Lothian NHS Board

NHS Lothian Headquarters

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Edinburgh
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Date 2 November 2026
Your Ref
Our Ref 12001

Enquiries to Richard Mutch
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Dear

FREEDOM OF INFORMATION – HEALTH CARE STAFFING

I write in response to your request for information in relation to health care staffing.

Question:
1. Copies of all reports made to your board and any of its committees by individuals with lead clinical professional responsibility under the boards procedure for reporting on compliance with its duties under the Health and Care (Staffing) (Scotland) Act 2019.
    a. Please include every quarterly report in this period. If any quarter has no report, please say so.

Answer:
Please see enclosed. There is no Quarter 2 - 2026/27 report is available to share as it has not yet been approved through the agreed board governance route.

Question:
2. Any entry on the corporate/divisional risk register that refers to unfilled shifts/the inability to staff wards safely.
    a. Please include the risk description, risk rating, date raised, and any record of changes in rating/or of the risk being closed or downgraded.

Answer:
There are none.

Question:
3. The number of times the boards real-time staffing and risk escalation procedures were used, by month, and for each occasion: the hospital site, outcome, and whether the risk was

recorded as resolved. If not recorded centrally, please state this and where it is recorded instead.

Answer:

This is not routinely collated centrally or reported in the format requested. Staffing assessment and escalations occur multiple times per day and night across a range of clinical areas and professions using different systems and processes. We do not hold a single central record that captures every instance, the outcome, or whether the risk was ultimately resolved. The Act requires us to have real-time staffing assessment and risk escalation arrangements in place, rather than maintain a centrally collated dataset of every occurrence. Responding to this request would require extensive manual review of local operational records across multiple services and professions.

Under the Freedom of Information Act NHS Lothian is not required to create new records to enable it to respond to your enquiry. This information is not collated or held in aggregate form and it would be necessary to review all case files relating to patients over the period you have requested to assemble the information you seek. Even if NHS Lothian did this – and there would be significant cost implications in doing so – it would be unable to respond in full to your request. The information requested is therefore exempt under section 12.1 – Cost.

Question:

4. The number of incident reports (Datix/equivalent) wherein inadequate staffing/unfilled shifts were recorded as a contributory factor, by month and by severity category.

Answer:

Enclosed. To protect the identity of the individuals involved any figure of 5 or less has not been shown in the table above. Since we do not have their consent to release this data from their records, the information is exempt under section 38(1)(b) of the Freedom of Information (Scotland) Act i.e. to provide it would breach the Data Protection Act (2018).

Question:

5. Any report/paper/briefing from your board or its committees that analyses unfilled shifts and/or their effect on patient care. a. Please provide the papers themselves, and not summaries.

Answer:

NHS Lothian provides regular operational service reports that include information on unfilled shifts. However, there are no Board or committee papers that specifically analyse unfilled shifts or their effect on patient care. We therefore have no papers to provide in response to this part of the request. As per Section 17 of the Freedom of Information (Scotland) Act 2002 formally I must advise that we do not hold this information.

Question:

6. Any correspondence between the board and the Scottish Government, or, Healthcare Improvement Scotland, wherein unfilled shifts/staffing shortalls were raised as a concern.

Answer:

I am advised there is no correspondence. As per Section 17 of the Freedom of Information (Scotland) Act 2002 formally I must advise that we do not hold this information.

I hope the information provided helps with your request.

If you are unhappy with our response to your request, you do have the right to request us to review it. Your request should be made within 40 working days of receipt of this letter, and we will reply within 20 working days of receipt. If our decision is unchanged following a review and you remain dissatisfied with this, you then have the right to make a formal complaint to the Scottish Information Commissioner within 6 months of receipt of our review response. You can do this by using the Scottish Information Commissioner's Office online appeals service at www.itspublicknowledge.info/Appeal. If you remain dissatisfied with the Commissioner's response you then have the option to appeal to the Court of Session on a point of law.

If you require a review of our decision to be carried out, please write to the FOI Reviewer at the email address at the head of this letter. The review will be undertaken by a Reviewer who was not involved in the original decision-making process.

FOI responses (subject to redaction of personal information) may appear on NHS Lothian's Freedom of Information website at: https://org.nhslothian.scot/FOI/Pages/default.aspx

Yours sincerely

ALISON MACDONALD
Executive Director, Nursing
Cc: Chief Executive
Enc.

Adverse Events by Severity and Reported (Month and year)

Staffing Issues	Apr 2024	May 2024	Jun 2024	Jul 2024	Aug 2024	Sep 2024	Oct 2024	Nov 2024	Dec 2024	Jan 2025
No known adverse effect at this time	52	46	56	62	56	44	50	55	53	43
Harm to a person -minor	0	5<	5<	6	7	6	5<	7	5<	5<
Harm to a person -moderate	5<	5<	5<	0	0	0	0	5<	5<	5<
Harm to a person -death	5<	0	0	5<	0	0	0	0	0	0
Damage or loss to property - No known adverse effect	0	0	0	0	5<	0	0	0	0	0
Damage or loss to property - minor	0	0	5<	0	0	0	0	0	0	0
Damage or loss to property - moderate	0	0	0	0	0	5<	0	0	0	0
Total	54	50	65	*	*	*	*	*	59	48

Adverse Events by Sub category and Reported (Financial year)

Staffing Issues	2024/2025	2025/2026	2026/2027	Total
Staff shortage - Admin and Clerical	12	17	5<	*
Staff shortage - AHP	22	11	6	39
Staff shortage - Facilities	23	11	5>	5<
Staff shortage - Labs	5<	0	5<	5<
Staff shortage - medical	52	47	32	131
Staff shortage - nursing/midwifery	417	411	334	1162
Other - Please only use if no alternative	178	190	102	470
Total	*	687	483	*

Feb 2025	Mar 2025	Apr 2025	May 2025	Jun 2025	Jul 2025	Aug 2025	Sep 2025	Oct 2025	Nov 2025	Dec 2025	Jan 2026	Feb 2026	Mar 2026
60	53	27	48	52	63	60	64	48	57	42	46	54	65
6	5<	5<	7	5<	5<	6	5<	5<	5<	5<	5<	5<	5<
0	0	0	5<	0	0	0	5<	5<	5<	0	5<	0	5<
0	0	5<	0	0	0	0	0	0	0	0	0	0	0
0	0	0	5<	5<	0	0	0	5<	0	0	0	5<	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
0	0	0	0	0	0	0	0	0	0	0	0	0	0
66	*	30	58	57	*	66	67	55	64	*	*	60	71

Apr 2026	May 2026	Jun 2026	Jul 2026	Aug 2026	Sep 2026	Oct 2026	Total
57	67	63	63	106	71	16	1699
7	5<	6	5<	5<	5<	5<	133
0	5<	5<	0	5<	5<	0	27
0	0	0	0	0	0	0	5<
0	0	0	5<	5<	5<	5<	10
0	0	0	0	0	0	0	5<
0	0	0	0	0	0	0	5<
64	71	*	68	114	77	19	1875

Health and Care (Staffing) (Scotland) Act 2019

Quarterly Board Compliance Report

Quarter 1

01 April – 30 June 2024

Date: 1 August 2024

Report Authors:
Fiona Tynan, Associate Nurse Director, Corporate Nursing
Kevin Dickson, Health and Care Staffing Lead

Executive Lead: Alison Macdonald, Executive Nurse Director

2. Situation

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

2.2 The Act aims to enable high quality care and improved outcomes for people using services in both health and care by helping to ensure appropriate staffing. The Act places duties on health boards, care service providers, Healthcare Improvement Scotland, the Care Inspectorate and Scottish Ministers.

2.3 All clinical staff, including staff who provide clinical advice, are subject to the duties within the Act. Leaders/ Managers of clinical teams also have specific duties under the Act to comply with. The Act does not apply to non-clinical staff e.g. administrative and maintenance staff etc.

2.4 Section 12IF of the Health & Care (Staffing) (Scotland) Act 2019 (the Act) sets out that quarterly reports, at a minimum, on compliance with the Act, are to be provided to the Board of the relevant organisation(s) by the Executive-level clinician on the board with responsibility for the legislation, in this case, the Executive Nurse Director. These reports must include staff's views on compliance. A Board wide Compliance and Assurance Audit was distributed to managers during June 2024 to gather staff views.

2.5 The purpose of this inaugural quarterly report is to provide NHS Lothian's Board with a summary of compliance levels across all of the duties and requirements of the Act overall, by professional group, including evidence of areas of success and challenges identified by staff in meeting compliance. This supports board-level assessment and decision-making on the duties within the Act, since accountability for compliance with the health duties rests at Board level and not with individuals who may be charged with carrying out certain actions.

2.6 The report details compliance with the duties through the systems and processes that are in place to meet the requirements of the Act and ensure appropriate staffing. **It does not include reporting on any workforce data as this is not a requirement of the Act.**

2.7 Applying the Scottish Government rating system the overall level of assurance is "Reasonable". That is, systems and processes that are aligned with the duties in the Health & Care (Staffing) (Scotland) Act 2019 are in place for, and used by, 50% or above of all services/ professional groups managed by respondents to the June 2024 Compliance and Assurance Audit.

