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Dear Dr MacDonald

FURTHER INFORMATION REQUEST: HEALTH AND CARE (STAFFING) (SCOTLAND) BILL

I am writing in response to the Committee's email, dated 5 September 2018, asking for further information following our briefing session with the Health and Sport Committee on 4 September on the Health and Care (Staffing) (Scotland) Bill. The following annexes provide the information you have requested.

Please let us know if the Committee require any further information.

Yours sincerely

Prof Fiona McQueen
Chief Nursing Officer

Table 2

| NHS Board | Number of Rosters who have applied a tool | | | | | |
|-------------------------------|---|------------|------------------------------------|------------|--------------------------------------|------------|
| | Mental Health and Learning Disabilities | | Emergency Dept/ Emergency Medicine | | Professional Judgement Non-Community | |
| | 2016 -2017 | 2017 -2018 | 2016 -2017 | 2017- 2018 | 2016 -2017 | 2017 -2018 |
| NHS Ayrshire & Arran | 12 | 7 | - | - | 58 | 46 |
| NHS Borders | 4 | - | 1 | 1 | 16 | 18 |
| NHS Dumfries & Galloway | 5 | 5 | - | - | 11 | 17 |
| NHS Fife | 6 | 4 | - | - | 28 | 51 |
| NHS Forth Valley | 8 | 8 | 1 | 1 | 21 | 39 |
| NHS Grampian | 19 | 19 | 2 | 1 | 52 | 85 |
| NHS Greater Glasgow & Clyde | 62 | 63 | - | - | 85 | 107 |
| NHS Highland | 13 | 1 | 2 | 2 | 66 | 54 |
| NHS Lanarkshire | 2 | 4 | 3 | 3 | 22 | 25 |
| NHS Lothian | - | 27 | 2 | 1 | 93 | 133 |
| NHS Orkney | - | - | - | - | 2 | 1 |
| NHS Shetland | - | - | - | - | - | - |
| NHS Tayside | 27 | 3 | 2 | - | 82 | 40 |
| NHS Western Isles | 2 | 1 | - | - | 2 | 2 |
| National Waiting Times Centre | * | * | * | * | 1 | 6 |
| State Hospital | 1 | 10 | * | * | 1 | 10 |

Table 3

| NHS Board | Number of Staff who have applied a tool | | | | | |
|-------------------------------|---|------------|---------------------------|------------|---------------------------------------|------------|
| | Community Nursing | | Clinical Nurse Specialist | | Community Children's Specialist Nurse | |
| | 2016 -2017 | 2017 -2018 | 2016 -2017 | 2017 -2018 | 2016 -2017 | 2017 -2018 |
| NHS Ayrshire & Arran | 25 | 252 | 150 | 3 | 22 | 7 |
| NHS Borders | 12 | 1 | - | - | 2 | - |
| NHS Dumfries & Galloway | 21 | 129 | - | - | 8 | - |
| NHS Fife | 395 | 392 | 4 | 4 | 13 | 9 |
| NHS Forth Valley | 268 | 276 | 53 | 9 | 11 | 12 |
| NHS Grampian | 3 | 64 | 1 | - | 24 | 23 |
| NHS Greater Glasgow & Clyde | 1,144 | 1,129 | - | - | 78 | 78 |
| NHS Highland | 178 | 3 | 4 | 3 | 11 | - |
| NHS Lanarkshire | 7 | 6 | 6 | 6 | 33 | 35 |
| NHS Lothian | 353 | 522 | 4 | 3 | 48 | 34 |
| NHS Orkney | 17 | - | - | - | - | - |
| NHS Shetland | 51 | 40 | - | - | 1 | 1 |
| NHS Tayside | 444 | 247 | 40 | 41 | 19 | 2 |
| NHS Western Isles | 43 | 49 | - | - | - | - |
| National Waiting Times Centre | * | * | - | - | * | * |
| State Hospital | * | * | * | * | * | * |

The Nursing and Midwifery Workload Workforce Planning Programme (NMWWPP) Advisors work with NHS Boards to support them in applying the workload tools and analysing the information from the current triangulation methodology. Through this work it has become apparent that in some areas there is a deficit in knowledge and understanding in applying the tools and current triangulation methodology, and in awareness and uptake of on-line education resources.

