

The legislation requires there to be both Real Time Staffing (RTS) assessments and a risk escalation process in place. RTS allows recording of staffing variance and supports and evidences decision making relating to potential risk at a point in time.

Over the last 18 months, several nationally developed RTS resources have been digitalised onto the TURAS platform. These resources seek to provide a consistent mechanism to support identification of staffing risks, recording of mitigations and escalation of concerns.

There has been local effort in recent months to support the roll out of the nationally developed RTS resources within:

- Mental health inpatient areas
- Critical care

A generic RTS resource is currently under national development, with ambition that this should meet the legislative requirement for the wide range of other professional groups included under the legislation.

The potential of e-rostering in meeting the Real Time Staffing duties is also being explored locally.

### **Awareness raising**

National learning materials, developed by Healthcare Improvement Scotland, have been widely promoted, and distributed across NHS Ayrshire & Arran, and provide a useful foundation for raising awareness.

In collaboration with colleagues from Healthcare Improvement Scotland, and the Care Inspectorate, locally led awareness raising sessions have been arranged for relevant staff members on the Health and Care (Staffing) (Scotland) Act 2019. These sessions were delivered across Ayrshire locations throughout September and October 2023. These multi-disciplinary, participatory events focused on the legislative duties of the Act that are applicable to all professions.

A virtual session is scheduled to take place on Microsoft teams in early December.

### **2023/24 Quarter 1 return and feedback**

NHS Ayrshire and Arran's Quarter 1 return is available at **Appendix 1**, with subsequent feedback included at **Appendix 2**. Overall, NHS Ayrshire & Arran are assessed as making positive progress in preparations for enactment. The variation in preparedness between different professional groups, and the structures in place to support these are acknowledged. A greater breakdown of different professional groups was requested for the most recent quarterly return, with request of further evidence of progress and consideration of readiness across the range of professions implicated by the legislation.

National planned progress and focus on real time staffing resources and the potential interplay with e-rostering is also acknowledged by the national team.

### **2.3.1 Quality/patient care**

The overarching ambition of the Health and Care (Staffing) (Scotland) legislation is to ensure the delivery of safe, quality care and improve outcomes and experience for the people who access our services, and those working within our system.

### **2.3.2 Workforce**

Compliance with the duties laid out under the Health and Care (Staffing) (Scotland) legislation will enable NHS Ayrshire & Arran to determine the extent to which the current workforce configuration aligns to the delivery of safe, quality care, and to identify any associated severe or recurring workforce risks.

There is recognition under the legislation of the relationship between adequate staffing levels and staff wellbeing, with a requirement to ensure that staffing levels do not compromise staff wellbeing.

Additionally, compliance with the legislation will require an increased emphasis on openness and transparency; ensuring it is easy for staff to raise concerns around staffing levels or quality of care, and clear process to ensure that any colleague who raises such risk is informed as to any action or decision taken as a result.

### **2.3.3 Financial**

NHS Ayrshire & Arran receives non-recurring funding from the Scottish Government to resource a Lead role to support readiness for implementation of the Health and Care (Scotland) (Staffing) legislation. Historically, this role has been focussed around the Nursing and Midwifery professions. Recently, Scottish Government have requested that this role encompass support to the range of professions included under the legislation.

There is no additional resource expected to support implementation of this legislation. The activity required to demonstrate attainment against the legislative duties, and subsequent reporting will be beneficial in supporting NHS Ayrshire & Arran to determine best use of the resource it already has available. Discussions have commenced within the Corporate Management Team to facilitate appropriate alignment between the outputs of activity required to demonstrate attainment against the legislative duties, and existing local budget setting processes.

### **2.3.4 Risk assessment/management**

Local risks and mitigations

- There is understandable variance across professional groups in terms of awareness of the legislation and state of readiness for enactment. This will be mitigated through the planned local awareness raising sessions, promotion of the national communications and learning resources, and continued leadership and influence through the local Health and Care Staffing Bill Programme Board.
- There is acknowledgement of a limited ability to robustly approach and quantify the determination of 'safe staffing' beyond where specialty specific tools already exist. This will be mitigated through continued influence via the relevant national groups, and use of existing workload measurement and workforce planning methodologies.
- There is a potential tension between the way in which the legislative duties are detailed separately under health, and care, versus integrated operational delivery. The current testing of implementation, underway across ten Health Boards, will support learning to clarify how this best applies in practice. The planned integrated approach to the local Health and Care Staffing Bill Programme Board will aim to further mitigate this risk.

