

Health and Care (Staffing) (Scotland) Act 2019 statutory guidance: consultation

19th September 2023

INTRODUCTION

Social Work Scotland is the professional body for social work leaders, working closely with our partners to shape policy and practice, and improve the quality and experience of social services. We welcome this opportunity to comment on the experience of winter resilience planning.

Social workers are uniquely placed as a profession to offer insight and contribution to this consultation as social workers hold legal duties under the Social Work (Scotland) Act 1968 placing responsibility with them for assessing the needs of those in the local authority area. As such, we seek to support the effective interaction and joint working of partner professionals in the process of delivering services and interventions to adults and children under the auspices of the above noted legislation. Working within this multi-agency context, social work holds a duty to offer perspective to ensure that a Human Rights enabling, and strengths-based approach is central to the delivery of services.

The provision of social work and social care services are focused on individual need and desired outcomes and are guided by personal choice with regard to delivery. The Social Care (Self Directed Support) (Scotland) Act 2013 places a duty on social work to promote choice and control for an individual assessed as requiring a social care service.

Social Work Scotland welcomes the opportunity to provide feedback on the draft statutory guidance.

CONSULTATION QUESTIONS

Question 1(a)

Do you think the guidance is clear and easy to understand?

Yes

No

Question 1(b)

Please detail any specific areas of the guidance that you found unclear or hard to understand. Please tick the relevant section(s) and provide further information in the text box.

Whilst the language used in all sections are easy to read and understand, there is a lack of detail in some sections which introduces a risk that the guidance will have little relevance for workers outside of healthcare settings.

We would particularly wish the following points to be considered in the guidance.

- 1) Given the fact that there is a recruitment and retention crisis, what happens in the event that the required staffing isn't able to be fulfilled?
- 2) What duties are there on Care Inspectorate, Scottish Government and other agencies to forecast risk of the above, and to mitigate and support organisations employing staff?
- 3) What is the scope of the Guidance? Does it extend to facilities like care homes, secure care, prison settings, childminding eg., it is unclear how this would apply to more domestic settings, as it reads very much as institutional?
- 4) Detail regarding the role and responsibility of the Care Inspectorate with regard to monitoring compliance would support an understanding, and representation, of the whole system of health, social work and social care.

Question 2(a)

Do you think the guidance is comprehensive, in that it contains sufficient detail to be able to support organisations in meeting obligations placed on them by the Act?

- Yes
- No

Question 2(b) Please detail any specific areas of the guidance where you felt information was missing or incomplete

Note the reference to the Health and Social Care Standards and the SSSC Codes of Practice for social services workers and employers. The SSSC code of practice are currently undergoing review, and it is our understanding that a review of the Health and Social Care Standards is due to be commenced, therefore these references will require to be updated prior to the document's publication.

Note the reference to the Adults with Incapacity (Scotland) Act 2000; one of the recommendations of the Mental Health Law Review that has been taken by Scottish Government as a priority, is a review and potential reform of the Act, therefore, the guidance document should reflect this, and this section will require review prior to publication.

Likewise, whilst we welcome the reference to Getting it Right for Every Child (GIRFEC), this document should also reference the principles of Getting it Right for Everyone (GIRFE), the forthcoming inter-agency adult assessment framework.

Note that the link provided regarding SDS Guidance links to a guide to A Guide to the Self-directed Support (Scotland) Act 2013, rather than the Social Care (Self-directed Support) (Scotland) Act 2013: statutory guidance, which can be found here -

<https://www.gov.scot/publications/statutory-guidance-accompany-social-care-self-directed-support-scotland-act-2013-2/>

Question 3

Do you have any other comments on the draft guidance?

None

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