

Title: Safe and Effective Staffing Legislation Northern Ireland	Regulatory Impact Assessment (RIA)	
	Date: May 2024	
	Type of measure: Primary Legislation	
Lead department or agency: Department of Health (Northern Ireland)	Stage: Initial	
	Source of intervention: Domestic NI	
Other departments or agencies: HSC Trusts	Contact details:	
	Safe Staffing Policy Team (WPD, DOH)	

Summary Intervention and Options

What is the problem under consideration? Why is government intervention necessary? (7 lines maximum) <p>A commitment to consider and develop “safe nurse staffing” in Northern Ireland was made as part of the January 2020 Framework Agreement which led to the suspension of the Agenda for Change Industrial dispute.</p> <p>The scope was expanded to include all professional disciplines in October 2022 following discussions with stakeholders who stated the issue was wider than nursing only.</p>	
What are the policy objectives and the intended effects? (7 lines maximum) <p>To place legislative requirements on the Department and other employers to engage in activities linked to providing adequate staffing. The legislation provides clarity on responsibilities for workforce planning, reporting and monitoring, staff calculation.</p> <p>The purpose is to provide transparency for how decisions around staffing are made that provide a safer working environment for staff and more effective health and care services for everyone.</p>	
What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum) <p>Option 1 – Continue with existing policy (Do nothing option)</p> <p>The situation would remain as it is at present. The <i>Delivering Care</i> tools within Nursing and Midwifery would continue to be developed/used.</p> <p>Option 2 – Legislate Safe Staffing for Nursing Only.</p> <p>The <i>Delivering Care</i> tools within nursing would continue to be developed and put on a mandatory footing through legislation.</p> <p>Option 3 – Legislate for Safe and Effective Staffing all professional disciplines within Health and Social Care.</p> <p>Primary Legislation would provide legislative commitments that would encompass all disciplines within Health and Social Care. The guiding principles could then be used to develop more specific policy for each area.</p>	
Will the policy be reviewed? It will be reviewed	If applicable, set review date: post enactment

Cost of Preferred (or more likely) Option		
Total outlay cost for business £m	Total net cost to business per year £m	Annual cost for implementation by Regulator £m
0	0	0

Does Implementation go beyond minimum EU requirements?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
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Is this measure likely to impact on trade and investment?		YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Are any of these organisations in scope?	Micro Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Small Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Medium Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
			Large Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.

Approved by:

Date:

Summary: Analysis and Evidence

Policy Option 1

Description: Continue with existing policy (**Do nothing option**)

ECONOMIC ASSESSMENT (Option 1)

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring) (excl. transitional) (constant price)	Total Cost (Present Value)
	(constant price)	Years		
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	0		0	0

Description and scale of key monetised costs by 'main affected groups' Maximum 5 lines

As the existing policies are already in place, they would continue to be utilised within existing budgeting agreements. Any additional funding requests would be made as part of business as usual.

Other key non-monetised costs by 'main affected groups' Maximum 5 lines

None

Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
	(constant price)	Years		
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	0		0	0

Description and scale of key monetised benefits by 'main affected groups' Maximum 5 lines

There are no direct monetised benefits; however, the existing policy *Delivering Care* is considered best practice which could reduce staff turnover and subsequent recruitment costs.

Other key non-monetised benefits by 'main affected groups' Maximum 5 lines

- The benefits are mainly clinical with anticipated improved patient care and staff morale.
- This option continues the safe and effective staffing best-practice the Department has committed to since the introduction of *Delivering Care* in 2014.
- This option allows for a high degree of adaptability as there are reduced legal considerations.

Key Assumptions, Sensitivities, Risks Maximum 5 lines

- The introduction of safe and effective staffing legislation was a Ministerial commitment as part of the framework agreement to settle the 2019 pay dispute. This option would most likely be challenged by the Trade Unions on that basis.

BUSINESS ASSESSMENT (Option 1)

Direct Impact on business (Equivalent Annual) £m		
Costs:0	Benefits:0	Net:0

Cross Border Issues (Option 1)

How does this option compare to other UK regions and to EU Member States (particularly Republic of Ireland) Maximum 3 lines

The Republic of Ireland has not legislated on safe and effective staffing to date. The Office of the Chief Nurse in their Department of Health have developed pilot frameworks for safe nurse and midwife staffing. This work was undertaken by the Taskforce on Staffing and Skill Mix, and has developed initiatives which aim to:

England have no specific legislation relating to Safe Staffing

Summary: Analysis and Evidence

Policy Option 2

Description: **Legislate for Safe Staffing for Nursing Only**

ECONOMIC ASSESSMENT (Option 1)