- There is concern that the activity required to demonstrate compliance with the legislation may identify safety concerns or highlight gaps in workforce that may be challenging to address. The delivery of safe, quality care is already the remit of the Health Board and integration authorities, and as such processes are already in place to identify and mitigate such risk. The annual report to be collated by Ministers will provide opportunity to make policy recommendations around any recurring risks.

### **2.3.5 Equality and diversity, including health inequalities**

The requirement for an impact assessment is currently being discussed with Engagement colleagues to ensure compliance with the Public Sector Equality Duty, Fairer Scotland Duty, and the Board's Equalities Outcomes.

### **2.3.6 Other impacts**

The activity associated with this work also aligns with

- Best value
  - Vision and Leadership
  - Governance and accountability
  - Use of resources
- Compliance with Corporate Objectives and has close links with the Excellence in Care activity in assuring the delivery of safe, quality care.

### **2.3.7 Communication, involvement, engagement and consultation**

The Board has carried out its duties to involve and engage external stakeholders where appropriate:

The detail contained within this paper has been tabled and discussed by groups as noted under 2.3.8 Route to the Meeting

A communications plan is currently under development.

Local, participatory, awareness raising sessions were delivered throughout September and October 2023 to further ensure appropriate involvement and engagement around the local implications of this legislation.

### **2.3.8 Route to the meeting**

This has been previously considered by the following groups as part of its development. The groups have either supported the content, or their feedback has informed the development of the content presented in this report.

- NHS Ayrshire & Arran Health and Care Staffing Bill Programme Board, 20 July 2023
- Corporate Management Team, 25 July 2023
- Staff Governance Committee, 7 August 2023

## **2.4 Recommendation**

This paper is brought for

- **Discussion** – Examine and consider the implications of a matter.

Board members are asked to

1. Note the work underway as well as the identified risks and planned mitigations in relation to our readiness for implementation of the Health and Care (Staffing) (Scotland) legislation.
2. Scrutinise the current Board position in relation to readiness for enactment, confirm that the report provides suitable assurance or request further assurance if necessary.

### **3. List of appendices**

The following appendices are included with this report:

- Appendix No 1, NHS Ayrshire and Arran Health and Care Staffing Act 2023-24 Q1 Return
- Appendix No 2, Scottish Government Feedback on NHS Ayrshire and Arran Health and Care Staffing Act 2023-24 Q1 Return



**Annex A: Board-specific feedback on Q4 Report - Updated with 2023/24 Q1 NHS Ayrshire and Arran Response**

<p><b>Governance - Does your Board have an adequate governance framework in place? Please detail structure in place.</b></p>	<p><b>Q1 2023/24 Update and response to feedback</b></p>
<p>Appropriate programme oversight, established within existing Board governance structure. Positive alignment of HCSA with EIC programme to inform and support workforce planning and programme governance.</p> <p>We note the Healthcare Quality, Governance and Standards Unit Vision underpins the principles and desired outcomes from the Act post implementation.</p> <p><b>Areas for consideration:</b></p> <ul style="list-style-type: none"> <li>• <b>Once the structure is embedded how do you receive assurance all elements are functioning effectively?</b></li> </ul>	<p>The NHS Ayrshire and Arran Health and Care Staffing Programme board continues to meet, with strengthened membership to ensure representation across all relevant professional groups. The group is currently exploring the role of members and reporting to ensure adequate assurance. We will be keen to achieve efficiency through alignment with existing governance reporting wherever possible.</p>
<p><b>Chapter 12IA : Duty to ensure appropriate staffing</b></p>	
<p>Thank you for a helpful overview of the relevant duties.</p> <p>The Boards positive engagement with national programme both helps to shape these resources, as well as support local application and delivery.</p> <p>We note the successes shared in relation specific work to introduce real time staffing resources (RTSR) and use of staffing level tools (SLTs). Good progress with implementation within pharmacy services – it will be helpful to understand how this progresses, and if this provides a structure or platform to support</p>	<p>The Board’s duty to ensure services delivered by a third party (through contract or commissioning) comply with the general duty and in accordance with the guiding principles has been highlighted at the NHS Ayrshire and Arran Health and Care Staffing Programme board and will be explored with a view to bringing a clearer position in future return.</p> <p>National guidance on this will be welcomed and we will seek direction through the detail of the relevant guidance chapter to support this. We also intend to engage with local procurement colleagues for expertise and advice on this element.</p>

