NHS Highland

NHS Highland na Gàidhealtachd

Meeting:	**Board Meeting**
Meeting date:	**25 March 2025**
Title:	**Health and Care Staffing Act Implementation**
Responsible Executive/Non-Executive:	**Gareth Adkins, Director of People and Culture**
Report Author:	**Brydie J Thatcher, Workforce Lead, HCSA Programme Manager**

Report Recommendation:

The Board is asked to

- **Note** the requirements placed on the board by the act.
- Take **Moderate Assurance, Review** and **Scrutinise** the information provided in the report/appendices and **Approve** the report.

1   Purpose

This is presented to the Board for:
- Decision
- Assurance

This report relates to a:

- **Annual Operation Plan:**
  Right Workforce to Deliver Care – Commence implementation of the Health and care (Staffing) (Scotland) Act across relevant areas of the workforce
- **Government policy/directive:**
  Health and Care (Staffing) (Scotland) Act 2019
- **Legal Requirement**
  Health and Care (Staffing) (Scotland) Act 2019

This report will align to the following NHSScotland quality ambition(s):

Safe, Effective and Person Centred

This report relates to the following Strategic Outcome(s)

Start Well		Thrive Well		Stay Well		Anchor Well	
Grow Well		Listen Well		Nurture Well		Plan Well	X
Care Well		Live Well		Respond Well		Treat Well	
Journey Well		Age Well		End Well		Value Well	
Perform well	X	Progress well		**All** Well Themes			

2 Report summary

2.1 Situation

Health and Care (Staffing) (Scotland) Act 2019
Year End Report
Year of Enactment
2024-2025

Covering Quarters 1/2/3
01 April – 30 December 2024

legislative submission and publication timelines necessitate compilation of end of year report at Q3 to allow ratification through NHSH governance structure.
A subsequent Q4 update will be reported to the board in May 2025

Health & Care (Staffing) (Scotland) Act 2019 End of Year Report 2024/25

The provisions set out in the Health & Care (Staffing) (Scotland) Act 2019 (hereafter referred to as "the Act") came into force on 1 April 2024.

The Annual Report reflects on the work undertaken and progress made during the Act's inaugural year, while also outlining key high-level priorities for the 2025/26 period. Given our internal governance timelines, this document focuses on progress up to the end of Quarter 3, with a separate Quarter 4 addendum to be submitted to the Board in Spring 2025.

This report is presented to the Board for approval.

Methodology for Assessing Compliance and Assurance

A combination of board-wide quantitative and qualitative methods has been used to evaluate compliance levels, gather staff perspectives, and gauge implementation progress of the Act.

Our 2024/2025 Year-End Survey was distributed to managers and professional leads in December 2024 and promoted at various professional and senior leadership

team meetings. Information was also gathered by our Programme Lead through a series of one-to-one engagement sessions and from HCSA Implementation Group updates provided to NHSH HCSA Programme Board meetings.

This report serves as a comprehensive review of the first year of implementation, reinforcing our commitment to delivering high-quality care and adherence to the statutory requirements of the Act.

2.2   Background

The Health & Care (Staffing) (Scotland) Act 2019 came into force on 1st April 2024. It aims to provide a statutory basis for the provision of appropriate staffing in Health and Social Care services to support the delivery of safe and effective high-quality care. This will be achieved by having the right people with the right skills in the right place at the right time to improve outcomes for people using our services and improve staff wellbeing.

The Act does not prescribe health care staffing levels or planning and instead supports the development of suitable approaches in various health and social care settings.

Implementation of the Act is intended to:

- Assure that staffing is sufficient to support the delivery of high-quality care

- Support a culture of honesty and transparency that engages health and social care staff in the relevant process and ensures they are informed regarding healthcare staffing decisions

- Support further improvements to enhance and strengthen current arrangements in healthcare staffing planning and employment practices

- Risk escalation and mitigation processes to enable health and social care staff to be heard at all levels to inform evidence-based healthcare staffing decision-making

- Ensure professional clinical advice is available when healthcare staffing risks are highlighted

Duties of Healthcare Improvement Scotland (HIS)

HIS have several duties within the Act including, and are described fully within the HIS Healthcare Staffing: Operational Framework:

- HIS: monitoring compliance with staffing duties

- HIS: duty of Health Boards to assist staffing functions

- HIS: power to require information

To assist HIS in their functions, NHSH will share this report to inform further quarterly Board engagement calls. The Q3 Board engagement call is scheduled for March 2025.

Once ratified by the Board, this report will be submitted to Scottish Government, Health Improvement Scotland and published for public information and update, by 30 April 2025.