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Cost
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				
Description and scale of key monetised costs by 'main affected groups' Maximum 5 lines Existing budgeting agreements would continue to exist in relation to the delivery of Delivering Care however there could be additional costs to ensure that legislative proposals are met.				
Other key non-monetised costs by 'main affected groups' Maximum 5 lines None.				
Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Benefit
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	0		0	0
Description and scale of key monetised benefits by 'main affected groups' Maximum 5 lines <ul style="list-style-type: none"> Again, there are no direct monetised benefits; however, <i>Delivering Care</i> is considered best practice which could reduce staff turnover and recruitment. Legislation would send a clear message to staff and their representatives that safe staffing is key to their wellbeing. 				
Other key non-monetised benefits by 'main affected groups' Maximum 5 lines <ul style="list-style-type: none"> As with option 1, the benefits are mainly clinical with anticipated improved patient care and staff morale. This option also continues the commitment to safe staffing best practice the Department first undertook with the introduction of <i>Delivering Care</i> in 2014. Underpinning the policy in legislation fulfils the Ministerial commitment given to the Royal College of Nursing. 				
Key Assumptions, Sensitivities, Risks Maximum 5 lines The key assumption is: <ul style="list-style-type: none"> Continued political support for legislation - all Northern Ireland parties are keen to legislate. The key risks are: <ul style="list-style-type: none"> Legislating for nursing only would be resisted by other professional groups. Resource could be directed to comply with the legislation at the detriment of other professional groups. Dependant on continued financial support - reductions in funding could undermine the success of the legislation. 				

BUSINESS ASSESSMENT (Option)

Direct Impact on business (Equivalent Annual) £m			
Costs:	Benefits:	Net:	

Cross Border Issues (Option)

<p>How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines</p> <p>Staffing legislation exists currently in Wales for nursing only. Scotland has legislation for safe staffing within health and care settings whilst England has no plans to legislate at this time.</p> <p>The Republic of Ireland operates using a Framework for safe nurse staffing and skill mix (2018) – this is not legislated.</p>
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Summary: Analysis and Evidence

Policy Option 3

Description: Legislate for Safe and Effective Staffing all professional disciplines within Health and Social Care.

ECONOMIC ASSESSMENT (Option 1)

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Cost
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				
Description and scale of key monetised costs by 'main affected groups' Maximum 5 lines Introduction of legislation should not in itself have a significant financial implication; however, the implementation of the legislation is complementary to other workforce initiatives the Department is currently undertaking including workforce expansion, international recruitment and Delivering Care. Additional proposals to include real-time staffing assessments may come at a cost; however, any costs will be determined by each individual business area.				
Other key non-monetised costs by 'main affected groups' Maximum 5 lines None				
Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Benefit
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	0		0	0
Description and scale of key monetised benefits by 'main affected groups' Maximum 5 lines No direct monetised benefits however by utilising the legislation effectively there could be a reduction in agency spending as effective workforce planning and more efficient placement of staff (as per the recommended calculation method) would ensure that affected groups would have the most appropriate numbers of suitably trained staff to manage services.				
Other key non-monetised benefits by 'main affected groups' Maximum 5 lines The legislation is being developed in collaboration with trade unions who have all indicated that the issue of safe staffing is high priority. By working with the trade unions on this issue this will help to satisfy a contentious area that may prevent future industrial action.				
Key Assumptions, Sensitivities, Risks Maximum 5 lines The key assumption is: A transparent policy will provide a basis for safer working conditions for staff and a more effective health and care system for citizens. There are risks that there may not be a suitable supply of health and care professionals within the system to make the policy work. The success of the legislation may also be dependent on continued financial support as reductions in funding could undermine the success of the policy.				

BUSINESS ASSESSMENT (Option)

Direct Impact on business (Equivalent Annual) £m		
Costs:	Benefits:	Net:

Cross Border Issues (Option)

How does this option compare to other UK regions and to EU Member States (particularly Republic of Ireland) Maximum 3 lines

Staffing legislation exists currently in Wales for nursing only. Scotland has legislation for safe staffing within health and care settings whilst England has no plans to legislate at this time.

The Republic of Ireland operates using a Framework for safe nurse staffing and skill mix (2018) – this is not legislated.

The legislation in Northern Ireland would be the most comprehensive legislation in terms of affected professional disciplines.

Evidence Base

There is discretion for departments and organisations as to how to set out the evidence base. It is however desirable that the following points are covered:

- Problem under consideration;

The need for safe and effective staffing originated from the 2013 Independent Inquiry into the failings of the Mid-Staffordshire National Health Service (NHS England) Foundation Trust. The report highlighted the need for appropriate staffing levels to support safe, effective, person-centred care.