<b>Governance - Does your Board have an adequate governance framework in place? Please detail structure in place.</b>	<b>Q1 2023/24 Update and response to feedback</b>
<p>other professional disciplines in scope with their preparations for enactment.</p> <p>We note and agree that the risks and challenges you have highlighted associated with progress in the non N&amp;M professions in terms of readiness are an area requiring further focus and development.</p> <p><b>Areas for consideration:</b></p> <ul style="list-style-type: none"> <li>• <b>Has there been any work to consider how the Board will comply with its duty to ensure services delivered by a third party (through contract or commissioning) will comply with the general duty and in accordance with the guiding principles</b></li> </ul> <p><b>*The feedback to this duty has been variable across all Boards and the prompt questions do not fully respond to the requirements of this duty with regard to the guiding principles. We will consider this when revising the draft Act report for Q2.</b></p>	
<p><b>12IB – Duty to ensure appropriate staffing: agency worker</b></p> <p><b>We note the previous work to assess the impact of this duty within NHS A&amp;A, and recognise the current reliance on non-framework agency staffing as well as the National directive regarding the use of off-framework agency workers. With the roll out of eRostering, there will be the opportunity to strengthen and provide assurance of effective rostering practices when embedded.</b></p>	<p>We note the planned collaborative work to develop an automated reporting template.</p> <p>We will explore these areas for consideration over the next quarter with a view to further update in future return.</p> <p>Some further detail in terms of use of agency in the meantime :</p>

**Governance - Does your Board have an adequate governance framework in place?  
Please detail structure in place.**

**Q1 2023/24 Update and response to feedback**

**There is a good description of the risks and challenges, and opportunity with eRostering implementation.**

**Nursing**

**Areas for consideration:**

NHS A&A approach to reduce reliance on nursing agency spend has been in a number of ways.

- **It would be helpful to understand the Boards approach and engagement with a number of initiatives to reduce reliance on agency (in particular high cost agency). For example; engagement with B2-4 work, international recruitment, effective roster management, retire to return and optimise bank recruitment.**
- **It would be helpful to understand if there are actions in place to monitor agency spend in all professions (e.g. medical locums), and that these considerations apply equally (as appropriate).**
- **Are there robust governance structures in place to review agency staffing requests, to ensure any high-cost agency use is required to ensure appropriate staffing?**
- **In the event the Board require agency staff that cost >150% of an equivalent NHS worker, how will the Board report on this? Are there governance structures in place to support reporting of this?**

- International Recruitment started at the end of 2022 with the first cohort of recruits arriving in January 2023. To date, from the first 2 cohorts, we have successfully recruited 9 Registered Nurses with a further 7 arriving in August 2023.
- Given the ongoing national shortage of registered nurses, the decision was made to recruit Assistant Practitioners (APs) across the Acute Services who are currently undertaking a 12 month programme of development with protected education and training hours. A total of 21 APs have been employed and once fully trained, they will be key members of the nursing workforce who will improve the skill mix providing additional support to teams, in order to ensure safe care for patients until the registered nurse vacancies can be recruited to.
- In April 2023, NHAAA held a mass recruitment of Nursing and Midwifery Newly Qualified graduates (recruitment campaign) inviting final year students to apply in our adult, midwifery and paediatric fields. It should be noted that it was not possible to recruit into all vacancies, however a total of 152 Newly Qualified Practitioners have been appointed in Ayrshire commencing in September 2023. On completing their training, while they wait for their NMC PIN number, they will be recruited into Band 4 posts.
- Nurse Band 5 recruitment is continually advertised for registered nurses and regular advertising continues for Healthcare support workers
- Additional rostering scrutiny is being carried out by Senior Charge Nurses and Clinical Nurse Managers