3 Background

3.1 The duties under the provisions of the Act set in statute the **12IA Duty to ensure appropriate staffing**; "that at all times suitably qualified and competent individuals from such a range of professional disciplines as necessary are working in such numbers as are appropriate for the health, wellbeing and safety of patients or service users and the provision of high-quality health care."

There are further duties within the Act:

- **12IB Duty to ensure appropriate staffing: agency worker** (reporting instances of high-cost agency staff, when agency costs have been higher than 150% of the equivalent NHS staff cost for the equivalent post for the same period).

- **12IC Duty to have real time staffing assessment in place and 12ID; Duty to have a risk escalation processes in place** (having procedures in place for identifying risks relating to staffing and then mitigating these or escalating as required).

- **12IE Duty to have arrangements to address severe and recurrent risks** (Having arrangements set out on how information on staffing risks will be collated, analysed and recorded, including reporting to The Board when required). The Act does not define what a severe or recurring risk is – organisations are expected to determine a locally accepted definition.

- **12IF Duty to seek clinical advice on staffing** (to have in place arrangements for seeking and having regard to appropriate clinical advice in making staffing decisions and having arrangements for recording and explaining decisions that conflict with that clinical advice).

- **12IH Duty to ensure adequate time given to clinical leaders** (giving sufficient time and resources to clinical leaders to carry out their leadership role).

- **12II Duty to ensure appropriate staffing: training of staff** (to ensure that staff are provided with information and training to implement the duties in The Act effectively **and** ensure that staff are suitably qualified and able to maintain competence in their role).

- **12IJ Duty to follow the Common Staffing Method, including 12IL training and consultation of staff**
  The Common Staffing Method is a consistent triangulated assessment with 9 components including reviewing the results of Staffing Level tools which should be run once per year. This duty requires organisations to use the Common Staffing Method as a framework for gathering and analysing relevant staffing and quality data. This helps clinical leaders understand and evidence staffing requirements and quality of care for their clinical areas.

The Act also lists '**guiding principles'** to be met when organisations are arranging staffing:

(a) that the main purposes of staffing for health care are:

(i) to provide safe and high-quality services, and

(ii) to ensure the best health care or care outcomes for service users

(b) in so far as consistent with these main purposes, staffing is to be arranged while:

(i) improving standards and outcomes for service users;

(ii) taking account of the particular needs, abilities, characteristics and circumstances of different service users;

(iii) respecting the dignity and rights of service users;

(iv) taking account of the views of staff and service users;

(v) ensuring the wellbeing of staff;

(vi) being open with staff and service users about decisions on staffing;

(vii) allocating staff efficiently and effectively, and

(viii) promoting multi-disciplinary services as appropriate.

3.2 All of these principles must be considered together when determining staffing levels and organisations are also expected to provide information on the steps they have taken to have regard to the guiding principles in the Board's annual report to Scottish Ministers.

3.3 Section 2 of the Act "Guiding principles etc. in health care staffing and planning" stimulates that Boards must also have regard to guiding principles when planning or securing the provision of health care from a third party.

3.4 Further information on the duties and guiding principles within the legislation can be found in the Health and Care (Staffing) (Scotland) Act 2019 Statutory Guidance document in Appendix 1.

3.5 NHS Lothian's Health and Care Staffing Programme Board, chaired by the Executive Nurse Director sets direction and provides oversight on multi-professional work pan Lothian to ensure compliance with the duties within the Act.

3.6 NHS Lothian has established a Core team to support the implementation of the Act and a network of lead professionals.

3.7 A Reporting Subgroup was commissioned to consider all legislative requirements regarding reporting and to develop a reporting plan to ensure NHS Lothian's compliance with the duties within the Act. This plan was supported by CMT in January and April 2024, including development of a board wide compliance and assurance audit to help gather accurate data on compliance with the duties.

3.8 The audit consisted of 62 multiple choice and free text questions covering Health Duties within the legislation. One final question was also asked to understand staff views on the overall assurance level with the Act. A full list of audit questions is included at Appendix 2.

3.9 Responses were used to understand compliance with the legislation across NHS Lothian, to identify any gaps and develop recommendations for improvement as required by the legislation.

3.10 **Assurance Level Rating**

Responses were used to rate different professions and areas in terms of compliance. A Red, Amber, Yellow and Green (RAYG) system (Table 1) of categorising the Assurance Level is employed throughout this report. This aligns with the rating system employed within the Health and Care (Staffing) (Scotland) Act 2019 Annual Reporting Template on compliance, provided by the Scottish Government (SG) (Appendix 3). This will allow for the quarterly Board reports to be used to accurately formulate the annual report which is submitted to Scottish Government. Boards are free to develop their own format / template for quarterly reporting as none has been provided by the Scottish Government.

3.11 **Table 1: The Scottish Government Red, Amber, Yellow and Green (RAYG) system employed throughout this report**

Green (substantial assurance)	Systems and processes are in place for and used by all services and professional groups managed by respondents.
Yellow (reasonable assurance)	Systems and processes are in place for, and used by, 50% or above of all services/ professional groups managed by respondents.
Amber (limited assurance)	Systems and processes are in place for, and used by, under 50% of all services and professional groups managed by respondents.
Red (No assurance)	No systems are in place.

3.12 Please note, the RAYG ratings are based on the average question responses to the Compliance and Assurance Audit questions per Duty. Further detail on how the RAYG Ratings are calculated can be found in Appendix 4.

3.13 **Completion Rate**

The Compliance and Assurance Audit was circulated in June 2024 to 202 NHS Lothian operational managers across all of the professions as the Health and Care Staffing Professional Leads. Some areas and professions over reported due the Audit being shared by recipients with a larger group than had been initially identified by the professional leads for completion. Also, some areas and professions underreported. As well as seeking to understand gaps in completion, work to understand additional completions for future quarters will take place. The Audit received 181 responses. The number expected to complete was 204. The completion rate by profession ranged from 69% to 200%. Table 2 illustrates the number of returns by profession.

3.14 **Table 2: June 2024 Compliance and Assurance Audit Responses by Profession**

Profession	Actual Responses	Expected Responses
Nursing & Midwifery	96	122
Allied Health Professions (AHP)	38	23
Pharmacy	27	39
Healthcare Scientists	15	17
Medical	1	1
Dental	2	1
Physician Associate	1	0
Psychology	1	1
Grand Total	**181**	**204**

3.15 The responses from Psychology and Medical staff groups were completed by the Professional Lead. For this first report it was determined that this was the most appropriate arrangement. Going forward, the responses will be devolved.

3.16 It is important to note that some professions and areas have comparatively lower response rates. It is expected that progressive improvements will be made over time, leading to a broader base of staff views being captured in subsequent Quarterly Compliance Reports. These improvements in completion rates across the organisation will go hand in hand with communication efforts, to help staff understand the roles in scope of the legislation and any obligations under the Act. Registered Chaplains and Public Health Roles not included within the professions in the table above, are to be included in future reporting. Work is ongoing to fully understand how the legislative duties will apply to these professions.

3.17 The Scottish Government have indicated that Boards will be expected to demonstrate robust processes are in place to meet legislative requirements. A common thread throughout the Statutory Guidance is that the legislation is not prescriptive in nature, therefore with the exception of the Staffing level tools, the processes, practices and procedures Boards choose to use is often at their discretion.

4 Assessment

4.1 Guiding Principles & Duty 12IA To ensure appropriate staffing

4.2 The Duty to ensure appropriate staffing can be viewed as the overarching duty of the Act. The section 12IA duty sits alongside the staff governance, clinical governance and financial governance requirements which already apply to Health Boards. The aim of the legislation is to ensure appropriate staffing as defined below:

> "It is the duty of every Health Board to ensure that at all times suitably qualified and competent individuals, from such a range of professional disciplines as necessary, are working in such numbers as are appropriate for —
>
> (a)the health, wellbeing and safety of patients,
> (b)the provision of safe and high-quality health care, and
> (c)in so far as it affects either of those matters, the wellbeing of staff."

4.3 To comply with this overarching duty, all the other duties applicable to Health Boards within the legislation must be complied with. Additionally, Health Boards must have regard to the guiding principles when determining staffing levels. A specific question was asked within the Audit regarding overall compliance across all health duties (including the duty to ensure appropriate staffing). Responses to overall compliance can be found in the **Overall Level of Assurance** section below at 4.90.

4.4 In establishing staff opinions on whether they had appropriate staffing as defined above and in the legislation, respondents were asked:

> "Does your service(s) at all times have suitably qualified and competent individuals, working in such numbers as are appropriate for-
>
> (a) the health, wellbeing and safety of patients;
>
> (b) the provision of safe and high-quality health care, and;
>
> (c) in so far as it affects either of those matters, the wellbeing of staff?".

