Item No. 13

Meeting Date **Wednesday 5th September 2018**

Glasgow City
Integration Joint Board
Finance and Audit Committee

Report By: **Allison Eccles, Head of Business Development**

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Tel: **0141 287 8751**

THE HEALTH AND CARE (STAFFING) (SCOTLAND) BILL

Purpose of Report:	To advise the IJB Finance and Audit Committee of responses submitted to the Scottish Government on behalf of the Glasgow City Integration Joint Board, on The Health and Care (Staffing) (Scotland) Bill.

Background/Engagement:	The Health and Care (Staffing) (Scotland) Bill was introduced by the Cabinet Secretary for Health and Sport on 23 May 2018. The Health and Sport Committee issued a call for written views on 6 June 2018, with the Finance and Constitution Committee also seeking views on the estimated financial implications of the Bill as set out in its accompanying Financial Memorandum. The deadline for submissions in respect to both elements was the 1 August 2018.

Recommendations:	The IJB Finance and Audit Committee is asked to: a) note the attached consultation responses on the Health and Care (Staffing) (Scotland) Bill and its financial implications as set out in the accompanying Financial Memorandum.

Relevance to Integration Joint Board Strategic Plan:

None

Implications for Health and Social Care Partnership:

Reference to National Health & Wellbeing Outcome:	The subject matter of the Bill has relevance for the following Health and Wellbeing Outcomes: • **Outcome 7.** People using health and social care services are safe from harm • **Outcome 8.** People who work in health and social care services feel engaged with the work they do and are supported to continuously improve the information, support, care and treatment they provide • **Outcome 9.** Resources are used effectively and efficiently in the provision of health and social care services
Personnel:	The Bill if enacted, would have staffing implications for the Partnership, which are commented upon in the attached consultation response on the Health and Care (Staffing) (Scotland) Bill.
Carers:	None
Provider Organisations:	None
Equalities:	None
Financial:	The Bill if enacted, would have financial implications for the Partnership, which are commented upon in the attached consultation response on the Financial Memorandum of the Health and Care (Staffing) (Scotland) Bill.
Legal:	None
Economic Impact:	None
Sustainability:	None
Sustainable Procurement and Article 19:	None
Risk Implications:	None

Implications for Glasgow City Council:	The Bill, if enacted, would have implications for Glasgow City Council by creating a new statutory duty for them to ensure that there are appropriate numbers of suitably qualified staff providing care across all provided and purchased care services.

Implications for NHS Greater Glasgow & Clyde:	The Bill, if enacted, would have implications for NHS Greater Glasgow and Clyde by creating a new statutory duty for them to ensure that there are appropriate numbers of suitably qualified staff providing care across all provided and purchased care services

1. Purpose

1.1 The purpose of this paper is to advise the Finance and Audit Committee of responses submitted to the Scottish Government on behalf of the Glasgow City Integration Joint Board, on The Health and Care (Staffing) (Scotland) Bill and its associated Financial Memorandum.

2. Background

2.1 The Health and Care (Staffing) (Scotland) Bill was introduced by the Cabinet Secretary for Health and Sport on 23 May 2018. The Health and Sport Committee issued a call for written views on 6 June 2018, which ran until 1 August 2018.

2.2 The stated aim of the Bill is to be an "enabler of high quality care and improved outcomes for service users in both the health service and care services by helping to ensure appropriate staffing for high quality care". The Bill aims to achieve this by:

- creating a new statutory duty on geographical Health Boards, the Common Services Agency for the Scottish Health Service, the four Special Health Boards that deliver clinical health care services and all care service providers registered with the Care Inspectorate, to ensure that there are appropriate numbers of suitably qualified staff providing care, alongside guiding principles to be taken into account when carrying out this duty;
- including a requirement for these same health bodies to follow a staffing methodology, including the use of staffing and professional judgement tools, when determining staffing levels in certain specified healthcare settings; and
- including a function for the Care Inspectorate to work in collaboration with the care sector to develop and validate appropriate methodologies and tools for care home settings for adults, in the first instance.

2.3 As with all bills, the Finance and Constitution Committee also invited written evidence on the estimated financial implications of the Bill, as set out in its accompanying Financial Memorandum. These were also sought by the 1 August 2018.