Legislative Overview

Key Objective	Description
Sufficient Staffing	Ensuring staffing levels support the delivery of high-quality care.
Transparency & Engagement	Encouraging open dialogue and staff involvement in staffing decisions.
Workforce Planning	Strengthening arrangements for effective staffing and employment practices.
Risk Escalation	Implementing processes to identify and mitigate staffing risks.
Clinical Advice	Ensuring professional clinical input in staffing decisions.

The Act does not mandate specific staffing levels but instead supports the development of suitable staffing methodologies tailored to different health and social care settings.

Key Duties Under the Act

Duty	Requirement
12IA: Appropriate Staffing	Ensure suitable staff numbers and competencies for safe, high-quality care.
12IB: High-Cost Agency Staffing	Report agency staff costs exceeding 150% of equivalent NHS staffing costs.
12IC & 12ID: Real-Time Staffing & Risk Escalation	Implement real-time staffing assessments and risk escalation protocols.
12IE: Severe & Recurrent Staffing Risks	Define and manage significant staffing risks at the Board level.
12IF: Clinical Advice on Staffing	Seek and document clinical input in staffing decisions.
12IH: Clinical Leadership	Allocate sufficient time and resources to clinical leaders.
12II: Staff Training	Provide staff with necessary training to implement the Act's requirements.
12IJ & 12IL: Common Staffing Method	Conduct annual assessments based on validated staffing level tools.

Guiding Principles of the Act

Principle	Description
Safe & High-Quality Services	Ensure the best possible care outcomes for service users.
Service Standards & Outcomes	Improve standards while considering diverse user needs.

Respect & Dignity	Uphold service users' rights and involve staff in decision-making.
Transparency	Be open with staff and service users about staffing decisions.
Efficiency & Effectiveness	Allocate staff resources optimally.
Multidisciplinary Collaboration	Encourage teamwork across disciplines where appropriate.

All these principles must be considered holistically when determining staffing levels.

Further details on the Act's statutory duties and guiding principles can be found in the **Health & Care (Staffing) (Scotland) Act 2019: Statutory Guidance Document**

Health and Care (Staffing) (Scotland) Act 2019: overview – gov.scot (www.gov.scot)

2.3   Assessment

The checklist below demonstrates an overall 'moderate' level of assurance regarding compliance with the Act and the progress of HCSA Programme deliverables across the organisation, as referenced by the HCSA annual report RAG status (Appendix 1). Whilst we acknowledge that certain areas of practice exhibit higher levels of assurance, variances persist and, in the meantime, we will continue to adopt a conservative approach to our self-assessment. Concurrently, best practices will be disseminated organisation-wide to support ongoing improvements and learning

	Q1 FY 23/24	Q2 FY 23/24	Q3 FY 23/24	Q4 FY 23/24	Q1 FY 24/25	Q2 FY 24/25
12IA: Duty to ensure appropriate staffing (Ref to 2IC,12IE,121F,12IL,12IJ)	ORANGE	ORANGE	YELLOW			
Section 12IB: Duty to ensure appropriate staffing: agency workers.	YELLOW	YELLOW	YELLOW			
12IC: Duty to have real-time staffing assessment in place	ORANGE	YELLOW	YELLOW			
12ID: Duty to have risk escalation process in place	ORANGE	YELLOW	YELLOW			
12IE: Duty to have arrangements to address severe and recurrent risks.	ORANGE	ORANGE	ORANGE			
12IF: Duty to seek clinical advice on staffing.	RED	RED	ORANGE			

12IH: Duty to ensure adequate time given to leaders	🟥	🟥	🟧			
12II: Duty to ensure appropriate staffing: training of staff.	🟧	🟨	🟨			
12IJ & 12IK relating to the common staffing method	🟧	🟨	🟨			
12IL: Training and Consultation of Staff-Common Staffing Method	🟧	🟨	🟨			
12IM: Reporting on Staffing	🟩	🟩	🟩			
Planning & Securing Services	🟥	🟧	🟨			

Progress Overview

2. Progress Across Quarters 1–3 (2024–2025)

The following section details progress made against each key duty outlined in the Act.

2.1 Guiding Principles: Staffing for Health Care (12IA)

- **Quarter 1:** The Program Board was fully established, and governance structures were put in place.
- Implementation groups for Acute, Health and Social Care Partnership, and Child Health were established with formal reporting structures. Self-assessment returns were used to engage with a range of professional groups, achieving a multifaceted understanding of compliance needs allowing for prioritisation of workstream and areas for targeted improvement.
- **Quarter 2:** These principles became further embedded within workforce planning processes, with governance mechanisms and establishment review processes enhanced to support and drive consistent application.
- **Quarter 3:** Focus has shifted to adopting a revised approach to the establishment review process and further integrating the guiding principles across the organisation into strategic workforce and service planning, thereby ensuring alignment with overall organisational objectives. In addition, we have

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collaborated with workforce leads from other boards to operationalise the legislation into manageable components, facilitating incremental progress.