As referred to in the Financial Memorandum, in paragraphs 39-44, a significant investment in training and education was undertaken historically and an on-line educational toolkit was developed. A recent review of the number of hits to the on-line training resource identified that approximately 200 hits have been achieved in year 2017/18, which would indicate that uptake is not as high as would be expected. This, combined with a significant turnover of those staff who were initially trained, has resulted in a gap in knowledge and understanding of the tools and the current triangulation methodology. This is currently being addressed by a newly established education and training sub group which is reviewing current resources and developing different modalities of education resource, which will be available for staff working in clinical areas and leaders who will be analysing information and making decisions relating to staffing.

The Financial Memorandum also outlines additional resource for NMWWPP infra-structure and additional resource for Health Boards to support training, consistent application of the tools and common staffing methodology (to replace the current triangulation methodology) and analysis of information in order to make staffing decisions.

The current IT platform being used for the tools and the procurement exercise for a new platform, including information on what improvements it is expected a new platform will deliver. Also further information on the timing and costings for the new platform and why they are not listed in the Financial Memorandum.

The IT platform which currently hosts the tools is the Scottish Standard Time System (SSTS), which also holds time recording information and feeds the national e-payroll system.

NHS National Services Scotland (NSS) are undertaking a procurement exercise for a new platform to replace SSTS. This is aimed at significantly enhancing the functionality available to manage and monitor the deployment of staff on a real-time basis. It goes beyond a like-for-like replacement of the functionality required to host the tools, or the wider functionality of SSTS. NSS are seeking to procure a system which will enable them to provide electronic rostering and time recording for all staff groups across NHS Scotland. The improvements that this is expected to deliver are:

- For Scottish Government: Ability to use e-Rostering data to derive real-time insights into workforce demand and fulfilment; ensuring compliance with national policies and legislation such as the Working Time Directive; delivering an improved employment experience for staff, making NHS Scotland more attractive as an employer (see 'For Staff' bullet below); and delivering workforce efficiencies and reduction in temporary agency spend.
- For NHS Boards: Ability to design and forward plan rosters around the number and clinical needs of patients; providing real time visibility of current and future rosters, staffing levels and demand for temporary staff; ability to identify and redeploy appropriately qualified staff to under resourced areas at short notice; ensuring compliance with policies and legislation; improving and simplifying absence management; and removing the requirement for double entry of data.
- For Staff: Providing transparency, fairness and equity in the allocation of shifts (standard and additional) and leave; ability to view roster, book leave and make swaps through mobile devices; improving the work-life balance by providing extended forward visibility of rosters; providing new starters with access to e-Rostering prior to their job start; and providing access to historical shift, leave and pay information.
- For Patients: Driving out poor rostering practice which could result in sub-optimal clinical cover and incorrect clinical skill mix; ensuring that wards are correctly staffed; and improving the quality of care through more effective use of local staff and less reliance on agency staff, who are less likely to be familiar with the care setting.

The procurement exercise is currently underway and NSS anticipate they will have identified a preferred supplier by the end of the year. Part of their assessment of the responses to the procurement will be to consider the extent to which the preferred supplier is able to replicate the full functionality of SSTS including hosting the nursing and midwifery workload tools. In order to enable Health Boards to use the tools required as part of the common staffing method set out in the Health and Care (Staffing) (Scotland) Bill an electronic platform is required to host the current nursing and midwifery workload tools and to support development of multi-disciplinary tools in the future. This includes data input from service users across the service; hosting of calculators behind workload tools; a reporting function; and an ability to interface with clinical information systems required for triangulation with the quality measures. This is essential to minimise data burden through manual input from clinicians.

Where NSS identify gaps they will maintain functionality on SSTS while engaging users in developing products to meet the full requirements.

NSS have some detail on anticipated costing from the work done to develop a business case to date, however these costs relate to the full e-Rostering functionality, and not just to the hosting of the workload tools, so they are unable to provide a cost just for the platform to host the tools.

Costs relating to the procurement of a new platform were not included in the Financial Memorandum accompanying the Health and Care (Staffing) (Scotland) Bill because the need for, and procurement of, the new platform is not due to the requirements of the Bill, but rather the need to significantly enhance the functionality available to manage and monitor the deployment of staff on a real-time basis. The replacement of the existing SSTS platform is taking place irrespective of the Bill, as is ensuring that the replacement procured can accommodate the use of the workload tools, so any costs are not as a consequence of the legislation and have been budgeted for elsewhere.