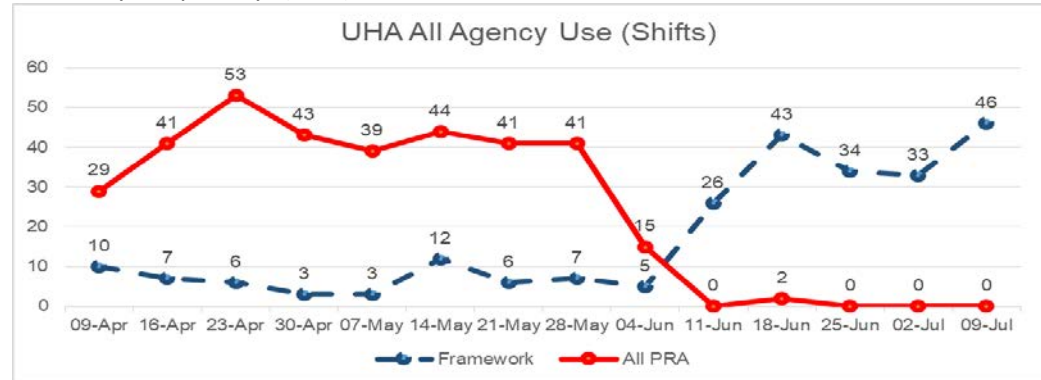
**\*The SG are working with RLDatix, NSS, HIS and reps from the National Staff Bank Managers Forum to develop a reporting template, which will, where possible be automated. We hope this will progress with testing in June/ July 2023.**

Weekly monitoring of nurse agency use is in place as detailed below. Since the middle of May 2023 there has been a reduction in non-framework agency use and an increase in framework agency use as detailed below:

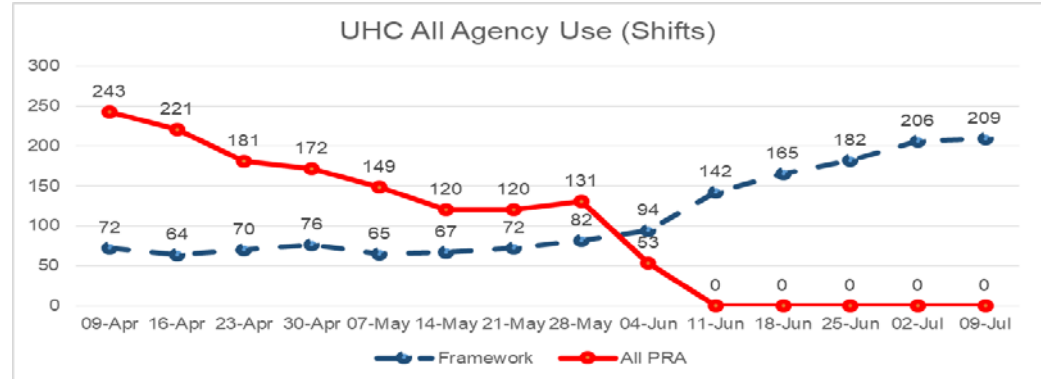
**Governance - Does your Board have an adequate governance framework in place?  
Please detail structure in place.**

**Q1 2023/24 Update and response to feedback**

University Hospital Ayr (UHA)



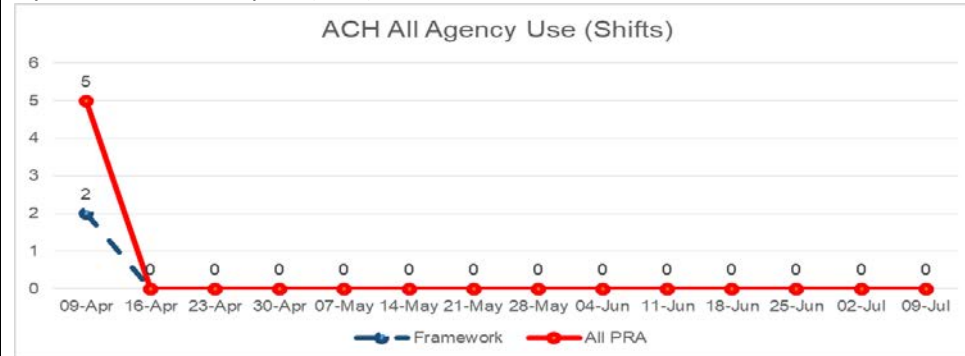
University Hospital Crosshouse (UHC)



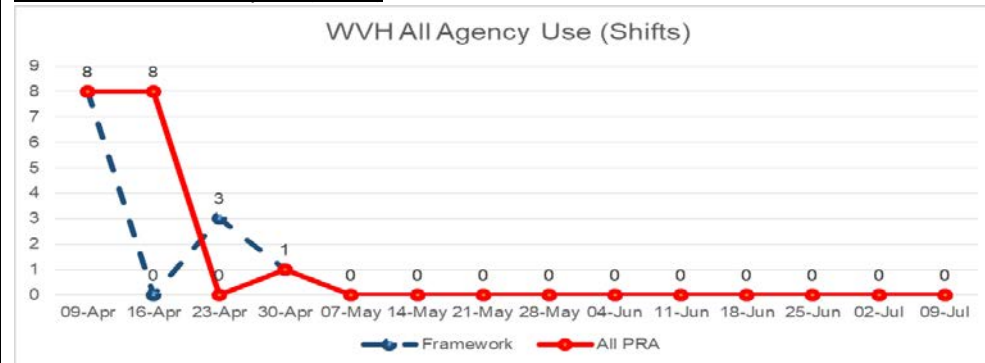
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**Q1 2023/24 Update and response to feedback**

