Safe and Effective Staffing in Health and Social Care
Scottish Government Consultation

Background and introduction

Thank you for the opportunity to comment on proposals to enshrine safe staffing in law, starting with the nursing and midwifery workload and workforce planning tools.

Our aim is better quality health and social care for everyone in Scotland.

We will measure the progress we make towards this aim against five strategic priorities:

- Enable people to make informed decisions about their own care and treatment.
- Help health and social care organisations to redesign and continuously improve services.
- Provide evidence and share knowledge that enables people to get the best out of the services they use and helps services to improve.
- Provide and embed quality assurance that gives people confidence in the quality and sustainability of services and supports providers to improve.
- Make best use of all resources.

These are aligned with the National Health and Wellbeing Outcomes, which set out what health and social care partners are working to achieve through integration.

Below we have provided responses to the consultation questionnaire. We would also wish the following general points to be noted:

Healthcare Improvement Scotland welcomes the opportunity to comment on the proposals for this legislation. We acknowledge that the intent of the legislation is to ensure fundamental aspects of patient safety, following on from instances of where inadequate staffing has led to harm. However we believe that the legislation could be clearer on its contribution to achieving this objective and indeed there is a need to acknowledge the limitations of legislation alone.

To date, it is our view that Boards have been challenged in applying the tools across services for a number of reasons, some associated with resourcing and training in use of the tools, and others associated with resourcing the outputs.

We recognise that the tools are there to inform service providers and the public about what the establishment within a team should be to ensure safe care; they are not as yet sensitive to skill mix in the context of integration of health and social care. If legislation extends across professions / care providers then that principle of safety must remain or flexibility in transformational change will be lost.
Essentially, if legislation exists at all, it should be a safety net providing public assurance that services will be adequately staffed to deal with the fundamental care that they require when they are often at their most vulnerable.

In conclusion, we do not believe that introducing this statutory requirement will on its own necessarily achieve the desired policy intent and outcomes.

**Consultation Questionnaire**

**Proposed purpose and scope**

**Question 1** - Do you agree that introducing a statutory requirement to apply evidence based workload and workforce planning methodology and tools across Scotland will help support consistent application?

Yes  No

Comments

We support the aim and principles of safe staffing legislation. In isolation however, the introduction of a statutory requirement to apply workload and workforce planning methodology and tools across Scotland raises a number of questions. There is potential to have unintended consequences which could impact negatively on the quality of care and outweigh potential benefits. In our view these must be considered in the context of the intent of the legislation which is to ensure fundamental aspects of patient safety.

Introduction of a statutory requirement should be based on an understanding of the current barriers to the use and consistent application of the tools (which is already mandatory). The proposal to make national tools a statutory requirement infers that the current issues are primarily around the commitment to and consistent application of the workload and workforce tools across healthcare. If this is the case, the benefits of introducing legislation need to be carefully considered against the potential unintended consequences which could include:

a) A driver in a resource constrained system to concentrate funding on areas where there is a workload tool, regardless of the wider consequences on the overall quality of patient care. This could play out as a driver to move resources from community to acute and a driver to move resources from one profession (which doesn’t have a workload tool) to another profession which does.

b) Acting as a hindrance to innovative approaches to workforce redesign.

c) An increased reporting burden associated with demonstrating compliance with legislation, resulting in less time available for delivering and improving services locally.
Further, clarity on the application of the requirement in practice is required, including what action would result if the statutory requirement is not met. And to what degree does professional judgment still apply and how might this impact on consistent application?

**Question 2 - Are there other ways in which consistent and appropriate application could be strengthened?**

Yes

**Comments**

In order to address this question, further work with the service may be required to identify and understand the current barriers to the tools being effectively applied.

HIS is in the process of developing the Quality of Care approach and in supporting the development of the Excellence in Care nursing assurance framework. The inclusion of workforce and leadership in these tools as an indicator of overall quality will, we believe, increase the focus on both assurance and improvement which can drive a sustainable change. This approach can be used to extend the focus for improvement beyond the scope of the workforce tools and resulting nursing establishment recommendation. This will, we believe, support NHS Boards, IJBs and localities to tailor improvement efforts targeting key areas such as skill mix, rostering, sickness absence, staff training, communication, teamwork and cultural barriers to safety.

**Question 3 - Our proposal is that requirements should apply to organisations providing health and social care services, and be applicable only in settings and for staff groups where a nationally agreed framework, methodology and Tools exist.**

**3A Do you agree that the requirement should apply to organisations providing health and social care services?**

We agree that the requirement should apply across health and social care, otherwise there is a risk of even greater unintended consequences and inappropriate skewing of resources to one or two professional groups.