Table 3 sets out the responses from these questions by professional group

4.5 **Table 3: Compliance by Professional Group June 2024 Duty 12IA To ensure appropriate staffing**

Professional Group	Overall Compliance Assurance
AHP	Reasonable
Dental	Reasonable
Healthcare Scientists	Limited
Medical	Substantial
Midwifery	Limited
Nursing	Limited
Pharmacy	Limited
Physician Associate	Substantial
Psychology	Limited
All Professions	**Limited**

4.6 **Analysis**

On average, 41% of respondents answered “Yes” and 40% answered “Partially” when asked if their service(s) at all times had suitably qualified and competent individuals, working in such numbers as are appropriate for (a) the health, wellbeing and safety of patients;(b) the provision of safe and high-quality health care, and;(c) in so far as it affects either of those matters, the wellbeing of staff. This resulted in an Amber RAYG Rating (limited assurance) based on responses across all professions.

4.7 **Examples of Areas of Success Duty 12IA To ensure appropriate staffing**

AHP respondents listed encouraging staff views, effective local real-time staffing assessments and effective roster management as related to successes with this Duty. Other examples shared by the other professions include reviewing exit questionnaire information, the retire and return scheme, creating additional leadership and management capacity for clinical research and utilising workforce predictor data (age/retirement/undergraduate trainee numbers and vacancies). Other ongoing initiatives to support the recruitment pipeline reported included modern and graduate apprenticeships and career progression pathways.

4.8 **Examples of Areas of Success: Having Regard to the Guiding Principles**

Senior clinical leaders, together with management from Acute, Mental Health and Learning Disability, Primary Care, Health and Social Care Partnerships and Corporate functions, Finance, Strategic Planning, Professional Leads, and Partnership Leads collaborated to establish NHS Lothian’s Workforce Plan (2022–2025). The plan stipulates that significant measures must be taken to ensure that each job family is included in workforce planning that is meaningful and that workforce enablers are developed for each to support and underpin the plan's implementation, including staff engagement and patient experience.

4.9 Services and professions have created 12-month action plans to support the delivery of annual objectives to deliver the strategy. The Health and Care Staffing Leads are engaged with the Workforce Planning Team to ensure that outputs of compliance monitoring efforts are integrated into the workforce planning process - to identify any

successes and challenges around compliance and use this to inform Board and service level workforce plans. The NHS Lothian Staff Engagement and Experience Framework aimed at improving and encouraging staff wellbeing and listening and learning from the experience of patients via Care Opinion which can then be used to influence simple changes in practice and /or procedures.

4.10 **Example Areas of Challenge: 12IA Duty to ensure appropriate staffing:**
All audit respondents mentioned recruitment challenges, financial pressures and increasing demand as challenges in ensuring appropriate staffing at all times. Many professions also noted that few services have funding models to support 52 weeks/year service - yet patient demand is whole year and that this routinely compromises appropriate staffing levels. Audit respondents for the Healthcare Science profession highlighted ensuring suitable supplies of competent individuals in small specialist teams, while managing vacancies and leave as particularly challenging, exacerbated by an aging workforce and financial constraints.

4.11 Healthcare Scientists, Psychology and AHP all reported that articulating the required workforce is hampered by a lack of workforce benchmarking across NHS Scotland or tools to understand workforce demand. For example, there are limited national benchmarking or workforce models for AHP, except guidelines in critical care and stroke therapeutic intervention and some professions, specialties and bands are harder to recruit to. Whilst there are routes to AHP practice, there are no national agreement on pre-registration training numbers. AHP pre-registration (with exception of paramedics) is not subject to controlled numbers which impacts on recruitment strategies and workforce planning. AHP workforce pipeline is therefore inconsistent and is driven largely by HEI (Higher Education Institution) strategy rather than NHS. Some pre-registration courses e.g. Physiotherapy, have 50% overseas students, the majority of whom do not end up in NHS workforce.

4.12 **Example Areas of Challenge: having regard to the Guiding Principles**
With regards to the Guiding Principles in Healthcare Staffing and Planning, it is recognised by NHS Lothian's Health & Care Staffing Programme Board that more work is required to understand compliance around the requirements when planning or securing the provision of health care from a third party. Boards must have regard to guiding principles when planning or securing the provision of health care from a third party. In having regard to the guiding principles there is also a need for the person from whom the provision of health care is to be secured to have appropriate staffing arrangements in place. The challenge is understanding how to capture the contracting processes across NHS Lothian and determining whether these processes are robust enough to meet the legislative requirements. This issue had been flagged up to the Scottish Government in the Quarter 3 Feedback session. Further guidance is being produced by Scottish Government to support understanding of this requirement.

4.13 Duty 12IB To ensure appropriate staffing: agency workers

4.14 The Act stipulates that, the board must report on the number of occasions that it has paid an agency worker more than 150% of the amount that would be paid to a full-time equivalent employee to fill the equivalent post for the same period. The report must include the number of occasions on which it is paid more than 150%, the amount paid on each occasion and the circumstances that have required the higher amount to be

paid. The Scottish Government provide a template for this report which includes the figures to be used for a full-time equivalent employee for each band / grade so that all Boards are reporting consistently. NHS Lothian's Quarter 1 Agency Report was submitted to Scottish Government on 31 July 2024 and can be found in Appendix 5.

4.15 The Duty does not prohibit the use of workers above the 150% figure, rather it states that the amount to be paid to secure the services of an agency worker should not exceed 150%, but if it does then all instances of this have to be reported quarterly to the Scottish Ministers.

4.16 Compliance with the Duty to ensure appropriate staffing: agency workers is not surveyed within the Compliance & Assurance Audit. The reporting obligations are managed through the Staff Bank (the service securing all supplementary staffing) rather that via the wider workforce.

4.17 It should be noted that Agency spend will be managed through numerous operational and professional groups. Parallel work in NHS Lothian to manage the agency utilisation is in place and reports to the Workforce Thematic Efficiency Programme Board.

4.18 The agency reports should cover the following periods and are required to be submitted according to the timelines set out in table 4.

4.19 Table 4 NHS Lothian: Agency Reporting timeline and Update

Period	Deadline	Status
01 March to 30 June	31 July 2024	Submitted
01 July to 30 September	31 October 2024	Not Yet Started
01 October to 31 December	31 January 2025	Not Yet Started
01 January to 31 March	30 March 2025	Not Yet Started

4.20 The Quarter 1 High-Cost Agency Report (Appendix 5) submitted on 31 July 2024 reported 318 occasions on which more than 150% of the amount that would be paid to a full-time equivalent employee to fill the equivalent post for the same period was paid to an agency worker. This is 9% of the total number of agency shifts (3541) used by all professions in NHS Lothian in 2024.

4.21 36% of shifts using higher cost agency workers were due to vacancies in hard to recruit areas for example, Doctors who work in Elderly Psychiatry and a long-term vacancy Assistant Practitioner role in Pathology Labs - which has now been successfully recruited to. 38% of shifts were due to requiring a Biomedical Scientist for a waiting list initiative.

4.22 Duty 12IC To have real-time staffing assessment in place

4.23 Real-time staffing assessment aims to ensure appropriate staffing through identification and mitigation of risks relating to staffing in real time. This requirement is not solely to assess numbers of staff on shift, and no staffing tools or calculators are required to comply with the duty. Real-time staffing assessment may consider:

- patient acuity / workload / activity for non-bed-holding areas
- number and skill mix of available staff
- professional judgement of the staff required

4.24 **12IC Duty to have real-time staffing assessment in place:**

4.25 **Table 5 Compliance by Professional Group, June 2024**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Substantial
Healthcare Scientists	Reasonable
Medical	Substantial
Midwifery	Limited
Nursing	Reasonable
Pharmacy	Reasonable
Physician Associate	Substantial
Psychology	Substantial
All Professions	**Reasonable**

4.26 **Analysis**

On average 72% of respondents answered “Yes” and 25% answered “Partially” when asked if they met obligations under the Duty to have real-time staffing assessment. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

4.27 **Example Areas of Success**

The real-time staffing assessment system “SafeCare” has been in use within Nursing for 9 years with high levels of compliance in completion of census data, and the system is also used effectively to mitigate risk. Respondents within Nursing noted real-time staffing successes including a well-planned use of SafeCare, effective communication to staff, good support for staff regarding SafeCare as well as continued compliance with SafeCare census entry, allowing for data-based decision making. Other examples given include twice daily staffing huddles to discuss staffing issues and review any escalated risks, and in community nursing, local huddles reporting into Health & Social Care Partnership Resilience Meetings if required. The Clinical Research Nursing Leadership Team developed a 'Safe to Start' matrix in 2023, based on the Acute Safe to Start model. This informs the Team Huddles assessment of the staffing situation in real time in each of the individual clinical research teams. In addition, there is an agreed Clinical Research Prioritisation Matrix, which supports decision making regarding research activity if staffing is not at an optimal level. These assessments are not formally recorded in any system; however, each team would be

aware of the actions to take if staffing were not optimal. After collaboration with colleagues across Scotland and with Public Health Scotland, Psychology are trialling a profession specific real-time staffing tool which will enable teams to meet with requirements of the Act and facilitate operational management.

4.28 **Example Areas of Challenge**
All professions reported not having access to SafeCare yet as a challenge in meeting this duty, some because the system is not yet available to them, for example within the Allied Health Professions, and others due to the testing of the SafeCare calculators which do not accurately reflect Midwifery areas. Healthcare Scientists, Nursing and AHP all mentioned small speciality teams/services and services being impacted when staffing is assessed as at risk as there are no options to mitigate by utilising supplementary staffing or redeploying from other areas.