2.2 Guiding Principles: Planning and Securing Health Care from Others (12IA)

- **Quarter 1:** Gaps were identified in existing service agreements with third-party providers.
- **Quarter 2:** Governance in contracting processes was improved, aligning agreements with the Act's requirements.
- **Quarter 3:** Standardised procedures for securing third-party services further explored including developed understanding of the legislative requirements. This included direct links with NHSGGC for shared learning and support to progress towards full compliance with the guiding principles.

2.3 Duty to Ensure Appropriate Staffing in Healthcare (12IA)

- **Quarter 1:** Throughout Quarters 1 to 3, our efforts to ensure appropriate staffing have been multifaceted and strategic. In Quarter 1, initial compliance assessments identified significant areas for improvement. An extensive review of the existing E-Rostering system revealed critical issues that have prompted the initiation of a comprehensive rebuild and refresh programme across all e-rostered areas.
- **Quarter 2:** e-Roster 'Review and Rebuild' work carried out across Mental Health
- **Quarter 3: Enhanced Efficiency in Rostering:** The implementation of effective rostering practices across Mental Health services has led to streamlined processes, reducing administrative burdens and minimising the risk of manual errors. The improvements achieved, as outlined below, will provide valuable insights to inform the continued rollout of our 'Review and Rebuild' initiative.

    i **Fair Distribution:** Ensuring equitable allocation of shifts by considering factors such as experience, skills, and availability, thereby promoting a balanced workload.
    ii **Compliance Management:** Maintaining adherence to regulatory guidelines by ensuring the appropriate number of staff are available for each shift.
    iii **Improved Communication:** Facilitating communication between staff, enabling real-time shift swaps, leave requests, and updates.
    iv **Data-Driven Insights:** Providing valuable data and analytics to support informed decision-making regarding staffing requirements
    v **SafeCare** 'Go Live'

- Governance structures strengthened, reporting mechanisms were refined, with increased compliance monitoring was implemented to ensure appropriate staffing levels across Mental Health.

2.4 Duty to Ensure Appropriate Staffing: Agency Workers (12IB)

- **Quarter 1:** A manual tracking system was implemented to monitor and collate data on the usage of agency staff, focus drawn to high costs associated with accommodation and travel.
- **Quarter 2:** Policy revisions were introduced to limit reliance on agency staff and manage associated costs more effectively by ceasing payments for accommodation and travel.
- **Quarter 3:** Enhanced scrutiny processes were established following changes to reporting criteria.

2.5 Duty to Have Real-Time Staffing Assessment in Place (12IC)

- **Quarter 1:** Gaps were identified in real-time staffing assessment processes and recording of data. Many services already had elements of real-time staffing escalation processes, some were not formalised or documented in a way that allowed for easy auditing. Where areas have a strong system in place they were supported in their continued use. The TURAS based RTS tool has been promoted as an interim solution until the implementation of Safe Care. A root cause analysis was conducted to address issues with the quality of information in e-rostering and assessment of the potential impact this sub optimal data would have on the future use of Safe Care.
- **Quarter 2:** Following the completion of the Root Cause Analysis, we agreed to implement a 'Rebuild and Refresh' initiative across all roster locations within Mental Health. This initiative has been highly successful, attributable to the diligent efforts of the e-Rostering Team and robust professional support and leadership. By reconstructing the underlying shift pattern and staffing infrastructure, we have established a roster that effectively supports the use of Safe Care.
- **Quarter 3:** NHSH reached a significant milestone when the Mental Health directorate became the first areas in NHSH to implement Safe Care. A rollout plan for the further 'Rebuild and Refresh' of the remaining 150 roster locations has been agreed. Work in Acute Services commenced in December 2024. On completion of the 'Refresh and Rebuild' the Raigmore Acute site will follow on as our second area to implement Safe Care. The **roll-out of Safe Care** will further standardise real-time staffing data recording and trend analysis, bridging gaps in the current system.
- The **Turas Real-Time Staffing Tool** continues to be utilised across available areas, supported by local tools in others, with further improvements scheduled for Q4.

Please see Appendix 4 for the corresponding SOP Action Card

2.6 Duty to Have a Risk Escalation Process in Place (12ID)

- **Quarter 1:** Initial evaluations revealed variability in risk escalation processes across different services.
- **Quarter 2:** Efforts were focused on developing Standard Operating Procedures (SOPs) to standardise escalation pathways.

  Quarter 3: Formalised SOPs circulated for consultation and consideration for local level interpretation and operationalising to ensure timely escalation and recording of staffing-related risks.

