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Andrew Proudfoot  
Clerk to the Delegated Powers and Law Reform  
Committee  
Room T1.01  
Scottish Parliament

Your ref:  
Our ref: A21590248  
30 July 2018

Dear Andrew,

**RE: HEALTH AND CARE (STAFFING) (SCOTLAND) BILL**

I am writing in response to your letter dated 19 June 2018 asking for more information regarding the Health and Care (Staffing) (Scotland) Bill. The Committee's questions are in bold.

**Section 4 – NHS duties in relation to staffing (insertion of section 12IB(4) – duty to follow common staffing method)**

**The Committee asks the Scottish Government for a further explanation of why such a wide power is being taken with no provision on the face of the Bill guiding the Parliament as to the circumstances in which the power is expected to be used by Scottish Ministers.**

The common staffing method set out in inserted section 12IB is based on the best currently available evidence in workload measurement, and takes account of the extensive experience and learning from the use of the current suite of staffing level tools. In light of this experience the common staffing method set out in the Bill was revised from the method which is currently used by Health Boards, with the addition of steps such as consideration of staff views, and the taking into account of appropriate clinical advice. These steps were added to improve the process of decision making about staffing requirements as a result of experience gained by using the current method over time.

The Scottish Government anticipates that changes to the common staffing method contained in inserted section 12IB may become necessary in the future in order to ensure the method remains contemporary and in line with any future evidence in workload measurement that becomes available. It may also be necessary as a result of the development of staffing level tools, including multi-disciplinary tools, which include different professional groups such as

allied health professionals. This may require the common staffing method to be adapted to ensure that it meets the needs of these professional groups.

It is not possible to accurately predict what future experience and evidence might highlight in terms of improvements that could be made to the common staffing method. In particular, since multi-disciplinary tools, with the exception of the emergency care tool, have not yet been developed, there is currently no body of evidence or experience to call upon to determine what type of changes, if any, might be necessary to improve the common staffing method in the future in light of the experience of developing and operating further multi-disciplinary staffing level tools.

The Scottish Government does not, therefore, wish to place restrictions on the use of the power which could potentially prevent changes to the common staffing method, which are identified, in light of future experience, as necessary to improve the information used by Health Boards when making decisions about staffing requirements.

Any proposed changes to the common staffing method would be developed in partnership with relevant stakeholders before any amending regulations are brought to Parliament for consideration and approval. These amending regulations would be subject to the affirmative procedure, so the Scottish Parliament will be able to scrutinise their appropriateness accordingly.

### **Section 10 – Functions of SCSWIS in relation to staffing methods (insertion of section 82A(3) – development of staffing methods)**

**The Committee asks the Scottish Government for an explanation of why it is not considered appropriate or necessary to include a duty on Scottish Ministers to publish the guidance so that it is available to those persons or bodies which SCSWIS considers it appropriate to collaborate with.**

We thank the Committee for raising this issue in relation to guidance. The Scottish Government intends to publish all guidance issued under the powers in this Bill. The broad intention is that there will only be one guidance document to cover the legislation, covering both the health and the care provisions of the Bill, in order to support the Government's approach to progressing the integration of health and social care. For clarification, and in order to make publication a legal requirement in this particular case, the Scottish Government will therefore bring forward an amendment at stage 2 requiring the Scottish Ministers to publish any guidance issued under inserted section 82A(3), which will also ensure consistency of approach across the Bill.

Yours sincerely



**Diane Murray**  
Associate Chief Nursing Officer