4.29 12ID Duty to have risk escalation process in place

4.30 The purpose of this duty is to ensure that relevant organisations have robust risk escalation processes in place to provide a consistent means of recording the escalations and mitigations of any staffing risk. All risks identified, by any staff member, must be notified to the professional with lead responsibility for that area. This may be a team leader. Risks that cannot be mitigated by the professional with lead responsibility must be escalated to a more senior decision maker.

4.31 **12ID Duty to have risk escalation process in place:**

4.32 **Table 6 Compliance by Professional Group June 2024**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Reasonable
Healthcare Scientists	Limited
Medical	Limited
Midwifery	Limited
Nursing	Reasonable
Pharmacy	Limited
Physician Associate	Substantial
Psychology	Reasonable
All Professions	**Reasonable**

4.33 **Analysis**
On average, 63% of respondents answered “Yes” and 19% answered “Partially” when asked questions on compliance with the Duty to have risk escalation process in place. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

4.34 **Example Areas of Success**
Respondents from Pharmacy highlighted work undertaken to put a clear structure in place to help identify and escalate staffing risks. In addition, an MS Team’s form and channel has been established to allow local leads to escalate risks to the Pharmacy

senior leadership. Staff can also escalate further to resilience leads for decision of Associate Directors/Director of Pharmacy.

4.35 Escalation of significant risks is also possible via Board and regional workforce planning committees and to Board Corporate Management Team (CMT) via a documented governance process flowchart and documented in service and corporate risk registers.

4.36 An example from Healthcare Science was having a robust escalation process in place, including out of hours cover and working together if a significant staffing risk was identified to adjust workload by clinical priority to ensure patient safety and escalating further if risk not able to be mitigated.

4.37 **Example Areas of Challenge**
The need for more robust systems and processes for identifying, mitigating, and escalating staffing level risks was mentioned by all professional groups. Other challenges described included having no clearly written process for escalations and a poor understanding of, and compliance with the need to involve professional leaders in decision making, and unpredictable workload demands for speciality teams fluctuating over the day.

4.38 Duty 12IE To have arrangements to address severe and recurrent risks

4.39 This Duty requires Boards to have arrangements set out how information on staffing risks will be collated, analysed and recorded, (including reporting to The Board when required). The Act does not define what a severe or recurring risk is – organisations are expected to determine a locally accepted definition.

4.40 **12IE Duty to have arrangements to address severe and recurrent risks:**

4.41 **Table 7: Compliance by Professional Group, June 2024:**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Substantial
Healthcare Scientists	Reasonable
Medical	Substantial
Midwifery	Limited
Nursing	Reasonable
Pharmacy	Reasonable
Physician Associate	Substantial
Psychology	Limited
All Professions	**Reasonable**

4.42 **Analysis**
On average, 68% of respondents answered “Yes” and 23% answered “Partially” when asked questions on if they met obligations under the Duty to have arrangements to

address severe and recurrent risks. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

4.43 **Example Areas of Success**
All professional groups reported having risk registers and appropriate escalation procedures to report severe and recurrent risks to senior management. For example, in nursing and midwifery, all Datix reports that include nursing and midwifery staffing levels as a factor are annotated with staffing data and escalated to the Executive Nurse Director with quarterly summary reports produced at Nursing and Midwifery Workforce Governance Groups.

4.44 AHP respondents address severe and recurrent risks though Datix entries in a daily report that is sent to Senior Management, identifying and recording plans to deal with staffing.

4.45 Other successful processes across other professions include RAG rated daily staffing huddles, reviewing SafeCare and HealthRoster data overtime to identify patterns (nursing) and collaborative partnership working.

4.46 **Example Areas of Challenge**
Every professional group reported using a different set of systems and processes to escalate staffing risks making data capture of risks overtime variable.

4.47 AHP respondents cited challenges of managing variable demand, variable capacity, and multifactorial limitations of ability to support any additionality and that timely recruitment as essential for addressing severe and recurrent risks within their area.

4.48 All professions cited budget and funding limitations and lack of formal processes to record risks as challenges in addressing sever and recurrent staffing risks.

4.49 Duty 12IF To seek clinical advice on staffing

4.50 This duty places the requirement on Boards to put, and keep in place, arrangements for seeking and having regard to appropriate clinical advice in making decisions, and putting in place arrangements in relation to staffing under the various sections of the Act; and to put, and keep in place, arrangements for recording and explaining decisions which conflict with that clinical advice.

4.51 Section 8.7 of The Health and Care (Staffing) (Scotland) Act 2019: statutory guidance (Appendix 1) gives an example of how and when an organisation would seek and have regard to clinical advice.

4.52 **Duty to seek clinical advice on staffing:**

4.53 **Table 8 Compliance by Professional Group, June 2024:**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Reasonable
Healthcare Scientists	Limited
Medical	Reasonable
Midwifery	Limited
Nursing	Reasonable
Pharmacy	Limited
Physician Associate	Substantial
Psychology	Substantial
All Professions	**Reasonable**

4.54 **Analysis**
On average, 59% of respondents answered “Yes” and 14% of respondents answered “Partially” when asked if they met obligations under the Duty to seek clinical advice on staffing. A Yellow RAYG Rating (reasonable assurance) was calculated based on responses across all professions.

4.55 **Example Areas of Success**
Medical and Nursing respondents cited the triumvirate nursing/ midwifery, medical leadership, and general/ service management model as a success in ensuring a professional voice in staffing decision-making.

4.56 An AHP respondent stated having daily staffing huddles to make staffing decisions ensured compliance with this duty.

4.57 A triumvirate approach to seeking and having regard to clinical advice is also employed within Research Nursing, where clinical advice is sought through the professional Nursing line up to the Chief Nurse Research & Development, who, if necessary, would seek further advice from the Nurse Director Acute or the Executive Nurse Director and also seek advice from the Research and Development Director who is a Medical professional and the individual Principal Investigators who are Medical professionals.

4.58 A common thread throughout the audit responses is the importance of the daily huddle in providing the structure to enable clinical advice to be sought and had regard to across job families and health and social care teams. This approach aligns with the statutory guidance around utilising existing organisational governance structures and processes which may already fully support delivery of the duties in the Act.

4.59 **Example Areas of Challenge**
While many examples across all professions of seeking and having regard to clinical advice were provided within the organisational structures and events of the day, it was also noted by respondents that information is not recorded in detail. A common theme amongst respondents is that a process is required to formally record employee views, specifically on staffing levels. Obtaining staff views is an important aspect of the

Guiding Principles and the Common Staffing Method and there is a specific requirement within the duty to seek clinical advice on staffing, to record and explain decisions which go against clinical advice on staffing and for a lead clinical professional to record their disagreement.

4.60 A common ask from respondents is around clarity, of the need to define a process. For example, when to go outwith a service to seek clinical advice and to finalise how to record clinical advice given on a daily basis. Respondents also suggest that recording disagreements with clinical advice might integrate well with the real-time staffing process such as in the SafeCare system. Challenges were highlighted around who to seek advice from and that not understanding a service may lead to the wrong advice.

4.61 Duty 12IH To ensure adequate time given to clinical leaders

4.62 This duty is intended to ensure that clinical leaders receive the right amount of time and resources to discharge their responsibilities under the duties within the Act, alongside all the other professional duties and responsibilities they have. These include the clinical leadership and management functions that support the delivery of high-quality care. This section should be considered within the context of existing staff and clinical governance arrangements, and professional structures.

4.63 **Duty to ensure adequate time given to clinical leaders:**

4.64 **Table 9: Compliance by Professional Group, June 2024**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Reasonable
Healthcare Scientists	Limited
Medical	Reasonable
Midwifery	Limited
Nursing	Reasonable
Pharmacy	Limited
Physician Associate	Substantial
Psychology	Substantial
All Professions	**Reasonable**

4.65 **Analysis**

On average, 62% of respondents answered “Yes” and 25% answered “Partially” when asked questions on if they met obligations under the Duty to ensure adequate time given to clinical leaders. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

4.66 **Example Areas of Success**
In Acute areas of Nursing, plans to formalise the time given to clinical leaders and reducing the nursing vacancy gap to provide supernumerary status for Senior Charge Nurses was reported by respondents as a success that will see compliance with this duty improve each quarter.

4.67 Psychology cited work completed on Job Planning, demand and capacity planning and job description reviews as valuable in preparing their services to comply with this duty.

4.68 Other areas of success from other professions included regular 1:1 meetings between senior leaders and team leads, and agreeing time during the annual Personal Development Plan/ appraisal process with 6 monthly reviews.

4.69 **Example Areas of Challenge**
Responses for the Midwifery profession recognised that further work is required to support teams to determine what adequate time and resources are required for ensuring sufficient time for clinical area management and ensuring high quality and standards of care and the process for keeping the time and resources under review. A conversation was beginning within Midwifery to understand what 'time to lead' means within the Midwifery function and this will become one of the work streams for the team in 2024.

4.70 Overall, all other professionals responded with a recognition that the time needs to be set aside to lead but this can be challenging where there are staffing shortfalls.