Please see Appendix 5 for the corresponding SOP Action Card

2.7 Duty to Have Arrangements to Address Severe and Recurrent Risks (12IE)

- **Quarter 1:** Scoping identified systems were established to track recurrent risks; however, inconsistent reporting in some areas limited effectiveness.
- **Quarter 2:** Improvements in data collection and thematic risk analysis were promoted as part of the HCSA education and engagement work.
- **Quarter 3:** Formalised SOP circulated for consultation and consideration for local level interpretation and operationalising setting out proactive monitoring mechanisms enhancing the identification and management of severe and recurrent risks.

Please see Appendix 4 for the corresponding SOP Action Card

Duty to Seek Clinical Advice on Staffing (12IF)

- **Quarter 1:** Teams reported generally having access to appropriate clinical advice, with very few exceptions. However, a critical gap was identified: the absence of formalised processes for escalation and regular exception recording (except in cases of significant incidents), which undermines the consistent integration of expert clinical guidance into staffing decisions.
- **Quarter 2:** Efforts focused on developing supporting SOPs and reviewing existing workflows to streamline the process for obtaining and recording clinical advice. These initiatives aimed to enhance access, reduce response times, and generate auditable data.
- **Quarter 3:** The supporting SOP was circulated for consultation, with further local-level reviews underway to assess its impact. It should be noted, the utilisation of SafeCare will enable real-time tracking of clinical decisions, thereby improving communication and the overall quality and timeliness of clinical advice. However, further refinement of interim feedback mechanisms is required. The priority for Quarter 4 is to develop robust systems for gathering, recording, and acting on clinical advice, ensuring that staff at all levels can contribute effectively to real-time workforce planning discussions.

2.9 Duty to Ensure Adequate Time Given to Clinical Leaders (12IH)

- **Quarter 1:** Self-assessments highlighted challenges in balancing clinical responsibilities with leadership duties, underscoring the need for protected leadership time.
- **Quarter 2:** Leadership development programmes were identified as required.
- **Quarter 3:** Refined job planning approaches to ensure that clinical leaders have sufficient time for non-clinical responsibilities, with clear escalation procedures in place for when protected time is compromised have been agreed as a priority area for improvement.

2.10 Duty to Ensure Appropriate Staffing: Training of Staff (12II)

- **Quarter 1:** Baseline training needs assessments were completed alongside initial staff engagement activities, which raised awareness of consultation

processes and ensured staff were fully informed of their roles and responsibilities.
- **Quarter 2:** Comprehensive training materials and national framework resources were developed and promoted to support consistent training efforts across all departments.
- **Quarter 3:** Ongoing training and engagement initiatives continued, building on the efforts of the previous quarters.

2.11 Duty to Follow the Common Staffing Method (12IJ)

- **Quarter 1:** Initial planning for the implementation of the Common Staffing Method (CSM) was undertaken.
- **Quarter 2:** CSM preparatory work, education sessions, revision of supporting documents to aid tool runs were scheduled, initiated and shared.
- **Quarter 3:** Tool runs have been conducted with extensive input from individuals and teams responsible for reviewing and collating output data and recommendations. This process included a pilot for five AHAP teams; although these teams are not currently mandated by legislation to conduct tool runs, their inclusion is regarded as a significant development. Workshops are scheduled for Q4 to review outcomes, and the resulting recommendations will be integrated into broader workforce planning strategies to enhance staffing level decision-making processes.

2.12 Training and Consultation of Staff (12IL)

- **Quarter 1:** Initial staff engagement activities were conducted to raise awareness of consultation processes.
- **Quarter 2:** Training materials and additional SOPs were developed.
- **Quarter 3:** Targeted consultation sessions were held to gather feedback and refine development of SOPs based on practical application of the legislation, while ongoing training and engagement sessions were delivered to further enhance staff competencies and ensure a thorough understanding of the Act's requirements.

3. Challenges Identified Across Quarters 1–3

Overall Risk Consideration
The combined effect of these challenges poses a risk to full compliance with the Act's general principles and duties. Addressing these issues will require a concerted effort to standardise processes, enhance data management, improve training and staff engagement, and secure the necessary resources. These targeted actions are essential for mitigating risks and ensuring the effective implementation of the Act across the organisation.

Key Risk/Challenge	Description
Inconsistent Application of Guiding Principles and Policies	Variability exists in how guiding principles and risk escalation processes are applied—particularly in remote areas. Although Nursing and Midwifery have demonstrated strong progress, other services continue to show inconsistency in documenting staffing requirements and escalating risks.