Ayrshire Central Hospital (ACH)



Woodland View Hospital (WVH)



Escalation to non-framework agency has occurred on 2 occasions since 1 June 2023 for ICU nurses. Most clinical areas are currently working with deminimis staffing levels in order to reduce the non-framework agency use and a piece of work is being commenced to consider what the impact on the quality of patient care has been over this time.

There is an escalation process in place for requests for non-framework agency use. Robust assessment is carried out and requests escalated and approved by Executive Nurse Director in-hours and the Tactical Director in the out of hours period.

<b>Governance - Does your Board have an adequate governance framework in place? Please detail structure in place.</b>	<b>Q1 2023/24 Update and response to feedback</b>
	<p><b>Medicine :</b></p> <p>Planned Agency requests for a substantive gap or notified absence are made via the Divisional General Manager and Associate Medical Director to Medical Staffing. Medical Staffing source locums/agency staff from direct engagement company “Retinue”. Where there is excess rates requested, approval needs to be sought from the Director of Acute Services and the Director of Finance. The Director of Acute Service will review the overall staffing situation and risk associated with the gap. This discussion is held with the Divisional General Manager and the Associate Medical Director for the Division. The Director of Acute Services will then provide approval or not to the Director of Finance and HR Medical Staffing department. High cost agency locums are flagged via the monthly medical spend meeting chaired by the Medical Director, exit plans are reviewed for any long term agency locum. This group is attended by the Director of Finance, Director of Acute Services, Finance Business Partners and Site Directors.</p> <p>The Divisional General Managers meet monthly with their Associate Medical Director and Finance team to review agency locum status, identify alternative medium to long term solutions including continued recruitment to vacancies.</p> <p><b>Allied Health Professions – Radiography</b></p> <p>Historically, the board required to make regular use of radiography locums in ensuring safe staffing levels and to meet demand for imaging. International recruitment has recently been successfully utilised to bring five radiographers into post, with plans for a further five international colleagues to join later in the year, minimising the need for regular locum cover in our imaging departments. In addition locums have been used when we’ve been given non-recurring funding to address waiting lists (CT and MRI).</p>
<b>12IC – Duty to have real-time staffing assessment in place</b>	
Mechanisms to identify real-time risk are in place and in use across a number of services with the exception of health care scientists, psychology, optometry & medical staff. We note	We have a number of interactive, multi-disciplinary awareness raising sessions planned for September and October 2023. We intend to use these sessions to promote awareness of the legislation and relevant duties, and also to explore existing processes and mechanisms that are in

**Governance - Does your Board have an adequate governance framework in place?  
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**Q1 2023/24 Update and response to feedback**

inconsistency with process however recognise the work and engagement to build on existing structures. The roll out of eRoster (and SafeCare), as well as the provision of an AHP and generic RTSR as interim approaches until full eRoster roll out will support work locally. We note the support and engagement with national workstreams and are grateful for your participation and experience with these resources.

Very positive to note the engagement with senior members of the Health Board with real time staffing risk assessment in N&M.

We note the concerns with a delay in roll out of the SafeCare module for Mental Health areas that are on HealthRoster, and would be happy to seek support from NSS to consider if there is any additional support available.

Regarding critical care RTSR – the current resource does not include high dependency wards, however work is underway to update this resource to include high dependency within the critical care resource.

For professional teams without a RTSR available, a generic resource is being developed by HIS & NES digital. SafeCare will be able to provide a professional judgment real time staffing assessment and escalation once eRosters are built in non-bed-holding areas.

**Areas for consideration:**

- **Recognising the successes to date and challenges identified, considering what the current process for risk identification and mitigation are in all services**

place, which may serve to support compliance with the Act – considering how current practice can be formalised to meet these legislative duties. Our current approach to identification and escalation of real time staffing risk across the relevant professions will be considered as part of these sessions.