4.71 Duty 12ll To ensure appropriate staffing: training of staff

4.72 This duty requires relevant organisations to ensure that employees have appropriate and relevant training, to ensure that suitably qualified and competent individuals from such a range of professional disciplines as necessary are working in such numbers as are appropriate for the health, wellbeing and safety of patients and the provision of safe and high-quality healthcare. This duty also requires that adequate time and resource is provided to undertake that training.

4.73 **Duty to ensure appropriate staffing: training of staff:**

4.74 **Table 10 Compliance by Professional Group, June 2024**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Substantial
Healthcare Scientists	Reasonable
Medical	Substantial
Midwifery	Reasonable
Nursing	Reasonable
Pharmacy	Reasonable
Physician Associate	Substantial
Psychology	Substantial
All Professions	**Reasonable**

4.75 **Analysis**

On average, 81% of respondents answered “Yes” and 17% answered “Partially” when asked questions on compliance with the Duty to ensure appropriate staffing: training of staff. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

4.76 **Example Areas of Success**

Successful robust processes in place within Pharmacy include Lothian Pharmacy Services Training and Royal Pharmaceutical Society Frameworks being in place with appropriate supervisors, mentors and peer support. Also, group education sessions, peer reviews, induction plans and ensuring sufficient training day attendances. A job planning pilot has made and continues to make significant progress within the Pharmacy profession. Focusing on training the trainers was also cited as a successful strategy within Pharmacy.

4.77 In Healthcare Science, an Education Subgroup has been formed with a primary aim to explore the development of a comprehensive education and skills competency framework in collaboration with National Education for Scotland (NES) and Scottish Government. This will ensure the healthcare science workforce in Scotland has access to an educational framework that provides flexibility; supports career progression across all levels of practise and is underpinned by robust education and training programmes in a Once for Scotland approach.

4.78 All professions mentioned training requirements for staff forming part of the annual PDP and appraisal processes documented on TURAS. Doctors and dentists in training have a curriculum approved by the General Medical Council with delivery overseen by NES. Career grade doctors have an annual appraisal with a personal development plan produced and an allocation of time and budget for study leave as well as time for supporting professional activities.

4.79 **Example Areas of Challenge**
Across all professional responses in the audit, staffing level challenges are often cited as barriers to complying with various legislative requirements within the Act.

4.80 In relation to the duty to provide adequate training the responses note that securing time for training was a barrier to attending anything other than the training essential to perform a role. Absences of other staff can have a negative impact on the time set aside for others in training. Availability of suitable training courses and money to attend training courses was also noted as a barrier to ensuring appropriate staffing through training of staff.

4.81 Duties 12IJ and 12IL To follow the Common Staffing Method inc. training and consultation of staff

4.82 The types of health care, locations and employees that have a duty to use the CSM aligns with the availability of a speciality-specific Staffing Level Tools, as use of such tools are an integral part of the CSM. There are currently 10 Staffing Level Tools which apply to nursing and midwifery areas only and doctors within emergency departments. Therefore, only these staff groups had the option to answer questions around the Common Staffing Method and for medical this was answered on this occasion by the nurse manager who led the multi-professional team to complete the Emergency Department Tool.

4.83 The Common Staffing Method (CSM) sets out a process, including the use of the relevant Staffing Level Tool and the Professional Judgement Tool and a range of other considerations, which must be applied rigorously and consistently. The application of the CSM will support NHS Boards to ensure appropriate staffing, the health, wellbeing and safety of patients and the provision of safe and high-quality care. The frequency of applying the CSM has been defined as once per financial year as a minimum.

4.84 **Duty to follow the Common Staffing Method inc. training and consultation of staff:**

4.85 **Table 11 Compliance by Professional Group, June 2024:**

Professional Group	Overall Compliance Assurance Rating
Nursing	Reasonable
Medical	Reasonable
Midwifery	Limited
All Professions	**Reasonable**

4.86 **Analysis**
It should be noted that staffing level tools should be run a minimum of once per annum over a minimum two-week period, but there is no requirement in legislation that

dictates when the tools are to be run. NHS Lothian has a well-established annual schedule of tool runs throughout the year, and so not all respondents will have had the opportunity to review their establishments following the common staffing method and this will be reflected in the overall assurance rating. In 2024/25 to-date, 52 tools have been run across NHS Lothian. In 2023/24, with training and support provided by 1WTE Health and Care Staffing Lead within Corporate Nursing, a total of 754 individual staffing level tools were run with good compliance across them all. It should also be noted that a revised Maternity Staffing Level Tool is under development by HIS and therefore all teams did not have the opportunity to run the maternity tool which is reflected in the answers.

4.87 On average, 53% of respondents on average answered “Yes” and 30% on average answered “Partially” when asked if they met obligations under the Duty to follow the Common Staffing Method inc. training and consultation of staff. This resulted in an RAYG Rating (Reasonable assurance) based on responses across all the applicable professions.

4.88 **Example Areas of Success**

Respondents noted positive engagement of staff across NHS Lothian with tool runs and the available training for staff and support from the NHS Lothian Health & Care Staffing Team as areas of success with complying with this duty. Positive work is ongoing across nursing to develop a template that pulls together the staffing level tools results and other metrics as required by the duty to follow the common staffing method, as part of a triangulated approach to decisions around staffing.

4.89 **Example Areas of Challenge**

Presently, some nursing and midwifery specialties do not have nationally validated staffing level tools. For example, Community Mental Health Nursing and Research Nursing. Although responses suggest an enthusiasm to utilise such tools if available. As such, some areas are running a Professional Judgment Tool only, that typically runs alongside the speciality specific staffing level tools. It was also raised in Audit responses that the tools can be challenging and time consuming to use on SSTS and involve manually typing lots of data. This frustration is confounded by what many have viewed as archaic staffing level tools and calculators that often do not capture the modern nursing role. There is a duty on Health Improvement Scotland to develop the Staffing Level tools.

4.90 Overall Level of Assurance

4.91 As mentioned previously, the 12IA Duty to ensure appropriate staffing is an overarching duty. To comply with this duty, all other Health duties within the legislation must be met at a minimum. A separate question was asked within the Audit on overall assurance level across all applicable Health duties within the legislation (including the Duty to ensure appropriate staffing). To assess this Overall Level of Assurance. The following question was asked at the end of the Compliance and Assurance Audit:

"How assured are you that the service/services in your area and for the professional group you are reporting on has clearly defined systems and processes aligned with the duties in the Act in place, that are used, to ensure appropriate staffing?"

4.92 **Table 12: Overall Level of Assurance, Compliance by Profession, June 2024**

Profession	Green substantial assurance	Yellow reasonable assurance	Amber limited assurance	Red No assurance
AHP	30%	**65%**	5%	0%
Dental	0%	**100%**	0%	0%
Healthcare Scientists	13%	**60%**	20%	7%
Medical	0%	100%	0%	0%
Midwifery	0%	**50%**	50%	0%
Nursing	30%	**59%**	11%	0%
Pharmacy	15%	**63%**	22%	0%
Physician Associate	**100%**	0%	0%	0%
Psychology	**100%**	0%	0%	0%
All Professions	**26%**	**60%**	**14%**	**1%**

4.93 86% of those staff that completed the Compliance and Assurance Audit gave "substantial" or "reasonable" assurance that the area/s and the professional group they are reporting on has clearly defined systems and processes aligned with the duties in the Act in place, that are used, to ensure appropriate staffing. Only 1% of respondents gave "No assurance". Health & Care Staffing Professional Leads will work to understand the assurance levels in the gap of non-responders for future reports.

4.94 **Example Areas of Success**

NHS Lothian has made investments in a number of systems to help managers make informed decisions about staffing levels at the local level. These include dashboards that display historical supply and demand data, HR and finance dashboards that help managers comprehend and plan for cyclical demand, the eRostering system, which offers metrics and intelligence for the best use of workforce utilisation, monthly KPIs for specific business units, real-time deployment data, absence and additional activity requirements, and the SafeCare system, which matches patient acuity with available staffing to provide a real-time assessment of risk at a local and system-wide level. All of these were given as examples shared by respondents as areas of success in carrying out the duty to ensure appropriate staffing.

4.95 Of particular note, the Psychology professional lead completing the audit for the Psychology service gave a substantial assurance level. Psychology has made some significant developments around the workforce, including obtaining support from IT and Finance within Lothian to improve current systems to allow for better recording of establishment and Psychologists on leave.

4.96 **Example Areas of Challenge**

In the Audit responses across all professions, the examples of the main barriers to meeting obligations within the legislation are financial and recruitment constraints. Psychology gave the example of how these barriers are acutely felt in small services,

of which there are many within Psychology. For example, financial and recruitment constraints increase the length of time to recruit, and small services are particularly affected by establishment gaps.