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Key Risk/Challenge	Description
Gaps in Service Agreements and Third-Party Processes	The standardisation of service agreements for securing third-party services remains incomplete, necessitating further work to harmonise these processes.
Workforce Shortages and Recruitment Challenges	Staffing shortages, especially in remote areas, present significant challenges in meeting required staffing levels without the use of supplementary staffing
High Reliance on Agency Staff	Despite some improvements, reliance on high-cost agency workers persists in certain areas, leading to elevated expenditure for agency staff.
Variability in OPEL Framework Implementation	The implementation of the Operational Pressures Escalation Levels (OPEL) framework is not uniform across the system, resulting in inconsistent risk escalation processes.
Data Management and Integrity Issues	There is a need for enhanced methods and improved data housekeeping to support accurate data collection and analysis, which are critical for evidence-based decision-making.
Training and Engagement Challenges	Inconsistent delivery and uptake of training programmes, combined with limited staff engagement, have hindered the effective implementation of staffing processes across some groups.
Complexity of E-Rostering Redevelopment	The ongoing e-rostering rebuild is a complex process expected to extend into 2025. Continuous evaluation and validation are essential to ensure the successful implementation of the new system.
Resource Constraints	Limited protected time for clinical leaders and difficulties in balancing clinical and administrative duties have constrained leadership capacity, while overall team engagement in programme initiatives remains limited.
Digital Solution Gaps	The absence or incompleteness of digital solutions hampers the ability to evidence established practices and capture thematic trends. Additionally, the current requirement for SSTS double entry—due to a lack of a payroll interface—prevents rollout to new areas.

4. Planned Work for Quarter 4 (2024–2025)

Key Area	Planned Actions
Embedding Guiding Principles	- Ensure the consistent application of guiding principles across all service and workforce planning activities. - Conduct regular review sessions to monitor adherence.
Standardising Contracting Processes	- Review and standardise third-party contracting processes to achieve full compliance with the Act's requirements.
Strengthening Governance	- Conduct audits and enhance reporting structures to support effective governance and decision-making. - Revise the HCSA Programme Board and supporting Implementation Groups as we transition into a 'business as usual' phase.
Improving Data Management	- Expand the SafeCare system to further enhance real-time staffing assessments. - Refine data collection methods, including enhanced incident reporting via Quality & Patient Safety Dashboards.

Key Area	Planned Actions
Enhancing Risk Management	- Finalise and implement Standard Operating Procedures (SOPs) for risk escalation and the management of recurrent risks. - Deliver comprehensive staff training to support these processes.- Review the effectiveness of the Operational Pressures Escalation Levels (OPEL) framework and supporting clinical structures.
Leadership Development	- Support leadership development programmes. - Refine job planning processes to secure protected non-clinical time for clinical leaders.- Finalise and implement the SOP on "Clinical Time to Lead," accompanied by engagement sessions.
Comprehensive Training and Staff Engagement	- Deliver targeted training programmes to address identified skills gaps and ensure staff are fully equipped to meet the Act's requirements. - Conduct focused consultation sessions to gather feedback and refine training and workforce planning strategies.- Compile and disseminate training materials and videos to support the utilisation of SafeCare.
Common Staffing Method (CSM) Implementation	- Complete the annual run of the CSM tool, analyse outcomes, and integrate findings into workforce and budget planning for the next fiscal year.- Conduct workshops to review outcomes and incorporate learnings into strategic planning.- Collate learnings from the current cycle (24/24) to inform planning for 24/25.
Additional Key Milestones and Actions	- Engage in targeted Medical Staffing Engagement initiatives.- Deliver on the e-Roster 'Rebuild and Refresh' milestone plan for the 24/25 rollout across the remaining rostered areas.- 'Switch on' SafeCare following roster rebuild work.- Initiate the 'switch on' of SafeCare at a test site in non-rostered areas and develop a step-by-step guide based on shared learning from NHSG.- Review and update the Roster Policy and governance structure.- Review Bank/Locum Engagement processes to ensure robust scrutiny and governance.

Key Workforce Planning Work Streams

Work Stream	Description
Workforce Systems Review and Realignment	A systematic review and realignment of workforce systems are underway to create synergy, support real-time data, and enhance decision-making for both operational and strategic workforce planning.
Annual Service Planning	The 2025/26 Annual Service Planning cycle will include budget setting, establishment agreements, and data-driven assessments covering demand, capacity, activity, and quality (DCAQ). Scenario planning will help navigate future complexities and risks.
Service-Based Medical Planning	From April 2025, inclusive service-based medical planning will involve medical staff in workforce decisions, influencing job planning through full engagement with service needs.
Common Staffing Methodology (CSM) and Staffing Level Tools	NHS Highland continues to review and update workforce establishments, informed by CSM tool runs and data from SafeCare. The focus is on ensuring compliance while aligning workforce plans with budgetary considerations.
Workforce Planning for 2025/26	Efforts will focus on evidence-based planning, capacity building, and competency development, while aligning with national strategies. This

Work Stream	Description
	includes reducing reliance on agency locums through improved recruitment, retention strategies, international recruitment, and enhanced rostering practices.