3. Consultation Response

3.1 The responses which have been sent to the Scottish Government on behalf of the IJB are appended to this report.

3.2 Given the Scottish Government deadline, and as it is considered that the IJB's responses do not develop any new policy positions, the attached were approved by the Chief Officer acting under delegated authority, and are now presented to the Finance and Audit Committee for noting.

4. Recommendations

4.1 The IJB Finance and Audit Committee is asked to:

a) note the attached consultation responses on the Health and Care (Staffing) (Scotland) Bill and its financial implications as set out in the accompanying Financial Memorandum.

SUBMITTING EVIDENCE TO A SCOTTISH PARLIAMENT COMMITTEE

DATA PROTECTION FORM

Name:	**David Williams (Chief Officer)**
Date:	**6 August 2018**
Organisation: (if required)	**Glasgow City Health and Social Care Partnership**
Topic of submission:	**Health and Care (Staffing) (Scotland) Bill**

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☒ **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 Glasgow City Health and Social Care Partnership

1. **Do you think the Bill will achieve its policy objectives?**

For both Health and Social Care Services we strive to ensure that there are effective staffing levels and that there are the required minimum staffing levels on our directly provided services i.e. inpatient services and residential services. Agencies require to have the flexibility to deploy staff where there is the greatest need and to develop a workforce that is flexible in relation to skill and grade.

- Objectives can be met if there if there is an increase in training of required clinical and social care professionals to reflect this policy context. There are also other wider workforce challenges ahead for both the NHS and social care as we deal with an ageing workforce, an increased demand on a range of specialist roles and the emerging impact of other policy initiatives, such as the GMS (General Medical Services) and new GP contracts. All of these pressures combined are placing significant demand on an already stretched clinical and social care workforce.

- Careful consideration would also have to be given to overall training arrangements for qualified nursing and social care staff to ensure adequate numbers are available to meet demand, whilst also implementing new roles and exploring other opportunities for recruitment and retention of staff.

- We have concerns in relation to the cost implications of this Bill. Our concerns around financial resourcing are highlighted in a separate submission to the Finance and Constitution Committee in respect of the Financial Memorandum of the current Bill.

2. **What are the key strengths of:**

Part 2 of the Bill? (STAFFING IN THE NHS)

- It is helpful that there does not seem to be an intention for a prescribed number of health staff to be identified.

- Consistency of approach across all clinical areas, confirmation of appropriate training, the application of quality measures alongside staffing numbers, recognition of short term pressures when service change is underway.

Part 3 of the Bill? (STAFFING IN CARE SERVICES**)**

- It is helpful that there does not seem to be an intention for a prescribed number of social care staff to be identified.

- We note that there is no plan to implement the social care workforce tool at the same time as the health tool. This hopefully will afford the opportunity to refine the methodology between its implementation in health settings and possible subsequent implementation in social care settings.

3. **What are the key weaknesses of:**

Part 2 of the Bill? (STAFFING IN THE NHS)

We have several issues, questions and concerns in relation to Part 2 (NHS) of the Bill. These are given in brief below:

- The use of workload tools as part of the process is noted, but we have limited knowledge of the current tools in place. The use of a 'professional judgement' measure is of concern as this has caused some inconsistency in the past in terms of individual responses to clinical workload issues – i.e. different individuals respond to and record issues differently, although we appreciate that the triangulation process attempts to take this into account.

- The Bill does not take cognisance of the significant overlap of governance responsibilities between Health Boards, Integration Joint Boards and Local Authorities so would require to be accompanied by clear guidance.

- The Bill gives a significant amount of detail about existing arrangements/ applications of the workload tools in health but it doesn't tell us a lot about how these will be used in relation to identifying consistent safe staffing numbers. It also refers to 'taking staff's views into account' – we need more detail on what this will mean in reality. It is possible that staff could refuse to work in certain circumstances?

Part 3 of the Bill? (STAFFING IN CARE SERVICES)

We have several issues, questions and concerns in relation to Part 3 (Social Care) of the Bill. These are given in brief below:

- A workforce "toolkit" would need to be developed for social care. It's unclear how the model would work in the absence of it.