We welcome the national progress around real time staffing resources and remain engaged with the AHP Adult inpatient expert working group, and now the generic real time resource expert working group. We anticipate these to be highly useful in meeting 12IC and 12ID once available.

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<p><b>may support how these can be incorporated into business as usual processes.</b></p>	
<p><b>12ID – Duty to have risk escalation process in place</b></p>	
<p>The use of RTSR, where in place, is supporting process, and recording of risk escalation (and associated outcomes).</p> <p>We note the risks identified in complying with the duty in the absence of a RTSR. As above there is work ongoing to develop a generic RTSR that will support all professional groups in all settings, while the eRostering solution, SafeCare, is implemented.</p> <p><b>Areas for consideration:</b></p> <ul style="list-style-type: none"> <li>• <b>Thinking about non NMAHP teams (and AHP in community and out-patient services) it would be helpful, if not already in place, to ensure that local systems are understood and written down to understand how a risk would currently be escalated to help identify where the gaps are. This will allow these systems and processes to be embedded, and then further developed and enhanced with the introduction of RTSR or eRoster.</b></li> </ul> <p><b>Some suggested prompt questions might be:</b></p> <ul style="list-style-type: none"> <li>• <b>How do we use and communicate professional judgement and decisions about staffing?</b></li> <li>• <b>How are risks escalated?</b></li> <li>• <b>Is there a system or process for documenting any mitigation through structures in place?</b></li> <li>• <b>Is there a mechanism for providing feedback?</b></li> </ul>	<p>As response to 12IC above.</p> <p>These prompt questions will be useful in structuring some of the breakout activity planned at the multi-disciplinary awareness raising session in September and October.</p>



<p><b>Governance - Does your Board have an adequate governance framework in place? Please detail structure in place.</b></p>	<p><b>Q1 2023/24 Update and response to feedback</b></p>
<p><b>12IE – Duty to have arrangements to address severe and recurrent risks</b></p>	
<p>From the feedback provided there are robust governance process in place for recording of severe and recurrent risks, which once identified are managed through an agreed governance structure, and outcomes reported through corporate risk and governance reporting structures.</p> <p>From the summary, this appears to exist across all professions and in all care settings within scope.</p> <p><b>Areas of consideration:</b></p> <ul style="list-style-type: none"> <li>• <b>Is there consistency in how a severe risk is identified, defined and reported?</b></li> <li>• <b>How do you identify recurrent risk through current mechanisms? We recognise this will be strengthened with improved real time assessment and recording structures (via RTSR or SafeCare), but an understanding of current process may be helpful to inform these future developments in practice.</b></li> </ul>	<p>Datix is the system used across the organisation to record and escalate risk. Datix reports and the associated risk registers contained within are used as part of assurance through the various governance groups across NHS Ayrshire and Arran. We acknowledge that objective, consistent identification of risk can be a challenge and plan to liaise with local risk management colleagues to support approach to these helpful areas for consideration</p> <p>We hold the positive assumption that the planned awareness raising sessions will support increased general understanding of the legislation, and the associated elements of risk identification, escalation and management.</p> <p>We agree that the intended further development and implementation of Real Time Resources and eRostering systems will strengthen this and improve consistency of identification. We are keen to continue to engage with the associated programmes of work as part of our preparation.</p>
<p><b>12IF – Duty to seek clinical advice on staffing</b></p>	
<p>Evidence of established processes in place for NMAHP professions which are being reviewed and strengthened to ensure clinical advice is available and sought in relation to decisions about staffing.</p> <p>Building clinical leadership into identified key roles within the Board supports the ability to ensure appropriate time and resources are available to support staff in this role.</p>	<p>Through our programme board, we continue to widen the input and influence of professional leads from across the range of professions included within the legislation. These areas for consideration are welcomed and will help to target activity planned over the next quarter.</p>