4.97 **Overall Level of Assurance, Compliance by Duty, June 2024:**

Duty	12IA	12IC	12ID	12IE	12IF	12IH	12II	12J&L
	Appropriate Staffing	Real-time Staffing assessment	Risk escalation process	Address severe & recurrent risk	Seek clinical advice on staffing	Adequate time for clinical leaders	Training of staff	Follow the common staffing method
Overall Assurance Level	**Limited**	**Reasonable**	**Reasonable**	**Reasonable**	**Reasonable**	**Reasonable**	**Reasonable**	**Reasonable**

4.98 **Overall Level of Assurance, of how the organisation has carried out its duties under section 2 of the 2019 Act, and sections 12IA, 12IC, 12ID, 12IE, 12IF, 12IH, 12II, 12IJ and 12IL, June 2024:**

Reasonably Assured

4.99 The positive assurance rating across professions and across NHS Lothian concurs with the narrative backed by the Scottish Government and Healthcare Improvement Scotland that complying with the legislation will involve identifying what is already going on within services and understanding if robust process, practices and procedures are in place that meet legislative requirements.

4.100 **Identified Gaps in Compliance**

The Compliance and Assurance Audit has identified where robust processes are not in place for all areas and professions across NHS Lothian, that meet legislative obligations within the Health & Care Staffing Scotland (Act) 2019. Duties identified that have relatively low compliance rates are:

- 12ID Duty to Have Risk Escalation Processes in Place.
- 12IE Duty to Have Arrangements to Address Severe and Recurrent Risks.
- 12IF Duty to Seek Clinical Advice on Staffing.

4.101 The Statutory Guidance states that NHS Boards should have a written procedure, set out and readily available to staff on:

- Agreed staffing assessment and risk escalation procedures.
- How information on risk escalated to a defined level (as agreed by the organisation's Board) will be collated, analysed, and recorded to highlight severe and/or recurrent risk(s).
- How it will seek and have regard to clinical advice on staffing.
- Arrangements for documenting decisions which conflict with clinical advice given.
- How it will deal with decisions which conflict with advice.

4.102 The Audit has identified that every professional group uses a different set of systems and processes to escalate staffing risks and that work is required to assess and thoroughly outline the current procedures for staffing escalation, as well as how these fit into the clinical governance and professional team structures that are in place.

4.103 The audit has also highlighted that improvements are required in the process of recording and explaining staffing decisions across all professional groups, including ensuring there is the ability to record the decision, provide feedback to the person providing clinical advice and a mechanism for that person to disagree (and request a review of the decision unless the decision was made at a Board level) with the decision made if it conflicts with their clinical advice.

5 Recommendations

5.1 **Action to Address Gaps**
The Health and Care Staffing Programme Board have commissioned:

- The Reporting Subgroup to take learning from this first quarter to further develop the Compliance and Assurance Audit to fully assess compliance with the duties within the Act and obtain even more accurate data to monitor compliance, whist also seeking to reduce the data burden for those charged with completing the Audit for their service/ profession. This will include a review of the distribution list and understanding gaps in responses.

- In addition to the extant training materials, communications and information about the Act a Board wide policy and guidance is to be produced, laying out definitions and requirements to comply with the Act which will ensure all staff understand their roles and responsibilities with regards to the Act. The Statutory Guidance will help inform this.

- The Board wide communication and education planning group is continuing to work to raise awareness among all levels of staff utilising national educational resources.

- The Health and Care Staffing Professional Leads to further analyse on the results per profession and per area and report locally through governance groups on key findings, identifying any profession specific gaps and actions required to mitigate.

- The Health and Care Staffing Professional Leads to continue to work together to share areas of success, good practice, and areas of challenge to work towards consistency across the Board and overall improved compliance including:
    - work to assure consistency and benchmarking within each duty e.g. variations in professional judgement

- work to develop and onboard systems to support duties e.g. HealthRoster, SafeCare, eJobPlan
- work to integrate the data into service planning, workforce planning and improvement cycles.

6 List of appendices

6.1 The following appendices are included with this report:

Appendix 1

Statutory Guidance Health and Care (Staffing) (Scotland) Act 2019

Statutory Guidance Health and Care Sta

Appendix 2

June 2024 Compliance and Assurance Audit Questions

June 2024 Compliance and Ass

Appendix 3

Scottish Government Exemplar Annual Report Template

HCSA - Q2 Reporting Template

Appendix 4

Red, Amber, Yellow and Green (RAYG) Calculations

Red, Amber, Yellow and Green (RAYG) Ca

Appendix 5

NHS Lothian High-Cost Agency Report for Quarter 1

NHS Lothian High Cost Agency Report

Health and Care (Staffing) (Scotland) Act 2019

Quarterly Board Compliance Report

Quarter 2

01 July – 30 September 2024

Date: 4th December 2024

Report Authors:
Fiona Tynan, Associate Nurse Director, Corporate Nursing
Kevin Dickson, Health and Care Staffing Lead

Executive Lead: Alison Macdonald, Executive Nurse Director

Situation

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

2.1 The Act aims to enable high quality care and improved outcomes for people using services in both health and care by helping to ensure appropriate staffing. The Act places duties on health boards, care service providers, Healthcare Improvement Scotland, the Care Inspectorate and Scottish Ministers.

2.2 All clinical staff, including staff who provide clinical advice, are subject to the duties within the Act. Leaders/ Managers of clinical teams also have specific duties under the Act to comply with. The Act does not apply to non-clinical staff e.g. administrative and maintenance staff etc.

2.3 Section 12IF of the Act sets out that quarterly reports, as a minimum, on compliance with the Act, are to be provided to the Board of the relevant organisation(s) by the Executive-level clinician on the board with responsibility for the legislation, in this case, the Executive Nurse Director. These reports must include staff's views on compliance. A Board wide Compliance and Assurance Audit was distributed to managers during quarter 2 (Q2) to gather staff views.

2.4 The purpose of this quarterly report is to provide NHS Lothian's Board with a summary of compliance levels across all of the duties and requirements of the Act overall, by professional group, including evidence of areas of success and challenges identified by staff in meeting compliance. This supports board-level assessment and decision-making on the duties within the Act since accountability for compliance with the health duties rests at Board level and not with individuals who may be charged with carrying out certain actions.

2.5 The report details compliance with the duties through the systems and processes that are in place to meet the requirements of the Act and ensure appropriate staffing. It does not include reporting on any workforce data as this is not a requirement of the Act.

2.6 Applying the Scottish Government rating system, the overall level of assurance is "Reasonable". That is, systems and processes that are aligned with the duties in the Health & Care (Staffing) (Scotland) Act 2019 are in place for, and used by, 50% or above of all services/ professional groups managed by respondents to the Q2 Compliance and Assurance Audit. Utilising the Corporate Governance and Assurance system employed within NHS Lothian's Board, the assurance level for Q2 is **Moderate** on how effectively NHS Lothian is meeting its legal duties within the Health & Care (Staffing) (Scotland) Act 2019.

Background

3.0 The duties under the provisions of the Act set in statute the 12IA duty to ensure appropriate staffing; “that at all times suitably qualified and competent individuals from such a range of professional disciplines as necessary are working in such numbers as are appropriate for the health, wellbeing and safety of patients or service users and the provision of high-quality health care.”

3.1 There are further duties within the Act:

- **12IB Duty to ensure appropriate staffing: agency worker** (reporting instances of high-cost agency staff, when agency costs have been higher than 150% of the equivalent NHS staff cost for the equivalent post for the same period).

- **12IC Duty to have real time staffing assessment in place and 12ID; duty to have a risk escalation processes in place** (having procedures in place for identifying risks relating to staffing and then mitigating these or escalating as required).

- **12IE Duty to have arrangements to address severe and recurrent risks** (Having arrangements set out on how information on staffing risks will be collated, analysed and recorded, including reporting to The Board when required). The Act does not define what a severe or recurrent risk is – organisations are expected to determine a locally accepted definition.

- **12IF Duty to seek clinical advice on staffing** (to have in place arrangements for seeking and having regard to appropriate clinical advice in making staffing decisions and having arrangements for recording and explaining decisions that conflict with that clinical advice).

- **12IH Duty to ensure adequate time given to clinical leaders** (giving sufficient time and resources to clinical leaders to carry out their leadership role).

- **12Il Duty to ensure appropriate staffing: training of staff** (to ensure that staff are provided with information and training to implement the duties in The Act effectively **and** ensure that staff are suitably qualified and able to maintain competence in their role).

- **12IJ Duty to follow the Common Staffing Method, including 12IL training and consultation of staff.** The Common Staffing Method is a consistent triangulated assessment with 9 components including reviewing the results of Staffing Level tools which should be run once per year. This duty requires organisations to use the Common Staffing Method as a framework for gathering and analysing relevant staffing and

quality data. This helps clinical leaders understand and evidence staffing requirements and quality of care for their clinical areas.

3.2 The Act also lists '**guiding principles'** to be met when organisations are arranging staffing:

(a) that the main purposes of staffing for health care are:

(i) to provide safe and high-quality services, and

(ii) to ensure the best health care or care outcomes for service users

(b) in so far as consistent with these main purposes, staffing is to be arranged while:

(i) improving standards and outcomes for service users;

(ii) taking account of the particular needs, abilities, characteristics and circumstances of different service users;

(iii) respecting the dignity and rights of service users;

(iv) taking account of the views of staff and service users;

(v) ensuring the wellbeing of staff;

(vi) being open with staff and service users about decisions on staffing;

(vii) allocating staff efficiently and effectively, and

(viii) promoting multi-disciplinary services as appropriate.

