Royal College of Nursing Scotland

RCN Scotland's response to the Scottish Government consultation on the

HEALTH & CARE (STAFFING) (SCOTLAND) ACT 2019: REVISED REPORTING TEMPLATES

26 August 2025

Introduction

The Royal College of Nursing (RCN) is the world's largest nursing union and professional body. It is the leading national and international authority in representing the nursing profession. We represent over half a million nurses, student nurses, midwives, nursing associates and nursing support workers in the UK and internationally.

The RCN has approximately 52,000 members in Scotland. We campaign on issues of concern to nursing staff and patients, influence health policy development and implementation, and promote excellence in nursing practice.

Background

Section 4 of the Act places duties on Health Boards, Local Authorities, and Integration Joint Boards (IJBs) to publish and submit an annual report to the Scottish Government detailing compliance with their duties under the legislation. Separately, section 4 of the Act requires Health Boards to submit reports to Ministers on a quarterly basis detailing those occasions where they have secured the services of high-cost agency workers.

In order to enable consistency in the approach taken to reporting, the Scottish Government provided standardised reporting templates for use by all NHS Scotland Boards. In the case of the annual reporting template, this was based on the implementation reporting template used in preparation for commencement of the Act.

Following commencement of the legislation in 2024, the Scottish Government has taken the opportunity to review the reporting templates to ascertain if efficiencies and improvements could be made.

Consultation questions and RCN Scotland responses

RCN's analysis of the proposed revised template is contained in the appendix. Our comments are as follows:

Outcomes

RCN welcomes the addition of this requirement in the summary section:

> "Please provide information on how your compliance to the Health and Care Staffing Act has led to improved outcomes for service users and workforce."

Insofar as it represents an attempt to understand the outcomes that implementation of the Act has achieved, as opposed to the template being simply a record of processes having been established, it is very helpful.

Whilst there is nothing preventing Health Boards providing some detail in response to the above, that detail would nevertheless have to be classifiable as a "summary" and therefore is unlikely to be extensive. Admittedly, there is nothing preventing Health Boards from setting out in detail the "improved outcomes for service users and workforce" in the "Areas of success" comment boxes that must be filled in for every relevant section of the Act. But equally, there is nothing explicitly requiring them to do so.

For these reasons, we strongly suggest the additional requirement should be included in every section. We continue to be of the view that the template requires much greater revision in order to be properly outcome focused. We made these arguments in detail in our response to section 13 of the draft guidance on the Act and they may be revisited in this document at pages 14-16. https://www.rcn.org.uk/About-us/Our-Influencing-work/Policy-briefings/sco-pol-hcss-act-guidance-sep-2023

The Scottish Government's Health and Social Care Standards are the only outcomes to which the Act makes specific reference (section 1 (2)). That being the case, we trust that the Scottish Government would have an interest in understanding the extent to which the implementation of the provisions of the Act has a direct bearing on the achievement of these outcomes and wishes to make that link.

We see the Scottish Government's intention to "review our Health and Social Care Standards" (first announced in January 2025, https://www.gov.scot/publications/ministerial-statement-future-of-the-national-care-service/ as a good opportunity to consider how best this may be done. The purpose of making that linkage would be to try and consider what effect the implementation of specific provisions was having on outcomes, as opposed to simply making the assumption that the operation of the Act would somehow support achievement of outcomes in the most general of senses, without any specific linkages being made. That assumption can, by definition, not amount to robust evidence and we trust that the Scottish Government has as much interest in seeking out that robust evidence as RCN does.

RAYG status & levels of assurance

If we have understood matters correctly, it would appear that the Scottish Government has determined that more effective reporting will be facilitated by the provision of more narrative as opposed to what was presumably seen as the cruder method represented by RAYG scores, and the only "score" that will be provided by the RAYG score that has been retained: the level of assurance.

However, whilst there is some guidance on what that narrative should contain, the removal of all but one type of RAYG scoring has the following drawbacks:

- It makes comparison between Health Boards significantly more difficult. That is because the detail of their narratives will be different and so very difficult, and probably impossible, to compare in any meaningful way.