2.4 Proposed level of Assurance

Substantial	☐	Moderate	X
Limited	☐	None	☐

Comment on the level of assurance

This report presents a high-level overview of our progress towards compliance with the statutory duties under the Act, outlining systems and processes and work streams which have been established. The HCSA Programme Board continues to maintain a 'moderate' level of assurance.

For the purpose of report submission we apply the Scottish Government's assurance rating system, our current rating is 'reasonable', indicating there are generally sound systems of governance, risk management and controls in place. Some issues, non-compliance or scope for improvement identified which may put at risk the achievement of implementation objectives.

This assessment highlights the need for ongoing, targeted improvements in the formalisation and standardisation of our processes, procedures, governance, risk management, and control frameworks. By strengthening these areas, we will enhance our capacity to mitigate risks and fully discharge the statutory duties and responsibilities mandated by the Act. The HCSA Programme Board is committed to providing robust leadership and strategic direction to address these challenges, and we recognise the continued dedication and collaborative efforts of our teams in advancing this crucial work.

Broadly speaking we have the appropriate mechanisms and governance in place to assess and report on staffing requirements across our organisation needed to deliver care to our population.
We have the appropriate mechanisms and governance in place to assess and report on a routine (day to day) basis:
  a. how well we meet the staffing requirements
  b. that risks associated with staffing challenges are managed, mitigated and escalated appropriately
  c. professional advice is embedded and demonstrable in our day-to-day management of staffing and service delivery

We are able to use the information from assessing staffing requirements and routine assessment of staffing risks and issues 'in practice' to develop short-, medium- and long-term plans to provide appropriate staffing

3   Impact Analysis

3.1   Quality/ Patient Care

The HCSA is intended to support delivery of safe, high-quality services.

3.2   Workforce

The HCSA is fundamentally about providing appropriate staffing to deliver services.

3.3   Financial

There are potential financial implications in relation to addressing staffing risks and issues identified through the mechanisms required to demonstrate compliance with the duties of the act. However, it is important to emphasise that the act does not introduce anything new in terms of the principle that services should already be planned and delivered with an appropriate workforce plan in place to deliver the service to the required standards.

3.4   Risk Assessment/Management

This links to board level risk in relation to workforce availability and ensuring we have appropriate mechanisms to manage and mitigate risks associated with staffing issues.

3.5   Data Protection

N/A

3.6   Equality and Diversity, including health inequalities

N/A

3.7   Other impacts

None

3.8   Communication, involvement, engagement and consultation

This report has been ratified for internal reporting purposes to our Board of Directors by both our Medical Director, Boyd Peters and Executive Nurse Director, Louise Bussell.
NHSH HCSA Programme Board is now well established with professional and staff side involvement for all professional and operational leads across all Board functions.
The programme continues to be supported by a range of, feedback, engagement and briefing sessions.

3.9   Route to the Meeting

N/A

4.1   List of appendices

The following appendices are included with this report:

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Appendix 1: HCSA RAG status key

Declaration and level of assurance

When asked to provide declaration of the level of assurance, please use this key.

Level of assurance		System adequacy	Controls
Substantial assurance	🟢	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.	Controls are applied continuously or with only minor lapses.
Reasonable assurance	🟡	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.	Controls are applied frequently but with evidence of non-compliance.
Limited assurance	🟠	Significant gaps, weaknesses or non- compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.	Controls are applied but with some significant lapses.
No assurance	🔴	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.	Significant breakdown in the application of controls.

- **Appendix 2 HCSA: End of Year SG Mandated Completed Report Template**
- **Appendix 3: HCSA Quarter 3 External High-Cost Agency Report**
- **Appendix 4: Real-Time Staffing and Risk Escalation Action Card**
- **Appendix 5: Duty to Ensure Adequate Time Given to Clinical Leaders Action Card**

Action Card: Real-Time Staffing and Risk Escalation

Purpose:

Action Card: Real-Time Staffing and Risk Escalation

🔵 **Purpose:**

This Action Card outlines the responsibilities and processes to ensure **NHSH** meets its obligations under the **Health and Care (Staffing) (Scotland) Act 2019 (HCSSA).** The key duties include:

- **12IC:** Real-time staffing assessment
- **12ID:** Risk escalation process
- **12IE:** Addressing severe and recurrent risks
- **12IF:** Seeking clinical advice on staffing

These duties support **safe, high-quality care and staff wellbeing.**

🟡 **Scope:**

Applies to all named professions under the **Act. Clinical leaders and management teams** must implement and maintain these processes.

