

Briefing – Health and Care Bill, Report Stage

With a membership of around 465,000 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 RCN'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. Our members are calling for changes 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. **[New Clause 29]**
- Create a new duty on Secretary of State to publish an assessment of workforce requirement based on population need. **[Amendment 10]**
- Ensure consultation with relevant trade unions on any changes to the NHS Payment Scheme. **[Amendments 54, 55, 56]**
- Set out explicit duties for Government and NHS England to tackle health inequalities and for Integrated Care Boards (ICBs) to report on the action they are taking to reduce health disparities. **[Amendment 57 and New Clause 67]**

Tackling the nursing workforce crisis

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 June 2021 show 38,952 FTE registered nurse vacancies in the NHS in England, equating to a rate of 10.3%. Since published central NHS vacancy records began in 2017, the registered nurse vacancy rate in the NHS has been around this level or higher, showing the serious and sustained pressure on professionals working in understaffed services.³

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/>

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

It is not acceptable for nursing staff to be required to practise in this way or for patient safety to be compromised so severely. 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 demonstrating 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.

Currently, Clause 34 within 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.

To resolve this, the RCN is therefore supporting two amendments to Clause 34.

Secretary of State's Accountability for Workforce Planning and Supply

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.

New Clause 29 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.

New Clause 29

"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."

Secretary of State's Duty to Assess Workforce Requirements

The RCN, in coalition with over 50 organisations, is supporting Amendment 10. 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 seeking this form of strategic workforce planning to be codified in law through NC29.

Amendment 10

Clause 34, page 42, line 12, leave out from beginning to the end of line 17 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 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.”

Further Amendments:

The NHS Payment Scheme

The proposal to introduce a new NHS Payment Scheme is based on a stated intention to provide greater flexibility to reflect local factors, and to support better flow through care pathways. The RCN is mindful that current payment systems can act as a disincentive to early intervention and timely discharge from acute settings because trusts are paid for activity rather than outcomes. The RCN supports the principle of the planned payment scheme for systems to work together for better outcomes.

However, the RCN is also clear that proposals developed in the new NHS Payment Scheme must not detrimentally affect the existing mechanisms for negotiations on pay, terms and conditions for health and care staff. Professional bodies and trade unions must be consulted by NHS England on the new NHS Payment Scheme.

Any staff commissioned for NHS, public health and social care services across pathways should be in receipt of pay, terms and conditions which are at least equitable with Agenda for Change. Payment levels should be based on transparent economic modelling, to allow sense checking and scrutiny.

Amendment 54 aims to ensure that the pay rates of Agenda for Change, pensions, and other terms and conditions of all eligible NHS staff are not undermined as a result of the adoption of the NHS payment scheme and amendments 55 and 56 require consultation with stakeholders including relevant trade unions.

Amendments 54, 55, 56.

54. Schedule 10, page 204, line 7, after “(1),” insert “not undermine an NHS provider’s ability to provide a service whilst maintaining the pay rates in Agenda for Change, pensions and the other terms and conditions of all eligible NHS staff and” Member’s explanatory statement

55. Schedule 10, page 204, line 39, after “following” insert “on the likely impact of the proposed scheme”

56. Schedule 10, page 204, line 41, at end insert – “(ba) all relevant trade unions and other organisations representing staff who work in the health and care sectors;”

Tackling Health Inequalities

The current duties on health inequalities in the 2012 Health and Social Care Act have not driven the necessary action to tackle health inequalities.⁴ The COVID-19 pandemic has exacerbated health inequalities, and over the last decade improvements in life expectancy have stalled.⁵

People living in the most deprived areas in England develop long-term health conditions between 10-15 years earlier than the wider population.⁶ For the sustainability of the health and care system, it is critical that greater action is taken to reduce inequalities and achieve good health and wellbeing for all.

NC57 would place new duties on NHS bodies to reduce health inequalities and amendment 67 modifies the Triple Aim to include regard for health inequalities.

New Clause 57 and amendment 67

NC57

“NHS England’s duty as to reducing inequalities

Section 13G of the National Health Service Act (duty as to reducing

⁴ Michael Marmot, Jessica Allen, Peter Goldblatt, Eleanor Herd, Joana Morrison (2020). Build Back Fairer: The COVID-19 Marmot Review. The Pandemic, Socioeconomic and Health Inequalities in England. London: Institute of Health Equity

⁵ ONS Health state life expectancies by national deprivation deciles, England: 2017 to 2019 Published 22 March 2021

⁶ Churchill, N. (2019) Closing the gap on health inequality NHS England, blog published 10 January 2019

inequalities), is amended by the addition of the following subsections —

“(2) NHS England must publish guidance about the collection, analysis, reporting and publication of performance data by relevant NHS bodies with respect to factors or indicators relevant to health inequalities.

(3) Relevant NHS bodies must have regard to guidance published by NHS England under this section.

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

(a) NHS England,

(b) integrated care boards,

(c) integrated care partnerships established under section 116ZA of the Local Government and Public Involvement in Health Act 2007,

(d) NHS trusts established under section 25, and

(e) NHS foundation trusts.”

Amendment 67: Clause 4, page 3, line 7, at end insert — “(d) health inequalities.”

For further information please contact Euan Sinclair Elliot, RCN Public Affairs Adviser on ewan.sinclairelliot@rcn.org.uk or 020 7647 3413.