- It obscures specific successes and failures with respect to the constituent parts of the various sections of the Act, relying instead on the single level of assurance RAYG score for each section. In terms of what service users and the workforce, and the public and the Scottish Government and the Scottish Parliament, may want to understand about the success, or otherwise, of the implementation of the Act, including any need to provide Health Boards with extra support, reporting on the entirety of a section will not necessarily accurately reflect what is actually happening. This is a particular problem given that the subsections of an Act section can cover substantially different matters from one another, even if those matters are connected by the overall coverage of the section. For example, when it comes to section 12IJ (Duty to follow common staffing method) the previous template allowed the reader to understand the relative success of a Health Board in terms of taking into account patient needs, and comments, on the one hand, and staff skills and experience, and comments, on the other. Such nuanced understanding will no longer be possible unless it is covered in the narrative. And since what appears in the narrative is only subject to guidance set out in very broad terms, it is essentially going to be left up to Health Boards to decide what they do and do not put in that narrative. In our view, the revised template does not support robust reporting as much as the previous template did. We understand that there is an argument that the presence of comment boxes next to each subsection/provision of an Act section in the previous template may have been seen as overly bureaucratic, but we suggest that it would be legitimate to remove that element of the template whilst retaining the RAYG element, so that a more nuanced understanding of implementation remains possible.

- Health Board reports from 2024/25 demonstrate the extent to which this change will reduce our understanding around compliance by Health Boards in a number of ways. There are several examples of Boards reaching similar conclusions in the commentary section based on different RAYG scores. Losing the RAYG scoring and potentially losing specific commentary on different parts of each section will mean this inconsistency will no longer be visible, and the ability to improve and standardise implementation of the legislation will be compromised. The

commentary also provides evidence of a potential lack of understanding of some of the requirements of the Act. One notable and common example of this is that Health Boards identify the use of Datix as providing reasonable assurance for all parts of sections 12ID and 12IE. While Datix is able to record adverse events or near misses, it is clearly focussed on actual incidents and therefore is less suitable for recording of recurring, but not severe, risks as required by the Act. Datix also has the functionality to record decision making, but recording a decision does not, we would suggest, comply with the requirement to notify those who report on risks. Had there been no requirement to comment on the specific parts of the duties in the Act this issue may not have been reported upon and in future may not be.

Appendix: Analysis

Word document as opposed to an Excel spreadsheet.

Template asks for information across 11 sections as opposed to 11 worksheets.

Section 1 is a summary of the detail from the other sections. It asks for information as follows:

i. Please advise how the information provided in this report has been used or will be used to inform workforce plans.
ii. Please summarise any key achievements and outcomes as a consequence of carrying out the duties and requirements in the Act.
iii. Please summarise any key learning and risks identified as a consequence of carrying out the duties and requirements in the Act.
iv. Please provide information on how your compliance to the Health and Care Staffing Act has led to improved outcomes for service users and workforce.
v. Please indicate the overall level of assurance of the organisation's compliance with the Act, reflecting the report submitted (substantial, reasonable, limited, no... assurance).

This list is identical to the previous template's summary requirements with the exception of (iv) which is a welcome addition. But this information is not otherwise explicitly sought by the template. Whilst there is nothing preventing Health Boards answering (iv) in some detail, that detail would nevertheless have to be classifiable as a "summary" and therefore is unlikely to be extensive. There is nothing preventing Health Boards from setting out in detail the "improved outcomes for service users and workforce" in the "Areas of success" comment boxes that must be filled in for every relevant section of the Act (see below). But there is nothing explicitly requiring them to do so.

The other ten sections cover different sections of the 2019 Act. All but one of these sections are insertions into the National Health Service (Scotland) Act 1978 made under section 4 of the 2019 Act. The other one is section 2 of the 2019 Act.

