



# Health and Care (Staffing) (Scotland) Act 2019

2019 asp 6

## PART 1

### GUIDING PRINCIPLES FOR STAFFING

#### **1 Guiding principles for health and care staffing**

- (1) The guiding principles for health and care staffing 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 (as the case may be) care outcomes for service users,
  - (b) that, in so far as consistent with those main purposes, staffing for health care and care services 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.

(2) In this Part—

“care service” means a service mentioned in section 47(1) of the Public Services Reform (Scotland) Act 2010,

“health care” means a service for or in connection with the prevention, diagnosis or treatment of illness,

“multi-disciplinary services” means health care or care services delivered together by individuals from such a range of professional disciplines as necessary

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in order to meet the needs of, and improve standards and outcomes for, service users,

“service users” means individuals to whom or in relation to whom health care or a care service is provided,

“standards and outcomes for service users” means—

- (a) in relation to health care, the standards and outcomes published by the Scottish Ministers under section 10H(1) of the National Health Service (Scotland) Act 1978, and
- (b) in relation to care services, the standards and outcomes published by the Scottish Ministers under section 50 of the Public Services Reform (Scotland) Act 2010.

#### Commencement Information

- I1** S. 1(1) in force at 1.4.2024 by S.S.I. 2024/20, reg. 2(2)
- I2** S. 1(2) in force at 15.5.2023 for specified purposes by S.S.I. 2023/131, reg. 2, sch.
- I3** S. 1(2) in force at 1.4.2024 in so far as not already in force by S.S.I. 2024/20, reg. 2(2)

## 2 Guiding principles etc. in health care staffing and planning

- (1) In carrying out the duty relating to staffing imposed by section 12IA of the National Health Service (Scotland) Act 1978, every Health Board and the Common Services Agency for the Scottish Health Service must have regard to the guiding principles for health and care staffing.
- (2) In planning or securing the provision of health care from another person under a contract, agreement or arrangements made under or by virtue of the National Health Service (Scotland) Act 1978, every Health Board and the Common Services Agency for the Scottish Health Service must have regard to—
  - (a) the guiding principles for health and care staffing, and
  - (b) the need for the person from whom the provision of health care is to be secured to have appropriate staffing arrangements in place.
- (3) As soon as reasonably practicable after the end of each financial year, every Health Board and the Common Services Agency for the Scottish Health Service must provide information to the Scottish Ministers <sup>[F1]</sup>and the Patient Safety Commissioner for Scotland] on the steps they have taken to comply with subsections (1) and (2).
- (4) Information provided under subsection (3) must set out how the steps taken by the Health Board or (as the case may be) Common Services Agency for the Scottish Health Service to comply with subsections (1) and (2) have improved outcomes for service users.
- (5) As soon as reasonably practicable after the end of each financial year, the Scottish Ministers must collate information received under subsection (3) into a combined report to be laid before the Scottish Parliament.
- (6) A report laid under subsection (5) must set out—
  - (a) the steps taken by Health Boards and (as the case may be) the Common Services Agency for the Scottish Health Service to comply with subsections (1) and (2), and

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- (b) the steps that the Scottish Ministers will take in relation to the staffing of the health service in response to the report's conclusions and recommendations.

#### Textual Amendments

- F1** Words in s. 2(3) inserted (1.5.2024) by Patient Safety Commissioner for Scotland Act 2023 (asp 6), s. 24(2), **sch. 2 para. 6(2)**; S.S.I. 2024/110, reg. 2(1)

#### Modifications etc. (not altering text)

- C1** S. 2 applied (1.4.2024) by S.I. 1999/686, art. 5, **Sch. Pt. 2** (as amended by Health and Care (Staffing) (Scotland) Act 2019 (asp 6), **ss. 5(3)**, 15(2); S.S.I. 2024/20, **reg. 2(2)**)
- C2** S. 2 applied (1.4.2024) by S.S.I. 2001/137, art. 5, **sch. Pt. 2** (as amended by Health and Care (Staffing) (Scotland) Act 2019 (asp 6), **ss. 5(3)**, 15(2); S.S.I. 2024/20, **reg. 2(2)**)
- C3** S. 2 applied (1.4.2024) by S.I. 1995/574, art. 5, **Sch. Pt. 2** (as amended by Health and Care (Staffing) (Scotland) Act 2019 (asp 6), **ss. 5(3)**, 15(2); S.S.I. 2024/20, **reg. 2(2)**)
- C4** S. 2 applied (1.4.2024) by S.S.I. 2002/305, art. 5, **sch. Pt. 2** (as amended by Health and Care (Staffing) (Scotland) Act 2019 (asp 6), **ss. 5(12)**, 15(2); S.S.I. 2024/20, **reg. 2(2)**)

#### Commencement Information

- I4** S. 2 in force at 1.4.2024 by S.S.I. 2024/20, **reg. 2(2)**

### 3 Guiding principles etc. in care service staffing and planning

- (1) In carrying out the duty relating to staffing imposed by section 7, any person who provides a care service must have regard to the guiding principles for health and care staffing.
- (2) In planning or securing the provision of a care service from another person under a contract, agreement or other arrangements, every local authority and every integration authority (within the meaning of section 59 of the Public Bodies (Joint Working) (Scotland) Act 2014) must have regard to—
- (a) the guiding principles for health and care staffing, and
  - (b) the duties relating to staffing imposed on persons who provide care services—
    - (i) by virtue of subsection (1) and sections 7 to 10, and
    - (ii) by virtue of Chapters 3 and 3A of Part 5 of the Public Services Reform (Scotland) Act 2010.
- (3) Every local authority and every integration authority must have regard to any guidance issued by the Scottish Ministers about the operation of subsection (2).
- (4) Before issuing such guidance, the Scottish Ministers must consult—
- (a) Social Care and Social Work Improvement Scotland,
  - (b) such persons as they consider to be representative of the providers, commissioners and users of care services,
  - (c) such trade unions and professional bodies as they consider to be representative of individuals working in care services,
  - (d) such persons as they consider to be representative of carers (within the meaning of section 1 of the Carers (Scotland) Act 2016), and
  - (e) such other persons as they consider appropriate.
- (5) The Scottish Ministers must publish any guidance issued under subsection (3).

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- (6) As soon as reasonably practicable after the end of each financial year, every local authority and every integration authority (within the meaning of section 59 of the Public Bodies (Joint Working) (Scotland) Act 2014) must publish information on—
- (a) the steps they have taken, and
  - (b) any ongoing risk that may affect their ability,
- to comply with subsection (2).

#### **Commencement Information**

- I5** S. 3(1)(2)(5)(6) in force at 1.4.2024 by S.S.I. 2024/20, **reg. 2(2)**
- I6** S. 3(3)(4) in force at 15.5.2023 for specified purposes by S.S.I. 2023/131, **reg. 2, sch.**
- I7** S. 3(3)(4) in force at 1.4.2024 in so far as not already in force by S.S.I. 2024/20, **reg. 2(2)**

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