**3B Do you agree that the requirements should be applicable in settings and for staff groups where a nationally agreed framework, methodology and tools exist?**

We agree that the requirements should be applicable in settings and staff groups where staffing levels are critical to safety. Tool development needs to expand to support this. This will ensure that there are nationally agreed frameworks, methodologies and tools in place across every aspect of health and social care which is essential for public safety. A statutory requirement to use them only across a subset of the service risks inappropriately skewing resource allocation towards those areas which have tools. In a resource constrained system this is likely to result in reductions in staffing in areas without the tools. In the absence of
further development of the tools the legislation would effectively remove the ability of the local system to make decisions on the most optimal use of their resources to deliver the highest quality care possible.

It is also not clear how the issue of multi-disciplinary working will be taken into account in the development of tools. For instance, in multidisciplinary community teams it is recognised that whilst the different professions have key specialist areas of input, there are also often core tasks that could be undertaken by more than one profession. So the number of nursing staff needed in the team is dependent not just on the needs of the client group but also the number and skills of other professions in the team. Hence any workload/workforce tools would need to be developed to adjust for the wider multidisciplinary context. An absence of this approach would lead to an inappropriate skewing of resource/staffing which may not support the optimal use of resource for the benefit of those accessing health and social care.

**Question 4 - How should these proposed requirements apply or operate within the context of integration of health and social care?**

**Comments**

See comments above. Also we note that within the current context of health and social care integration it may be quite challenging to apply and operate the statutory requirement in the midst of transformational change work which will require changes to workforce and skill mix. So, in addition to ensuring that any professional tool takes into account the wider multidisciplinary staffing structures, there may also need to be a mechanism for updating the tools to take account of work to develop other types of roles.

**Requirements**

**Question 5 - A triangulated approach to workload and workforce planning is proposed that requires:**

- Consistent and systematic application of nationally agreed professional judgement methodology and review of tools to all areas where current and future workload and workforce tools are available.
- Consistent and systematic consideration of local context.
- Consistent and systematic review of quality measures provided by a nationally agreed quality framework which is publicly available as part of a triangulated approach to safe and effective staffing.

**Do you agree with the proposal to use a triangulated approach?**

Yes

**Comments**

Healthcare Improvement Scotland is supportive in principle of a triangulated approach to safe and effective staffing. The challenges are in ensuring its consistent application across
settings, defining professional judgment and consideration of local context, which can be very subjective.

Further evidence would be useful on the triangulated approach working in practice, including a better understanding of the feedback from those in the service who are currently using the tools, and in particular, the actions taken as a result of using the tools.

**Question 6 - Are there other measures to be considered as part of the triangulation approach to workload and workforce planning? If yes, what measures?**

Yes

**Comments**

Taking into account our comments above regarding the integrated working environment, it may be worth considering whether there are balancing measures to be looked at to monitor unintended consequences of workload management / increase in one particular area, reductions in service or workforce/skill mix of other professional groups.

**Question 7 - Given existing staff governance requirements and standards are there sufficient processes and systems in place to allow concerns regarding safe and effective staffing to be raised?**

Yes

**Comments**

We believe that existing arrangements in place under the Public Interest Disclosure Act (PIDA), the National Confidential Alert Line (NCAL) and developing work in support of the duty of candour will all support the raising of concerns regarding safe and effective staffing. There are also systems and processes in place, for example iMatter, to understand workforce concerns and challenges.

However, systems and processes are only part of the story. We need to remain focused on the fact that no amount of systems and processes will control for poor cultures. Key to safe and effective staffing is a culture where staff are able to raise concerns and those concerns are listened to and responded to appropriately.

Through our work on learning from adverse events, we are working with boards to create an open culture, for the purpose of learning and improvement and ensuring there is an understanding of any weaknesses of the system so improvements can be made. We acknowledge that there is more work to do to move to an open and transparent culture across NHSScotland, but it is important to recognise the improvements that have already been made across NHS boards in recent years.
Question 8 - If not, what additional mechanisms would be required?

Comments

The key here is how existing mechanisms are linked up and ensuring that one doesn’t have an unintended impact upon another, such as the introduction of legislation which then mitigates against our work to develop open and transparent cultures.

Question 9 - Do you agree with the proposal to require organisations to ensure that professional and operational managers and leaders have appropriate training in workforce planning in accordance with current guidance?