1. 12IA Duty to ensure appropriate staffing
2. 12IC Duty to have real-time staffing assessment in place
3. 12ID Duty to have risk escalation process in place
4. 12IE Duty to have arrangements to address severe and recurrent risks
5. 12IF Duty to seek clinical advice on staffing
6. 12IH Duty to ensure adequate time given to clinical leaders
7. 12II Duty to ensure appropriate staffing: training of staff
8. 12IJ Duty to follow common staffing method
9. 12IL Training and consultation of staff
10. 2 Guiding principles etc. in health care staffing and planning (titled as 'Planning and Securing Services')

Unlike the previous template the sections of the Act are not broken down into their constituent subsections (or provisions if they cross over subsections). And reporting is not required on each subsection/provision as per the breakdown. Instead, each section of the Act appears in its entirety and reporting is required only on the section as a whole, with no differentiation between its constituent subsections/provisions.

The reporting previously consisted of a RAYG score and a comment for each subsection/ provision that resulted from the breakdown. In all sections the following "further information" was required:

- Areas of success, achievement or learning (with a comment requested for each area re: "details" and "further action").
- Areas of escalation, challenges or risks (with a comment requested for each area re: "details" and "further action").
- Level of assurance (substantial, reasonable, limited, no... assurance) shown by a RAYG score.

For sections 12IA and 2, additional further information was required:

- Please provide information on the steps taken to comply with section {...].
- Please provide information on how these systems and processes, and their application, have improved outcomes for service users

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Each section of the Act was, to a greater or lesser extent, broken down into two types of descriptions of processes about which information was sought.

1. processes which must inevitably result from compliance with the Act. In some cases, this breakdown simply consisted of the subsections of each section, which essentially just described a process.
2. processes which need not inevitably result from compliance with the Act, but which Scottish Government appears to have determined should logically do so, to the extent that it wishes to gather information about them.

The new template:

- Preserves the three types of further information asked for in every section (Areas of success etc; Areas of escalation etc; Level of assurance)
- Removes the requirement for additional information from sections 12IA and 2 "on how these systems and processes, and their application, have improved outcomes for service users"
- Preserves the requirement for additional information "on the steps taken to comply with section [...]' in sections 12IA and 2"
- Adds the requirement for additional information "on the steps taken to comply with section [...]" to every other section

The breakdown in the old template (as described above) means that for each Health Board, there were over 80 subsections/provisions that each required a RAYG score and comment. Across all affected Health Boards (of which there are 19) this amounted to over 1500 individual RAYG scores.

The requirement for RAYG scores also meant that each Health Board had to give some consideration to the extent to which its various RAYG scores for any given subsection/ provision amounted to its single level of assurance for the entire section of the Act. For example, section 12IJ required 17 RAYG scores because it had 17 subsections/provisions. If, for example, 10 were red, 4 were green and 3 were yellow. But there was no method by which to determine what level of assurance (also scored using a RAYG score) adequately captured this. In fact, there was not - and could not be - any direct relation between the RAYG scores for subsections/provisions and the RAYG score for level of assurance, because the guidance defined the meaning of the two sets of RAYG scores differently.

The new template gets rid of this challenge by getting rid of RAYG scores for subsections/ provisions, leaving only RAYG scores for levels of assurance.

There was scope for there to be a huge amount of open text provided by the Health Boards in the comment boxes adjacent to the RAYG scores - well beyond the information provided by those scores. In fact, that scope was limitless. That meant that meaningful collation of data from all Health Boards, or comparison between Health Boards based on that text, was more or less impossible. Whilst there are comment boxes in the new template those applicable to subsections/provisions have been removed along with the RAYG scores. So, whilst it is theoretically possible for Health Boards to put a huge amount of information into the comments boxes that do remain it is reasonable to assume that they will not do this. Especially since the apparent purpose of the exercise is to reduce the administrative burden, not to simply relocate it.

It was possible to directly compare RAYG sores for subsections/provisions. That will no longer be possible. But given the self-reporting nature of the process, the utility of any comparison was always dubious.

It is now possible for a Health Board to offer a more positive level of assurance to an entire section of the Act and obscure a failure to comply with a duty with respect to individual subsections/provisions. But it is also impossible to straightforwardly highlight success, the only option being to make a written comment in a different comment box to that effect.

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