- Integration requires a commonality of approach in terms of workforce tools. How will this legislation complement/support integrated or new ways of working? How does it fit with integrated workforce planning? It's not clear from this Bill.

- There is no description in the Bill of a timeline around the development of a workload tool for social care services.

- As already stated under Q1 of this consultation, several of the principles in the act will put significant pressure on agencies to recruit and retain staff. There needs to be a national strategy in relation to the education and development of some key

professional posts. It is unclear how the national workforce tools would be used and applied across different professional groups.

- We considered that the existing legislative framework in respect of social care services is satisfactory and does not require to be replaced.

- In relation to the proposal for the Care Inspectorate to lead the development of a tool for the care sector; we suggest that a national working group should lead this. The involvement of the Care Inspectorate in any such development could lead to a conflict of interest should they then carry out future inspections which are, in part, about the application of tools it has itself developed.

- If the social care workforce is within the scope of this Bill we would respectfully request that the legislation becomes an enabler to safe staffing provision within care establishments rather than a potentially prescriptive inhibitor.

Please note – the following points detail weaknesses and issues common to both Health and Social Care within Part 2 and Part 3 of the Bill. To avoid duplication we have presented these together.

- The legislation may impede or stifle innovation in the area of service redesign and transformation which are at the heart of health and social care integration. Additional legislation requiring the use of specific tools set at a national level runs the risk of removing the scope for plans to be tailored locally.

- There must be acknowledgement that there is already a statutory requirement, articulated in Integration Schemes, that Integration Joint Boards should produce a workforce plan which is developed in line with local needs and local requirements.

- An overly prescriptive approach could have a negative impact on the flexibility Partnerships require in order to meet the needs of the communities they serve.

- There is a risk that a focus on the use of specific tools would result in a 'tick box' culture focused on processes rather than patient/service user outcomes.

- The cost burden of new legislation given that mechanisms are already in place to ensure safe staffing levels in our health and social care services.

- There is significant risk that this legislation will add an additional layer of administration and bureaucracy to existing systems.

- There is also a real risk that Partnerships will be unable to deliver on any new legislative requirements should they not be fully funded. Alternatively, resources may have to be diverted from other frontline services in order to deliver on these requirements.

- This Bill may add additional significant demand on the already stretched health and social care workforces.

4. **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?)**

We would like to highlight the significant challenges already experienced by both health and social care workforces in terms of recruitment and workforce maintenance.

- We are concerned that the legislation will add another process and pressure on the system which is not time or cost effective and lacks robust evidence that it would have a positive impact on outcomes for patients and service users.

- Currently the NHS and social care providers need to recruit to a wide range of roles from a limited number of trained/qualified staff. This legislation potentially could further exacerbate this issue given supply issues already manifesting across the workforce.

- The development of tools considering one professional group (or a limited number of groups) in isolation may be detrimental to the development of integrated services across health and social care.

- Whoever is tasked with leading the development of a staffing method for social care must take into account the diversity of the workforce and the range and scale of providers. A 'one size fits all' approach to workforce planning simply will not work.

- The guiding principles which are being developed should be aligned with what is already in place including the new Health and Social Care Standards and the National Workforce Plan, otherwise these additional principles will add confusion to what is already a complicated landscape.

- Similarly, regarding the initial focus on a staffing tool for the adult care home sector; there is work ongoing in relation to the National Care Home Contract to develop a dependency tool (focused on measuring the individual's level of need) which will assist in the delivery of high quality, person centred care. A staffing tool being developed in conjunction with this could be overly complex.

- There is a concern that tools are not sufficiently dynamic to meet changing demands in the integrated health and social care landscape, nor sophisticated enough to respond to the significant diversity across Partnerships in terms of geography, scale, needs and demand.

REF NO.