Yes

Comments

This links back to our comment in question 2 – is training one of the potential barriers to implementation of the tools at present? It is critical that we understand the root cause barriers to consistent application and then take the actions that will address those issues most effectively, taking into account the potential of any well intended action to lead to more significant unintended consequences.

Question 10 - Do you agree with the proposal to require organisations to ensure effective, transparent monitoring and reporting arrangements are in place to provide information on how requirements have been met and to provide organisational assurance that safe and effective staffing is in place, including provision of information for staff, patients and the public?

Yes

Comments

Please also see comments under question 2. We agree with the principle of transparency and are committed to openness in our own quality assurance work.

However, monitoring and reporting on use of the tools in isolation do not necessarily provide full assurance. Safe, effective staffing is not solely dependant on the application of the tools and resultant agreed establishment but on a complex interaction between establishment, absence management, rostering, staff training, experience and education levels, culture and teamwork. It is essential to look at what is happening in response to use of the workforce planning tools – the ‘so what’ – and the subsequent impact. It is also important to take into account the state of constant change under which some services are operating and factors listed above which contribute to safe staffing.
Future approach and priorities

Question 11 - Do you agree with our proposal to consider extending the requirement to apply nursing and midwifery workload and workforce planning approach to other settings and/or staff groups in the future?

We are supportive of the concept of taking a multidisciplinary approach to workforce planning, where the included groups are essential for public safety, particularly given the increased need for multi-disciplinary team working in the integrated environment.

If the legislation goes ahead we would support the inclusion of timelines for development of tools not yet in existence. Further, where tools are not in place, there is a need to mitigate for the potential negative impact on staffing levels of groups not covered.

A. If yes, which staff groups/multi-disciplinary teams should be considered?

Comments

All health and social care staff groups whose involvement is essential to public safety.

B. If yes, which other clinical areas/settings should be considered?

Comments

All clinical settings including primary and community— as this is the only way to control for inappropriate skewing of resources to areas covered by the tools

Risks and unintended consequences

Question 12 - Are there any risks or unintended consequences that could arise as a result of the proposed legislation and potential requirements?

Yes

Comments

Please see earlier responses. We are concerned that a legislative underpinning for a subset of the workforce may have the potential to skew priority areas of focus, without necessarily ensuring increased quality. It may lead organisations to focus on non-nursing groups when considering savings rather than focusing on multi-disciplinary team redesign or service redesign in the round or indeed to assume that application of the tools will on its own ensure safe staffing. This could negatively impact on the quality of care provided to people in Scotland.

It would also be useful to look at other countries which may have taken a similar approach to see what learning can be taken.
Question 13 - What steps could be taken to deal with these consequences?

Comments

As per previous comments expending the range of tools and ensuring that any legislative approach is applied in the context of a broad approach to assurance and improvement.

Monitoring requirements

Question 14 - Do you agree with the proposals to use existing performance and monitoring processes to ensure compliance with the legislative duty and associated requirements?

Yes

Comments

We would agree that existing processes should be used, rather than creating something in addition. It is important that these are understood and implemented locally.

There is scope for some external assurance to sit within Healthcare Improvement Scotland’s wider quality of care review process e.g. as part of a review, a request could be made for evidence of application of workforce tools. However the important point for consideration would not be purely the application of the tools themselves, but what this means for quality and safety in the local setting. It is also important to note that compliance alone does not necessarily equal good outcomes and that a wider picture is required.

Consideration will also need to be given to trigger points and escalation routes in the case of non-compliance – but it is essential that these are not exclusive of an improvement approach.

Question 15 - In what other ways could organisations’ progress in meeting requirements be monitored?

Comments

Consideration should be given to internal, local routes for flagging and escalating concerns.

Question 16 - What should the consequences be if organisations do not comply with requirements?

Comments

The focus here must be on ensuring safety for people who are receiving care. Non-compliance needs to be viewed in the round alongside the organisation’s approach to ensuring safety and outcomes for service users. The important aspects for consideration
are the processes, governance and responses to what the tool is telling us, and what the outcomes are.

A focus on consequences for non-compliance with requirements, without taking into account the above, will not support improvement and is counter to a culture of openness and learning.

Equality consideration

Question 17 - Do you anticipate any of the proposed options outlined in this consultation will have a direct or indirect positive or negative impact on any protected equality characteristics? (The nine protected equality characteristics are age, sex, gender reassignment, sexual orientation, race, religion or belief, pregnancy and maternity, disability, and marriage and civil partnership).

No

We are interested to know how meaningful engagement and consultation with affected staff in the service is going to be ensured.

END OF QUESTIONS