Discussion included the development of tools which consider the daily deployment of staff. Are you able to provide further information on the reference group currently considering the development of these tools. Also further information on the timescales for their consideration of these tools and whether there are plans to incorporate these tools into the legislation.

The Bill requires Health Boards and care service providers to “*ensure that **at all times** suitably qualified and competent individuals are working in such numbers as are appropriate for-*

- *the health, wellbeing and safety of patients/service users, and*
- *the provision of high quality healthcare.”*

The Bill also requires Health Boards to follow the common staffing method when determining staffing in specified settings, including the use of staffing level and professional judgement tools. With the exception of the neonatal and paediatric inpatient tools, they are not used on a daily basis – the frequency of use of the other tools varies depending on the specific tool, but they are typically run every 6 or 12 months, and so their use does not cover the day-to-day decisions necessary to ensure appropriate staffing at all times.

The Scottish Government are therefore working with a group of stakeholders including the Royal College of Nursing (RCN), UNISON, the Royal College of Midwives (RCM), Nurse Directors, the British Medical Association (BMA), the Medical Directors Group and NHS Healthcare Improvement Scotland (HIS), on how the Bill and statutory guidance can best cover the means by which day-to-day staffing decisions should be made; how concerns should be escalated and dealt with; and to ensure appropriate involvement of senior clinical decision makers. Whilst this group is focusing on processes, the Bill and statutory guidance would not preclude the development of a daily use tool in the future if a need was identified. The views of the group will be presented to the Cabinet Secretary for Health and Sport for consideration this autumn.

How costings will be met if the tools do identify additional staffing resources are required and why these costs are not included in the Financial Memorandum.

The common staffing method, which includes the use of workload tools, does not prescribe a minimum staffing level. Rather, the methodology primarily supports Boards and their staff to identify the workload associated with the needs of their patients and, taking into account local context and their professional judgement, ensure they are using their staff appropriately across their service and have effective risk mitigation in place. However, it is anticipated that appropriate use of the common staffing methodology will also generate more robust evidence of staffing requirements which Boards could then use to inform their workforce projections. Boards already have a statutory duty to workforce plan under Section 12I of the National Health Service (Scotland) Act 1978:

Duty in relation to governance of staff

It shall be the duty of every Health Board and Special Health Board and of HIS and the Agency to put and keep in place arrangements for the purposes of—

- (a) improving the management of the officers employed by it;*
- (b) monitoring such management; and*
- (c) workforce planning*

The Scottish Government annual budgeting process for Health Boards already takes into consideration workforce planning carried out by Health Boards and any required expansion of the workforce. This would continue to be the case and, should additional staff be required, that would be taken into account as part of this process. However, this process will also take into account factors beyond the scope of workload planning (as legislated for by this Bill) and is therefore not considered as a direct cost associated with the Bill.

Where the duty to ensure appropriate staffing; the guiding principles; and the common staffing method have been applied appropriately, and where all other aspects of Board governance are effective and efficient, any additional funding requirements as a consequence would be considered in funding decisions taken by the Scottish Government as part of the ongoing budgeting process.

Why there are no additional sanctions proposed in the Bill for situations where the statutory requirements aren't met.

The Bill inserts the provisions relating to Health Boards into the National Health Service (Scotland) Act 1978. As such, the existing powers contained in the 1978 Act for Scottish Ministers to take action where there are issues about discharge of Health Board duties will apply to the duties placed on Health Boards by this Bill. For example, there is a power of direction in section 2(5) of the 1978 Act which can be used generally or for specific matters (which could involve directing a particular Board). There are also powers in section 78A where there has been some sort of failure in provision of service.

In addition to these Ministerial powers, a number of measures are already in place to monitor Health Board compliance with performance requirements, and it is therefore expected that non-compliance with the duties in this Bill would be managed through, and in line with, existing performance and monitoring process and escalation levels within Scottish Government and through HIS. This includes:

- HIS' role in providing public assurance about the quality and safety of healthcare, including inspecting services provided by Health Boards. This includes a future role for HIS to support Health Boards to improve where they have not applied aspects of the legislation appropriately or effectively;
- the provision of additional resource to support Boards to apply the common staffing methodology, and tools, consistently, as set out in the Financial Memorandum accompanying the Bill; and
- the requirement in the Bill for Boards to report annually to Scottish Ministers on how the duties under the Bill have been carried out.

Ministerial Guidance will be developed to ensure that there is a robust and rigorous system in place to measure and review the impact of this Bill.