3.3 All these principles must be considered together when determining staffing levels, and organisations are also expected to provide information on the steps they have taken to have regard to the guiding principles in the Board's annual report to Scottish Ministers.

3.4 Section 2 of the Act "Guiding principles etc. in health care staffing and planning" stipulates that Boards must also have regard to the guiding principles when planning or securing the provision of health care from a third party.

3.5 Further information on the duties and guiding principles within the legislation can be found in the Health and Care (Staffing) (Scotland) Act 2019 Statutory Guidance document in Appendix 1.

3.6 NHS Lothian's Health and Care Staffing Programme Board, chaired by the Executive Nurse Director sets direction and provides oversight on multi-professional work pan Lothian to ensure compliance with the duties within the Act.

3.7 NHS Lothian has established a core team to support the implementation of the Act and a network of lead professionals.

3.8 A Reporting Subgroup was commissioned to consider all legislative requirements regarding reporting and to develop a reporting plan to ensure NHS Lothian's compliance with the duties within the Act. This plan was supported by the Corporate Management Team (CMT) in January and April 2024, including development of a board wide compliance and assurance audit to help gather accurate data on compliance with the duties.

2.7 The Quarter 1 (Q1) Board Compliance Report was approved on 12 August 2024 and was based on data from the Q1 Compliance and Assurance Audit. The Q1 Board Compliance Report utilised the Corporate Governance and Assurance system employed within NHS Lothian's Board, the level of Moderate Assurance of how effectively the organisation had carried out its duties was accepted. This is based on an overall "Reasonable Assurance" rating generated by the Scottish Government's compliance scoring.

3.9 The Q2 Compliance and Assurance Audit focussed specifically on three duties with relatively low compliance rates. Responses were used to understand compliance with the legislation across NHS Lothian, to identify any gaps and develop recommendations for improvement as required by the legislation. A full list of Q2 Audit questions is included at Appendix 2.

Completion Rate

3.10 The Compliance and Assurance Audit was completed by NHS Lothian operational managers across all of the professions as identified by the Health and Care Staffing Professional Leads. One professional group appear to have overreported whereas other areas and professions under-reported. Work to understand why professions under and over-reported will take place for future quarters. The Audit received 130 responses. The number expected to complete was 192. Table 1 illustrates the number of returns by profession.

3.11 **Table 1.** August/September Q2 2024 Compliance and Assurance Audit Responses by Profession

Profession	Actual Responses	Expected Responses
Nursing & Midwifery	61	112
Allied Health Professions (AHP)	26	23
Pharmacy	27	37
Healthcare Scientists	14	17
Medical	1	1
Psychology	1	1
Dental	0	1
Grand Total	**130**	**192**

3.12 It was determined that a single response for the Psychology service was appropriate and is working well in terms of reporting processes. For the Q2 report, it was determined that a single response for the medical profession was appropriate, however, the responses for the medical profession will be devolved for future reporting.

3.13 It is important to note that some professions and areas have comparatively lower response rates. It is expected that progressive improvements will be made over time, leading to a broader base of staff views being captured in subsequent Quarterly Compliance Reports. These improvements in completion rates across the organisation will go hand in hand with communication efforts, to help staff understand the roles in scope of the legislation and any obligations under the Act. Registered Chaplains and Public Health Roles not included within the professions in Table 1 above, are also to be included in future reporting. Work is ongoing to fully understand how the legislative duties will apply to these professions.

Assurance Level Rating

3.14 Responses from the Q2 and Q1 audit were used to rate compliance at NHS Lothian level and by profession. A Red, Amber, Yellow and Green (RAYG) system (Table 2) of categorising the assurance level is employed throughout this report. This aligns with the rating system employed within the Health and Care (Staffing) (Scotland) Act 2019 Annual Reporting Template on compliance, provided by the Scottish Government (SG). An exemplar template of this report, provided and completed by the Scottish Government, is included in Appendix 3. Aligning the rating system in the Board's quarterly reports will enable the accurate formulation of the annual report submitted to the Scottish Government. Boards are free to develop their own format/ template for quarterly reporting as none has been provided by the Scottish Government.

3.15 **Table 2.** Red, Amber, Yellow and Green (RAYG) Compliance Ratings

Green (substantial assurance)	Systems and processes are in place for and used by all services and professional groups managed by respondents.
Yellow (reasonable assurance)	Systems and processes are in place for, and used by, 50% or above of all services/ professional groups managed by respondents.
Amber (limited assurance)	Systems and processes are in place for, and used by, under 50% of all services and professional groups managed by respondents.
Red (No assurance)	No systems are in place.

3.16 Please note, the RAYG ratings are based on question responses to the Compliance and Assurance Audit questions per duty and draw on data from

both the Q1 and/or the Q2 Audit. Further detail on how the RAYG Ratings were calculated can be found in Appendix 4.

3.17 The Scottish Government have indicated that Boards will be expected to demonstrate robust processes are in place to meet legislative requirements. A common thread throughout the Statutory Guidance is that the legislation is not prescriptive in nature, therefore with the exception of the Staffing Level Tools, the processes, practices and procedures Boards choose to use is often at their discretion.

3.18 Since enactment on 1 April 2024, Healthcare Improvement Scotland's (HIS) role and function has changed to monitoring health boards compliance with the duties as cited within the legislation.

3.19 HIS will write each quarter to request a copy of the Board's Internal Quarterly Report and Use of High-Cost Agency Staff Report and at the end of the financial year will write to request a copy of the Board's Annual Report to Scottish Government and Workforce Plan. To support this function, HIS has written to the Board's Executive Leads for the Act inviting them to attend Quarterly Board Engagement calls, providing an opportunity to discuss the content and progress as identified within the Board Quarterly reports.

3.20 The Q1 Board Compliance report was approved on the 12 August 2024 and was based on data from the Q1 Compliance and Assurance Audit.

3.21 The Board approved recommendations that can be summarised as:

Refine Compliance Audit: Improve the audit process to better assess compliance, enhance data accuracy, and reduce the burden on respondents.

Create Policy and Guidance: Develop to lay out requirements and clarify roles and responsibilities under the Act, informed by Statutory Guidance.

Raise Awareness: Continue efforts to educate staff at all levels using national resources.

Analyse and Report: Health and Care Staffing Leads will analyse results, report findings, and address specific gaps.

Share Best Practices: Collaborate to share successes and challenges, ensure consistency, and integrate data into planning and improvement cycles.

3.22 To align with recommendations in the Q1 Board Compliance Report, it was agreed that the Q2 Audit should focus on three specific duties with the Act where gaps in compliance had been identified from the Q1 Audit. This approach reduced the data burden as only those areas that did not complete the Q1 Audit (16% of Q2 respondents) completed additional Q1 Audit

questions. Given the proximity between the Q1 and Q2 Audit, this would also allow professions to create and implement action plans based on the wealth of data collected in Q1.

Identified Gaps in Compliance

3.23 The Q1 Audit highlighted that three duties had relatively low compliance rates where robust processes were not in place for all areas and professions across NHS Lothian that met legislative obligations within the Health & Care Staffing Scotland (Act) 2019.

3.24 The duties that had relatively low compliance rates were:

- 12ID Duty to have risk escalation processes in place.
- 12IE Duty to have arrangements to address severe and recurrent risks.
- 12IF Duty to seek clinical advice on staffing.

Assessment

Overall level of assurance

4.0 The overall level of assurance per duty has largely remained unchanged since the Q1 Board Report. 12IE duty to have arrangements to address severe & recurrent risks changed from Reasonable Assurance in Q1 to Limited Assurance in Q2. This change is attributed to the application of focused questions in Q2, which reduced uncertainty and provided a deeper understanding of the compliance level for the 12IE duty compared to Q1.

4.1 **Table 3.** Overall level of assurance by Duty
Q1 and Q2, 2024 Compliance & Assurance Audit

Duty	12IA	12IC	12ID	12IE	12IF	12IH	12II	12J&L
	Appropriate staffing	Real-time staffing assessment	Risk escalation process	Address severe & recurrent risk	Seek clinical advice on staffing	Adequate time for clinical leaders	Training of staff	Follow the common staffing method
Quarter 1	Limited	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
Quarter 2	Limited	Reasonable	Reasonable	Limited	Reasonable	Reasonable	Reasonable	Reasonable

4.2 The overall level of assurance across all duties remains unchanged at Reasonably Assured:

4.3 **Overall Level of Assurance, of how the organisation has carried out its duties under section 2 of the 2019 Act, and sections 12IA, 12IC, 12ID, 12IE, 12IF, 12IH, 12II, 12IJ and 12IL, as of September 2024:**

