

Briefing – Health and Care Bill, Lords Committee Stage (day 3)

With a membership of almost half a million registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the Royal College of Nursing is the voice of nursing across the UK and the largest professional union of nursing staff in the world.

The Health and Care Bill is a landmark opportunity to address structural issues and embed more collaborative working across health and social care. As it currently stands the Bill does not go anywhere near far enough to address the concerns of nursing staff and ensure patient safety.

As the Royal College of Nursing's [recent *Ten Unsustainable Pressures on the Health and Care System in England* report](#) outlined, health and care services are currently under unsustainable levels of pressure and action must be taken to tackle serious staffing pressure, sickness, burnout and the growing backlog of undelivered care.

The RCN is seeking significant amendments to ensure that the Bill meets the needs of nursing staff and their patients.

RCN members are calling for changes to the Bill which:

- Set out in the legislation that the Secretary of State for Health and Social Care has full accountability for the planning and supply of the health and care workforce.
- Create a new duty on Secretary of State to publish an assessment of workforce requirement based on population need.
- Create a new duty on the Secretary of State to publish a report on the work undertaken to bring parity of pay between health and social care services.

Tackling the nursing workforce crisis

Currently, Clause 35 of the Bill relating to workforce planning does not go far enough, with current drafting only requiring Government to publish a report describing the system in place for assessing and meeting workforce needs.

This approach is insufficient, as it does not place a requirement to sufficiently assess population and service need, deliver a strategy and undertake planning in place to meet these needs through sufficient provision of workforce. Should this aspect of the Bill not be altered, it provides no assurance that the system is recruiting and training enough staff to sustainably deliver health and care services.

The Health and Care Bill must embed accountability for workforce planning and supply with the Secretary of State, to ensure that severe staff shortages, a patient safety issue, are resolved and addressed sustainably. The NHS has itself recognised that 'the most urgent challenge is the current shortage of nurses'.¹

In its recent report on workforce burnout, the Health and Social Care Select Committee identified the current workforce planning system as 'at best opaque and at worst responsible for the current unacceptable pressure on the current workforce'.²

The latest statistics from September 2021 show 39,813 FTE registered nurse vacancies in the NHS in England, equating to a rate of 10.5%. Since published central NHS vacancy records began in 2017, the registered nurse vacancy rate in the NHS has been around

¹ NHS England, Interim People Plan 2019 - https://www.longtermplan.nhs.uk/wp-content/uploads/2019/05/Interim-NHS-People-Plan_June2019.pdf

² Health and Social Care Select Committee, Workforce burnout and resilience in the NHS and social care, 2021 <https://committees.parliament.uk/publications/6158/documents/68766/default/>

this level or higher, showing the serious and sustained pressure on professionals working in understaffed services.³

The health and care system is at a critical juncture which is compounding the pressures felt by the existing workforce shortage. The latest data published this week shows there was a daily average of 45,736 staff absences due to COVID-19 and this figure has seen a consistent rise. For example, taking a snapshot of one day from the latest data, on Sunday the 9th of January, the number of staff absences due to COVID-19 increased to 40,031, up by 63% when compared to Sunday 26 December.⁴

Persistent, systemic workforce issues put nursing staff and patients at risk.

Historic failures to credibly and sustainably tackle population need and the high vacancy rate in nursing demonstrates that the Government must be made legally accountable for delivering staffing for safe and effective health and care services.

Without clear legal duties on the Secretary of State for Health and Social Care, the RCN considers the current approach to be a false economy propping up an unsustainable system.

Secretary of State's Duty to Assess Workforce Requirements

The RCN, in coalition with over 90 organisations, is supporting Baroness Cumberledge's amendment to Clause 35. This amendment would require the Secretary of State to carry out and publish an assessment of workforce requirements in health and social care, looking five, ten and twenty years into the future.

These long-term projections would provide the basis for strategic workforce planning to ensure the health and care workforce can meet the health needs of the future population.

RCN is supporting Baroness Cumberledge's amendment:

Clause 35 Page 42, leave out lines 14 to 19 and insert –

“(1) The Secretary of State must, at least once every two years, lay a report before Parliament describing the system in place for assessing and meeting the workforce needs of the health, social care and public health services in England.