In Northern Ireland, the Department of Health responded with the 2014 policy document, *Delivering Care: Nurse Staffing in Northern Ireland*. The aim of *Delivering Care* is to support the provision of quality care which is safe and effective in hospital and community settings through the development of a framework to determine staffing ranges for the nursing and midwifery workforce in a range of major specialities.

Wales and then Scotland enshrined safe and effective staffing in law with ***The Nurse Staffing Levels (Wales) Act 2016*** and ***The Health and Care (Staffing) (Scotland) Act 2019***.

A commitment to consider and develop safe and effective staffing legislation for nursing in Northern Ireland was made as part of the January 2020 Framework Agreement which led to the suspension of the Agenda for Change Industrial dispute.

It was acknowledged early in the process that there was a strong desire for any legislation be expanded beyond nursing, to include other disciplines within HSC. In October 2022, Minister Swann gave approval for (i) the expansion of the scope of the legislation, and (ii) officials to continue to develop and publish a consultation once broad agreement was reached from key stakeholders.

- Rationale for intervention;

The legislation is intended to:

- Underpin, enhance, and expand existing safe and effective staffing policies and procedures.
- Fulfil the ministerial commitment to consider safe and effective staffing.
- Contribute to the case for sustainable workforce funding.

Policy objective;

- The proposals will place legislative requirements on the Department and other employers to engage in activities linked to providing adequate staffing.
- The legislation provides clarity on responsibilities for workforce planning, reporting and monitoring, staff calculation.
- The purpose is to provide transparency for how decisions around staffing are made that provide a safer working environment for staff and more effective health and care services for everyone.

Description of options considered (including do nothing), with reference to the evidence base to support the option selection;

Following preliminary consultations with stakeholders there are three options for consideration.

Option 1 – Continue with Policy for Nursing only (Do nothing option)

Under option 1, the situation would remain as it is at present. The *Delivering Care* tools within nursing and midwifery would continue to be used, recognising there is scope within them to ensure they are more consistently applied and reviewed.

Option 2 – Legislate Safe and Effective Staffing for Nursing Only

The Delivering Care tools within nursing would continue to be developed and put on a mandatory footing through legislation.

Option 3 – Legislate for Safe and Effective Staffing for a Range of Sectors within Health and Social Care.

Primary Legislation would provide legislative commitments that would encompass all disciplines within Health and Social Care. The guiding principles could then be used to develop more specific policy for each area

In October 2022, Minister Swann gave approval for (i) the expansion of the scope of the legislation, and (ii) officials to continue to develop and publish a consultation once broad agreement was reached from key stakeholders.

- Monetised and non-monetised costs and benefits of each option (including administrative burden);
 - At present, it is anticipated that there will be no direct costs other than those already funded.
 - The case for workforce expansion is being taken forward separately and will run parallel to the legislation.

Option	Monetised Costs	Non-monetised Costs
Option 1 – Continue with Policy for Nursing and Midwifery only (Do nothing option)	Existing budgeting agreements would continue to exist in relation to the delivery of Delivering Care	None
Option 2 – Legislate Safe and Effective Staffing for Nursing only	Existing budgeting agreements would continue to exist in relation to the delivery of Delivering Care however there could be additional costs to ensure that legislative proposals are met.	None
Option 3 – Legislate for Safe and Effective Staffing for a range of sectors within Health and Social Care.	Introduction of legislation should not in itself have a significant financial implication; however, the implementation of the legislation is complementary to other workforce initiatives the Department is currently undertaking including workforce expansion, international recruitment and Delivering Care. Additional proposals to include real-time staffing assessments may come at a cost; however, any costs will be determined by each individual business area.	None

- Rationale and evidence that justify the level of analysis used in the RIA (proportionality approach);

The legislation is intended to underpin departmental policies regarding patient safety and wellbeing.

- Risks and assumptions;

The Department already has a range of policies and ongoing projects and activities that form the basis of the legislation. This legislation aims to further develop and strengthen these practises.

As the legislation is being developed in collaboration with trade unions and other stakeholders it is anticipated that policy will be widely agreed and accepted by the Executive as well as the HSC workforce. There is a risk that there may not be enough of a supply of professionals to meet the needs

of the legislation, however that can only be determined once full implementation happens and evidence is gathered, and reports submitted.

Effective use of the legislation should reduce the cost of using agency workers to meet current baselines. There is also the risk that funding cuts may have an impact on the implementation of the proposals.

- Direct costs and benefits to business;

As the legislation is restricted to the staffing of health and social care there will be no costs to the wider community. However, there may be costs to providers of health and social care outside of public services as there will also be a requirement for them to also meet the conditions laid down in the legislation.

- Wider impacts (in the context of other Impact Assessments in Policy Toolkit Workbook 4, economic assessment and NIGEAE)

At present, it is anticipated that there will be no wider Impacts. This will be kept under review during the legislative process.