<b>Governance - Does your Board have an adequate governance framework in place? Please detail structure in place.</b>	<b>Q1 2023/24 Update and response to feedback</b>
<p>Positive feedback, recognising that the clinical voice is being heard through these processes, to influence decision making.</p> <p>You have provided good evidence of raising awareness of the requirement to seek clinical advice in some staff groups – it would be helpful to understand how this applies to all professions and we would like to see more on the process involved please.</p> <p>Within this duty there is the requirement for clinical leaders to provide quarterly reports to the Board as part of internal governance reporting. Within the completed response the governance structure has been articulated, however we suggest that you need to consider how this internal reporting will provide assurance against this duty.</p> <p><b>Areas for consideration:</b></p> <ul style="list-style-type: none"> <li>• <b>Consider this duty across all professional staff groups in scope.</b></li> <li>• <b>Developing processes to ensure there is feedback to staff who have given clinical advice (if not the decision maker) and a process to escalate any disagreement.</b></li> <li>• <b>Where a risk is identified as a result of advice not being followed, how do you capture this risk and any mitigations required?</b></li> </ul>	
<p><b>12IH – Duty to ensure adequate time given to leaders</b></p> <p>Good progress in relation to NMAHP professions, and learning from N&amp;M professionals extended to AHPs.</p> <p>We note the challenge raised with SCN leadership time – is this being captured as a risk mitigation, and identified as a recurrent</p>	<p>Through our programme board, we continue to widen the input and influence of professional leads from across the range of professions included within the legislation. These areas for consideration are welcomed and will help to target activity planned over the next quarter.</p>

<b>Governance - Does your Board have an adequate governance framework in place? Please detail structure in place.</b>	<b>Q1 2023/24 Update and response to feedback</b>
<p>risk (if appropriate)? This would be a good assessment of the systems and processes in place to support duties 12IC-E.</p> <p><b>Areas for consideration:</b></p> <ul style="list-style-type: none"> <li>• <b>Would be good to see more consistency in applying this duty across the professions.</b></li> <li>• <b>Consider how you provide evidence of how you evaluate whether enough time is given to leaders, that staff receive the time, and the impact it has on outcomes (links with SCN comment above).</b></li> <li>• <b>Are there opportunities to provide evidence of using the existing structure to consider this e.g. JDs, job plans, PDP etc?</b></li> </ul>	
<b>12II – Duty to ensure appropriate staffing: training of staff</b>	
<p>Detailed processes in place to support awareness and training of the Act, and EiC/ patient outcomes measures, however this does not cover all professions.</p> <p><b>Areas for consideration:</b></p> <ul style="list-style-type: none"> <li>• <b>How does this apply to all professions?</b></li> <li>• <b>Other measures available to staff (may be different professions) that demonstrate quality safety and improved outcomes.</b></li> <li>• <b>Need to think about knowledge and skills to deliver care as well as support Act (to ensure staff are suitably qualified and competent) – for example, induction, PDP, Training Needs Assessment.</b></li> <li>•</li> </ul>	<p>We note the recent clarity around the range of professions and roles understood to be included under the legislation and will be targeting these in our upcoming local awareness raising sessions.</p> <p>We continue to promote the excellent learning resources developed by HIS and NES, and are developing a local communications and engagement plan.</p> <p>Through our programme board, we continue to widen the input and influence of professional leads from across the range of professions included within the legislation. We have agreed a timetable for papers to be tabled at the relevant organisational groups – programme board, corporate management team, staff governance committee, NHS Board - in further ensuring appropriate input and influence, and supporting multi professional readiness for Act implementation.</p> <p>These areas for consideration are welcomed and will help to target activity planned over the next quarter.</p>

<b>Governance - Does your Board have an adequate governance framework in place? Please detail structure in place.</b>	<b>Q1 2023/24 Update and response to feedback</b>
<p><b>12IJ – Duty to follow the common staffing method</b></p> <p>Strong response, good to see Executive buy in and support, that the common staffing method (CSM) is embedded within governance process and there is good understanding of challenges and risk.</p> <p>Strong links with national work through Executive Nurse Director and WFLs.</p> <p>Effective use of adverse event reporting structures within process, if required.</p> <p>Feedback form workforce provides reassurance, engagement and buy in form wider system.</p> <p><b>Areas for consideration:</b></p> <ul style="list-style-type: none"> <li>• <b>Assurance process in place to support all elements of CSM.</b></li> <li>• <b>Assurance this includes medical staff within the emergency department</b></li> </ul>	<p>We have a local timetable for workload tool runs, which has the oversight of our Nursing and Midwifery Workforce Lead. Following every workload tool run all the information per location is entered in to the appropriate staffing Report Template. This template not only captures the actions required of the CSM, (12IJ) it captures many elements of the Act with regards to Agency nursing (12IB) Real Time Staffing (12IC) Risk escalation (12ID) Addressing severe and recurrent risks (12IE) Seeking clinical advice (12IF) etc..</p> <p>The EDEM workload tool has recently been completed at UHC, which included the Professional Judgement of the medical staff required. This has been recorded in the tool on SSTS and we are underway on uploading the Speciality Specific tool data. From this there is a recommended WTE for medical staff included in the tool which as above will be shared once the Report Template has been completed.</p>
<p><b>12IL – Training and Consultation of Staff – Common Staffing Method (This specifically relates to Types of Healthcare &amp; Employees Section 121K (1))</b></p> <p>Good evidence of training to support use of CSM. We would be pleased to receive updates on the successes of the training plan and the feedback you receive from those accessing the training. We note plans to have systems and processes in place to meet duty within timescales.</p>	<p>A Report Template is emailed to every SCN requiring the SCN to report on how the information will be disseminated amongst the staff, to encourage feedback.</p> <p>NHS Ayrshire and Arran’s Nursing and Midwifery Workforce Lead is in regular contact with HSP advisors and HIS and engage their assistance and support. The HSP/ NES resources have been distributed widely, and HSP colleagues have agreed to provide input to the upcoming local awareness raising sessions</p>