(2) This report must include –

(a) an independently verified assessment of health, social care and public health workforce numbers, current at the time of publication, and the projected workforce supply for the following five, ten and 20 years; and

(b) an independently verified assessment of future health, social care and public health workforce numbers based on the projected health and care needs of the population for the following five, ten and 20 years, consistent with the Office for Budget Responsibility long-term fiscal projections.

³ NHS Vacancy Statistics June 2021 [NHS Vacancy Statistics \(and previous NHS Vacancies Survey\) - NHS Digital](#)

⁴ NHSE/I Daily situation report data <https://www.england.nhs.uk/statistics/statistical-work-areas/uec-sitrep/urgent-and-emergency-care-daily-situation-reports-2021-22/>

(3) NHS England and Health Education England must assist in the preparation of a report under this section.

(4) The organisations listed in subsection (3) must consult health and care employers, providers, trade unions, Royal Colleges, universities and any other persons deemed necessary for the preparation of this report, taking full account of workforce intelligence, evidence and plans provided by local organisations and partners of integrated care boards.”

Secretary of State’s Accountability for Workforce Planning and Supply

RCN members are also seeking accountability for strategic workforce planning to be codified in law through Baroness Watkins’ amendment to Clause 35.

RCN members are clear that responsibility for safe staffing in the health and care system must sit with the Secretary of State. The scale of the current workforce crisis and the lack of sustained political response to credibly tackle these issues in a sustainable way demonstrates that the existing powers and duties in legislation are inadequate to hold Government to account.

Baroness Watkin’s amendment would require the Secretary of State to lay before Parliament a fully funded health and care workforce strategy to ensure the numbers and skill mix of health and care staff are sufficient for safe and effective delivery of health and care services.

RCN is supporting Baroness Watkins’ amendment:

After Clause 35, Insert the following new Clause –

“Duty on the Secretary of State to report on workforce planning and safe staffing

(1) At least every five years the Secretary of State must lay before Parliament a health and care workforce strategy for workforce planning and safe staffing supply.

(2) This strategy must include –

(a) actions to ensure the health and care workforce meets the numbers and skill-mix required to meet workforce requirements,

(b) equality impact assessments for planned action for both workforce and population,

(c) application of lessons learnt from formal reviews and commissions concerning safety incidents,

(d) measures to promote retention, recruitment, remuneration and supply of the workforce, and

(e) due regard for and the promotion of workplace health and safety, including provision of safety equipment and clear mechanisms for staff to raise concerns.”

Parity of pay between the NHS and social care

RCN members are calling for at least parity of pay and terms and conditions between NHS Agenda for Change and social care, to enhance recruitment and retention of staff in social care settings. In social care the continued decline of registered nurse numbers and turnover of nursing and nursing support staff is of particular concern.

Most of nursing in social care in England is delivered by independent providers. This means there is no universal framework for pay, terms and conditions or banding of nursing roles. This can lead to variation in pay between individuals, which does not always reflect the weight of skills and responsibilities of the job, as well as risk of variation in employment terms and working conditions.

It is the RCN's position that nursing staff working within social care settings should have competitive pay, terms and conditions with their colleagues with the same level of knowledge, skills and responsibility within the NHS Agenda for Change structure.

RCN is supporting Baroness Hollins' amendment, to require the Secretary of State to report on progress made towards bringing about parity of pay between health and care services.

After Clause 35 Insert the following new Clause —

“Report on parity of pay of the workforce

(1) The Secretary of State must, at least once annually, publish a report describing the system in place, and progress made, to bring about parity in pay between individuals working in health services and individuals working in social care services.

(2) In determining the extent to which parity of pay has been achieved, the Secretary of State must consider —

(a) the basic pay of individuals working in health services and individuals working in social care services;

(b) the rates of pay progression available to individuals working in health services and individuals working in social care services;

(c) the percentage of individuals working in health services and individuals working in social care services who are on entry level pay.

(3) The Secretary of State must consult any relevant bodies in the development of this report.

(4) In this section “relevant bodies” means —

(a) NHS England,

(b) an integrated care board,

(c) a local authority (within the meaning of section 2B),

(d) a combined authority,

(e) social care providers or representatives, and

(f) other bodies deemed relevant by the Secretary of State.”