🔴 **Immediate Actions Required:**

- **Conduct real-time staffing assessments**
- **Escalate and mitigate staffing risks promptly**
- **Maintain records of staffing decisions and mitigations**
- **Seek clinical advice when required**
- **Report quarterly to NHSH Board and annually to Scottish Ministers**

🟡 **Roles and Responsibilities:**

- **All staff covered by the Act:** Escalate staffing concerns to a **Lead Professional (LP)** immediately.
- **Lead Professionals (LPs):** Responsible for **identifying, escalating, and mitigating risks.**
- **Senior Decision-Makers:** Receive risk escalations and determine actions required.

- **Management Teams:** Ensure **SOPs** align with this **Action Card** and oversee local implementation.

🔴 **Risk Escalation and Mitigation:**

- **Follow local SOPs** to escalate risks up the **chain of command.**
- **Seek appropriate clinical advice** when needed.
- **Notify all relevant staff** of decisions and actions taken.
- **Record severe and recurrent risks** for monitoring and reporting.

🔵 **Incident Reporting & Documentation:**

- **Use Datix Incident Module** for reporting all staffing-related **incidents and near misses.**
- **Maintain local records covering:**
  - **National RAGG status**
  - **Escalations & mitigations**
  - **Clinical advice sought**
  - **Staff notifications**
  - **Disagreements and resolutions**

🟡 **Staffing Meetings:**

- **Daily huddles:** Assess real-time staffing, escalate risks, and discuss mitigations.
- **Monthly senior reviews:** Evaluate severe/recurrent risks based on **Datix reports and staffing records.**
- **Quarterly reporting: Senior Leadership Teams** submit reports on staffing risks and mitigations.

🔴 **Severe and Recurrent Risk Management:**

- **Identify trends** using **Datix and local records.**
- **Manage risks within Division/HSCP,** ensuring visibility across **NHSH.**
- **Escalate where further management is needed,** ensuring documented action plans.
- **Quarterly corporate review of Safe Staffing Risks** to ensure **system-wide oversight.**

🟢 **Compliance & Training:**

- **Complete essential TURAS learning modules.**
- **Management teams must ensure local training on RTS and Risk Escalation.**

📌 **Reference:** NHSH Risk Management Strategy & Policy

📖 **For full procedural guidance, refer to the NHSH Standard Operating Procedure on Real-Time Staffing and Risk Escalation.**

NHS Highland

Health and Care (Staffing) (Scotland) Act 2019 – Medical FAQs

Q1: Does the Act prescribe minimum staffing levels?
No. The Act does not prescribe minimum staffing levels. It is the responsibility of NHS Highland to establish processes that ensure appropriate staffing levels based on the needs of patients within each clinical area. This may involve multi-disciplinary or multi-professional teams, depending on the service.

Q2: Does this mean there is additional funding for staffing?
No. The Act does not come with specific or additional funding. However, it aims to improve the visibility of staffing issues, enabling senior decision-makers to make informed decisions regarding workforce requirements across all areas.

Q3: What are my responsibilities under the Act?
As a doctor, you already have a professional duty to ensure the delivery of safe, high-quality care to your patients. If a staffing issue arises that impacts patient care and it is within your control to address, you are required to take appropriate action. If you are unable to resolve the issue, you must escalate it through the appropriate management channels.

- **Clinical Leaders** have a real-time view of staffing, with authority to mitigate risks, escalate issues, and communicate decisions to staff.
- **Senior Medical Staff in Management Roles** are responsible for overseeing mitigation efforts, escalating unresolved issues, and ensuring clear communication with teams.
- **Senior Management** holds accountability for accepting and managing risks when mitigation is not possible.
  All incidents related to staffing concerns must be recorded through formal reporting systems such as Datix to ensure accountability and compliance with the Act.

Q4: Who is considered a 'Clinical Leader'?
The definition of a Clinical Leader may vary depending on the service. Generally, this role is held by an individual responsible for rota management, duty allocations, and staffing decisions. They have the authority to redeploy staff or secure additional resources when necessary. Clinical Leaders should have dedicated time in their job plans to fulfil this role and are responsible for ensuring staff awareness of the Act and appropriate training. Responsibilities may be shared within teams—for example, a registrar may manage rotas, while a Clinical Director oversees staff training and authorises agency use.

Q5: What is meant by 'mitigation'?

Mitigation refers to actions taken to reduce the impact of staffing shortages on patient care. For example, if a doctor calls in sick, the Clinical Leader might:

- Redeploy staff from another well-covered area
- Cancel non-essential activities to prioritise emergency cover
- Engage bank staff or agency staff
- Utilise other members of the multidisciplinary team (MDT)
  The goal is to maintain safe, effective care with minimal disruption to services.

Q6: What if I disagree with the mitigation plans?

