

Safe Staffing

Frequently asked questions

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The Care Inspectorate was commissioned by the Scottish Government to lead on a national quality improvement programme to support care services and our staff for the introduction of new safe staffing legislation, The Health and Care (Staffing)(Scotland) Act 2019. The Safe Staffing Programme and team was created to lead on this area, and we are working in collaboration with the social care sector, partnership organisations and key stakeholders.

We have updated this frequently asked questions guidance through our engagement activity. The questions, comments and responses generated during our collaboration will be regularly reviewed and updated.

Overseeing and evaluating staffing was always part of the Care Inspectorate remit. Why the need to introduce this legislation?

The Care Inspectorate, and previously the Care Commission, regulate staffing under Regulation 15 of the Public Services Reform Act 2010. Once enacted, the Health and Care (Staffing) (Scotland) Act 2019 will replace Regulation 15 of the Public Services Reform Act 2010. The purpose of the new legislation is to provide a statutory basis for the provision of appropriate staffing in health and care settings.

What is the date for the legislation to come into force in services?

The legislation will commence on 1 April 2024.

How will the legislation affect those working in and managing care services in their day-to-day working?

The Act brings into legislation requirements and guiding principles for those who commission and deliver health and care services.

The Act also places a statutory duty on care service providers to ensure safe and effective staffing and ultimately, the best outcomes for people using their service. Using a quality improvement and collaborative approach, the safe staffing programme will support services to prepare for when the legislation comes into force.

Will the Care Inspectorate impose a standardised dependency level tool?

Chapter 3 of the Health and Care (Staffing) (Scotland) Act 2019 states that the Care Inspectorate has responsibility to recommend, (if appropriate), and develop staffing methods for care home services for adults and other services, as Scottish Ministers specify.

The legislation states that if a staffing method is recommended and developed by the Care Inspectorate to determine the appropriate staffing levels for a care service, this must include the use of a staffing tool.

Any development of a staffing tool will be done in collaboration with stakeholders and the care sector.

What is the difference between a staffing tool and a staffing method?

A staffing tool is one part of a staffing method that you could use to guide your staffing requirements. Other 'tools' might be safe recruitment practices or regular staff supervision. A staffing method describes what you do to ensure there are the right people, with the right skills, in the right place at the right time. It also describes how you would use the various tools available to you. If you miss out one tool, you may not produce the outcomes you were hoping for. However if you see areas that can be improved the Health and Care (Staffing) (Scotland) Act 2019 allows you to use your professional judgement to make it better (for instance, introducing volunteers to the care service in a companion role).

How can we assess the quality of our staffing?

Services can use a variety of performance measures around staffing, including the Care Inspectorate's quality frameworks, self-evaluation toolkits and the [Health and Social Care Standards \(My support, my life\)](#) .

To support the overall assessment of staffing we recommend that services should follow the:

- [Rcds services\(except cm\) must keep and guidance on notification reporting \(300420\).pdf \(careinspectorate.com\)](#)
- [Guidance for providers on the assessment of staffing.pdf \(careinspectorate.com\)](#)
- [Records that all registered children and young peoples care services must keep and guidance on notification reporting.pdf \(careinspectorate.com\)](#)
- [Admissions Guidance for Residential Services.pdf \(careinspectorate.com\)](#)

The safe staffing programme team is working with relevant stakeholders to inform the decision on whether a staffing method for use across adult care homes should be developed.

When should services have additional staffing? Is there an expectation that staff remain with someone at the end of their life?

You should carefully consider each individual's circumstances, including as they near the end of their lives. Peoples wishes should be reflected in their end-of-life support plan.

Services are advised to follow the [guidance for providers on the assessment of staffing levels](#), which is designed to support providers to ensure they are appropriately assessing and providing staffing levels to meet the needs of people in their care.

Is the expectation that we keep separate records for time required for tasks?

Services use a variety of measures to plan staffing levels and deployment in response to workload demands and the changing needs of people using their service. To support the overall assessment of staffing, we recommend that services should follow the guidance referenced throughout this document.

We know that care services have difficulty retaining and recruiting staff, which could impact on the ability to meet the guiding principles and values of the Health and Care (Staffing) (Scotland) Act 2019. Is there any plan to support this?

Services have been dealing with complex and difficult circumstances over the past few years and continue to work hard to plan their staffing requirements, despite significant recruitment and retention challenges. The safe staffing programme published information in partnership with adult social care stakeholders to support staff planning, give advice and share suggestions that you may find helpful. We recommend that services view our information on [The Hub](#).

We will review and update this information as our programme of work continues.

Has there been any joint consultation with other organisations?

The Health and Care (Staffing) (Scotland) Act 2019 sets out our responsibility to collaborate with a wide range of stakeholders and social care sector representatives. We consult with key stakeholders, including organisations representing people who experience care, care service managers, care providers and staff working in care services. The key organisations we consult with include:

- Scottish Care
- Trade unions and professional bodies
- Healthcare Improvement Scotland
- Scottish Government
- Coalition of Care and Support Providers in Scotland
- Convention of Scottish Local Authorities
- Scottish Social Services council and
- Health and social care partnerships.

Which stakeholders representing children and young people are involved in the safe staffing programme?

Working with children and young people's inspectors, we have identified organisations, groups and people that we have invited to collaborate with us. This work will continue to progress in 2022.

Does the legislation apply to childminders who employ assistants?

The Health and Care (Staffing) (Scotland) Act 2019 will apply to all care services that employ staff, childminders who employ assistants will be required to comply with the guiding principles and duties of the Act. The Act interprets those working in a care service to include those working for payment, including contractual workers, volunteering and apprenticeships.

Does the legislation affect the adult to child ratios guidance for ELC services?

[Guidance on adult to child ratios in early learning and childcare settings.pdf \(careinspectorate.com\)](#) Current guidance on adult to child ratios may be reviewed following the development of the legislation through the ministerial chapters of the Act. [Adult to child ratios and new notification during Omicron 2022.pdf](#)

What role will Healthcare Improvement Scotland have?

The programme team work very closely with Healthcare Improvement Scotland, who lead on the national healthcare staffing programme to support implementation of the Act within health services.

How can care services connect with the safe staffing programme?

We have a responsibility to work collaboratively and provide opportunities for consultation with a wide range of stakeholders. Ongoing engagement and regular communication happen in a range of ways. This includes direct work with care services, collaborative events, membership on programme boards and through our communication channels.

We recommend that services view our information at on [The Hub](#) and you can sign up to our [eNewsletters](#). You can also contact us at safestaffingproject@careinspectorate.gov.scot

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