<b>Governance - Does your Board have an adequate governance framework in place? Please detail structure in place.</b>	<b>Q1 2023/24 Update and response to feedback</b>
<p><b>Areas for consideration:</b></p> <ul style="list-style-type: none"> <li>• <b>What mechanisms are there to encourage, enable and receive feedback from staff in relation to Staffing Level Tools and CSM?</b></li> <li>• <b>Are you able to evidence training to support tool runs already in place and support by HIS as well as local Workforce Leads? This will strengthen assurance of processes in place.</b></li> <li>• <b>It would be helpful to have assurance about engagement with medical staff in Emergency Department in relation to this duty.</b></li> </ul>	<p>Prior to the running of any workload tools, NHS Ayrshire and Arran’s Nursing and Midwifery Workforce Lead sets up training sessions to set the context of the Act and the background of workload tools as well as instructions to enable completing the tool and the steps taken following the running of the tools</p> <p>Training has been offered and provided to medical colleagues where appropriate, with training provided to the senior Consultant in the A&amp;E department prior to the running of the tool.</p>
<p><b>12IM – Reporting on Staffing</b></p> <p>Response demonstrates engagement with professional leads to support Board level report.</p> <p>As noted in covering letter, the draft Act reporting Template will be for Q2 reporting onwards to help test the report format, inform any changes required and provide a structure for reporting in advance of Act implementation.</p>	<p>We will welcome receipt of the draft template as soon as available in order to support as full response as possible.</p>



04 October 2023

Dear NHS Ayrshire and Arran Executive Lead

### **Health & Care (Staffing) (Scotland) Act 2019 Implementation – NHS Board Quarterly Reports**

Thank you for submitting your Health and Care (Scotland) Act Implementation Q1 Report. This Report was intended as a self-reflective tool to detail progress, key achievements, challenges and risks in the work you are undertaking in preparation for the commencement of the Health and Care Staffing (Scotland) Act 2019.

As before, we have reviewed your report against the duties of the Act and your previous submission and provided feedback against each duty in **Annex A**. Within Annex A we have kept the original Q4 feedback for reference (shaded text), and then provided Q1 specific feedback above it.

As a reminder, there is a new reporting template for Q2 onwards. It is an adapted version of the annual reporting template and the intention is that this will help you get used to the annual reporting template in advance of the commencement of the Act. The template has been shared previously via email and is available in the Objective Connect folder called 'Communication with Workforce and Executive Leads.' A copy is also attached with this feedback.

NHS Ayrshire and Arran is making positive progress in their preparations for enactment. We recognise that there was not much time between receiving the Q4 feedback from the Scottish Government and the deadline for the Q1 report. Therefore, we appreciate the effort to include updates that addressed some of the points raised in the feedback. In particular, the inclusion of information on medics in the emergency department was very useful and appreciated.

Recognising the pressures within Boards and feedback received we have revised the report submission timetable for 2023/24. We have slightly extended the deadline for the Q2 report and now only require one further report, which will be for an extended Q3.

These are the new reporting timelines:

Q2 by 3<sup>rd</sup> November 2023 (to include July – September 2023 inclusive)

Q3 by 1<sup>st</sup> March 2024 (to include October 2023 – January 2024 inclusive)

**Quarterly reports should be sent to our generic mailbox [HCSA@gov.scot](mailto:HCSA@gov.scot)**

[Please also use this email if you would like to discuss the letter further with a member of the Act Team.](#)

Yours sincerely

Unit Head, Chief Nursing Officer's Directorate, Scottish Government