SUBMITTING EVIDENCE TO A SCOTTISH PARLIAMENT COMMITTEE

DATA PROTECTION FORM

Name:	**David Williams (Chief Officer)**
Date:	**6 August 2018**
Organisation: (if required)	**Glasgow City Health and Social Care Partnership**
Topic of submission:	**HEALTH AND CARE (STAFFING) (SCOTLAND) BILL FINANCIAL MEMORANDUM**

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FINANCE AND CONSTITUTION COMMITTEE

HEALTH AND CARE (STAFFING) (SCOTLAND) BILL FINANCIAL MEMORANDUM

SUBMISSION FROM GLASGOW CITY HEALTH AND SOCIAL CARE PARTNERSHIP

Consultation

1. **Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?**

Yes; the Partnership made several comments indicating our concerns regarding the funding and capacity required to implement the proposed triangulated approach to workforce and workload planning. In addition, we commented on the impact on local flexibility and financial decision making; the focus on nursing as opposed to multi-disciplinary teams and how this might disadvantage other staff groups and lead to a disproportionate budget allocation. Also, the considerable costs involved in both the training of professional and operational managers and particularly the cost to backfill these staff in their clinical duties. Finally, we highlighted the significant administrative and cost burden of implementation of the Bill that would divert vital resources within the HSCP which are required, particularly in these early stages of integration, to meet the constantly changing demands on the system and would restrict our ability to deliver quality person-centred services to our patients & service users.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

No; although the FM mainly focuses on the costs related to development of staffing tools & methodologies it also includes assumptions relating to supplementary staffing costs and suggests that this can be reduced through implementation of the Bill. This is focused almost exclusively on the nursing workforce and is largely based on limited case studies involving acute health services which would not necessarily translate to HSCPs; our local knowledge informs us that this is not the case. The FM also makes broad assumptions regarding the financial burden that implementation of the Bill could have on the Care Inspectorate and their stakeholders, including HSCPs, potentially diverting further funding away from service provision.

3. Did you have sufficient time to contribute to the consultation exercise?

We had sufficient time to contribute to the initial July 2017 consultation. For the second consultation in February 2018 we simply restated our previous response because our comments/concerns had not changed.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

The FM acknowledges a potential consequential impact on staff numbers from implementation of the Bill but does not anticipate an overall increase to total costs due to reduction on supplementary staffing expenditure, we would disagree. There are complex reasons behind the use of supplementary staffing within integrated, multi-disciplinary services including but not limited to: recruitment issues that can only be addressed through

the use of agency or bank staff, the risk assessment of patients & service users that indicate enhanced observations are required, rota gaps & sickness cover. These every day operational issues will not be addressed by implementation of this Bill, therefore the estimated cost reduction is not applicable and creates a potential financial risk for HSCPs. The FM also indicates the potential requirement for the Care Inspectorate to employ additional staff to develop and maintain the tool and train staff in its use, a cost which may be spread across the care sector therefore creating an additional financial burden to HSCPs.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

No; while the costs associated with tool development, training and maintenance are easier to estimate, the FM makes no reference to the significant administrative and cost burden associated with implementing the Bill throughout our organisation. As per our response to Q4; the estimates on savings are based on acute services scenarios that do not readily translate to HSCPs.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

No; HSCPs are under significant financial constraints, our resources are limited and should be directed primarily to delivering high quality person-centred services to our patients & service users. Any costs associated with the Bill should be met by the Scottish Government.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill's estimated costs and with the timescales over which they would be expected to arise?

No; the true impact of the Bill on the care sector is of particular concern as until a suitable tool is developed, we cannot accurately determine the outcome; also, there is no clear evidence to support the need for such a tool to be developed for this sector or that it would improve care provision. The timescales & estimated costs (Table 7) for development of a suitable tool appear very low in comparison to those for Health (Tables 1-6) and don't seem to reflect the high number of organisations within the care sector. Implementation of a tool throughout a multi-provider setting with approx. 80 care homes within the Glasgow City HSCP area alone will be time-consuming and costly. The FM estimates are based on the previous work by NMWWPP which are not comparable, in terms of implementation throughout the sector.

Wider Issues

8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

No; we maintain that the Bill will cause additional costs for HSCPs as outlined above and that the FM does not acknowledge this. Data collection for tools is resource intensive and can take senior staff away from their clinical duties, incurring backfill costs. Depending on the outcome of the tool, a realignment of resources to particular staff groups could result in a negative impact on other services which will inevitably result in additional redesign work. The cost to the care sector is hard to estimate at this point but as the largest Local Authority in Scotland, any increase in costs will impact disproportionately on Glasgow.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

No comment.