If you are directly involved in a staffing issue, the Clinical Leader is required to discuss the proposed mitigation strategies with you. If you believe the mitigation is inappropriate, the Act ensures there is a mechanism to formally record your concerns, with a process for reviewing and reassessing the mitigation plan. Work is ongoing to standardise how such concerns are documented.

Q7: Why are bank/agency costs generally restricted to 150% of the normal rate?

One of the objectives of the Act is to promote cost-effective staffing solutions and reduce reliance on high-cost agency staff. Typically, the cost of additional hours, bank shifts, or agency staff should not exceed 150% of the standard hourly rate for an equivalent employee. However, this is not an absolute limit. If exceeding this threshold is necessary, the circumstances must be clearly documented, and the details included in routine reports submitted to the Scottish Government.

Q8: What should I do if my unit is consistently short-staffed?

You have a duty to mitigate staffing risks where possible and escalate concerns through the appropriate channels. Senior decision-makers are responsible for reviewing data from Datix and other reporting systems to identify persistent or high-risk staffing issues. NHS Highland is then obligated to consider mitigation strategies, which may include service redesign to address ongoing workforce challenges.

Q9: Can non-clinical managers make staffing decisions?

No. The Act mandates that clinical advice must be sought before any staffing-related decisions are made. Non-clinical managers cannot make decisions regarding staffing without appropriate clinical input to ensure patient safety and the delivery of high-quality care.

This FAQ aims to support medical staff in understanding their responsibilities under the Health and Care Staffing (Scotland) Act 2019. Ongoing training, engagement sessions, and operational guidance will continue to support implementation across NHS Highland.

Action Card: Duty 12IH - Ensuring Time for Clinical Leaders

🔵 **Background:**

Duty **12IH** ensures that **Lead Professionals** have the **time and resources** necessary to manage staffing alongside other professional duties. Within this **Standard Operating Procedure (SOP),** these professionals are referred to as **Clinical Leaders.**

🟡 **Purpose:**

This SOP supports **NHS Highland (NHSH) Health Care Teams** in fulfilling the requirements of the **Health and Care Staffing (Scotland) Act 2019 (HCSSA).**

🔵 **Key Leadership Roles:**

Clinical Leaders must ensure:

- **Supervision of patient care**
- **Management and development of staff**
- **Delivery of safe, high-quality, person-centred care**

NHSH must allocate sufficient **time and resources** for **Clinical Leaders** to fulfil these duties, ensuring alignment with sector-specific **SOPs.**

🟡 **Scope:**

This SOP applies to **Clinical Leaders in NHSH** and **Health & Social Care Partnerships (HSCPs)** covered by the **HCSSA.** It includes **regulated professionals** (e.g., **GMC, NMC, HCPC**) and some **healthcare support workers.**

🔵 **Definition of a Clinical Leader:**

A **Clinical Leader** is an individual with **lead clinical responsibility** for a team. The **HCSSA Leadership Considerations List (Appendix 1)** must be used to determine this role. The term **"clinical"** is broadly applied to all **in-scope professions.**

🔴 **Time and Resource Allocation:**

NHSH has a duty to provide **adequate time and resources** for **Clinical Leaders.** While the Act does not define **"adequate time,"** it advises using existing **governance** to determine sufficient allocation. Support staff, such as **administrative assistance,** should be available as needed.

Clinical Leaders should also have knowledge of the **Act,** e.g., completing the **TURAS Skilled Level training module.**

🔴 **Protecting and Evidencing Time to Lead:**

Time to lead must be **protected and recorded.** Short-term evidence includes:

- **Nursing staff:** SSTS
- **Other professionals:** E-job planning, work diaries, TURAS appraisals
- **Additional sources:** iMatter surveys, reflective practice, appraisals, and job plan completion rates

🔴 **Escalation procedures must be in place if time to lead is not protected, ensuring senior management intervention and review** (as per **RTS and Risk Escalation SOP**).

🔴 **Severe and Recurrent Risks:**

Severe and **recurrent staffing risks** are defined as **repeated incidents** (severity level **3-5**) or **near misses** due to **staffing issues. Senior Managers** must review **staffing risk reports monthly** and update **Division/HSCP Risk Registers** accordingly.

🟢 **Assurance and Reporting:**

- **Senior Management teams** must submit **quarterly Staffing Risk reports,** detailing **current risk scores and mitigation actions.**
- **Safe Staffing Risks** will be reviewed **quarterly** at the **NHSH senior management and corporate level.**

🟡 **Job Descriptions:**

Any necessary **role adjustments** will follow existing **job planning and evaluation processes. Clinical Leader** roles should explicitly reference **HCSSA responsibilities** in **job descriptions and advertisements.**

✅ **Conclusion:**

This **Action Card** ensures that **Clinical Leaders** are supported with the **necessary time and resources** to uphold **safe staffing standards,** fostering **high-quality patient care** across **NHSH.**