Reasonably Assured

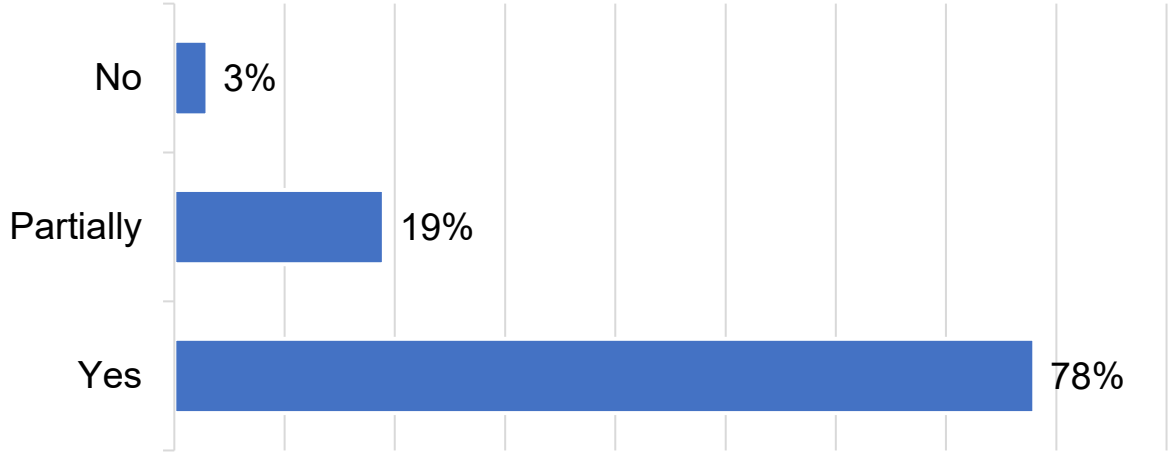
12ID Duty to have risk escalation process in place

4.4 The purpose of this duty is to ensure that relevant organisations have robust risk escalation processes in place to provide a consistent means of recording the escalations and mitigations of any staffing risk. All risks identified, by any staff member, must be notified to the professional with lead responsibility for that area. This may be a team leader. Risks that cannot be mitigated by the professional with lead responsibility must be escalated to a more senior decision maker.

4.5 **Table 4.** Duty to have risk escalation process in place, compliance by professional group, Q2 Compliance & Assurance Audit 2024.

Professional Group	Overall Compliance Assurance Rating
AHPs	Reasonable
Healthcare Scientists	Reasonable
Medical	Substantial
Midwifery	Reasonable
Nursing	Reasonable
Pharmacy	Reasonable
Psychology	Reasonable
Grand Total	**Reasonable**

4.6 **Graph 1.** Q2 Compliance & Assurance Audit 2024
"Does your service(s) have a system in place to ensure that staffing risks can be escalated and mitigated over 24-hours (including on-call services)?"



4.7 When asked "Does your service(s) have a system in place to ensure that staffing risks can be escalated and mitigated over 24-hours (including on-call

services)?" (Graph 1 above), 78% responded "Yes" and 22% responded "No" or "Partially".

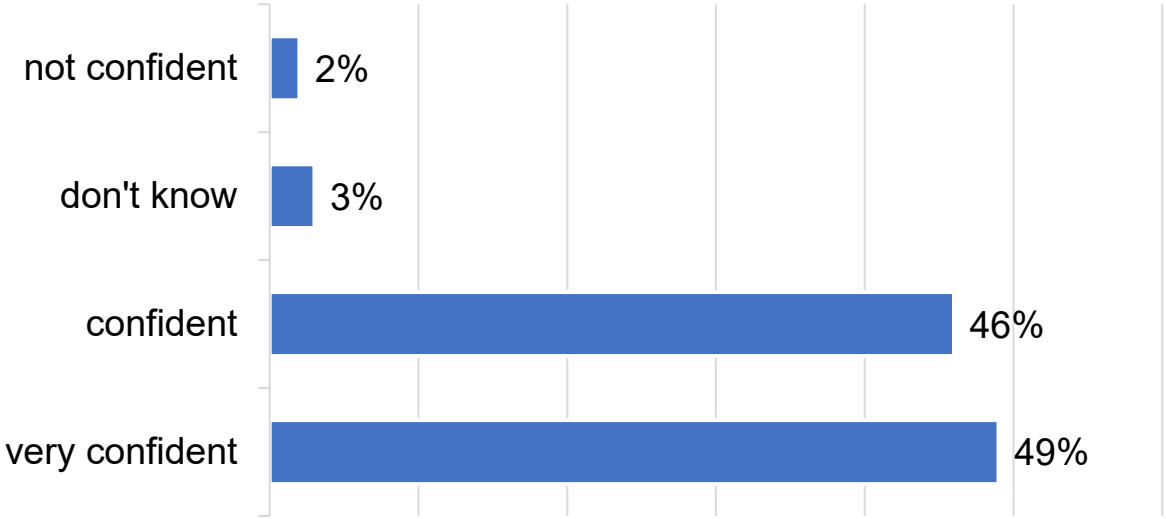
Example Areas of Success

4.8 Those services that had a successful system in place to ensure that staffing risks can be escalated and mitigated over 24-hours (including on-call services) often had a simple escalation system without unnecessary additional layers. A system that was centred around the communication of risk between senior and experienced staff. Respondents explained that successful systems and processes in place over 24 hours were often closely intertwined with service retraction plans and where it was clearly articulated what the minimum staffing number was and when this retraction would happen. Furthermore, well communicated and documented critical points at which to escalate concerns and have discussions and agree a plan of action was particularly effective. All staff across 24 hours were able to action these plans and the most resilient systems and processes in place involved wider escalation across site, with documentation tracking actions and activity. Tracking of activity and actions was useful to maintain continuity over 24 hours with such activities as redeploying of staff or raising red flags, where using the SafeCare system was a particularly effective tool.

Example Areas of Challenge

4.9 Respondents explained that ensuring a system is in place so that staffing risks can be escalated and mitigated over 24-hours (including on-call services) can be challenging where there are workforce capacity constraints, particularly when risk escalation procedures take time to be developed. Having a system in place over 24 hours (including on-call services) that supports the assessment, escalation and mitigation of staffing level risks was also challenging in services that have frequent fluctuations in workforce demand. Respondents explained that fluctuations in demand made standardising a risk escalation process challenging. This is particularly the case in non-bedded areas. This complexity is increased when planning for unpredictable demands on the workforce, for example when there is an infectious outbreak and incident management required. Ensuring a system is in place to ensure that staffing risks can be escalated and mitigated over 24-hours can also be challenging where there are many teams to consider and ensuring that the process is meeting the needs of all key stakeholders. Further complexity is added when services are based across an area and geographical risk variance is a factor.

4.10 **Graph 2.** Q2 Compliance & Assurance Audit 2024
How confident are you that staff within your service(s) are aware of how to escalate staffing level risks?



4.11 When asked “How confident are you that staff within your service(s) are aware of how to escalate staffing level risks?” (Graph 2 above), 95% of respondents were “confident” or “very confident”. 5% Didn’t know or were “not confident”. 0% were “Not at all confident”

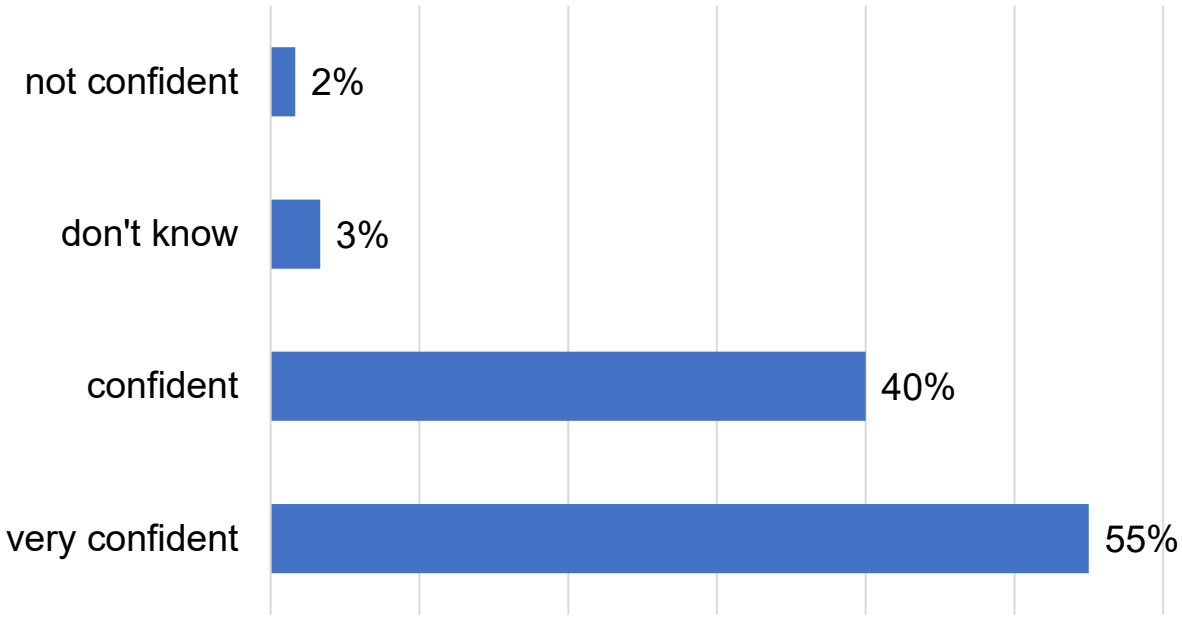
Example Areas of Success

4.12 This high degree of confidence with how to escalate staffing level risks and what worked successfully was reflected in free text sections of the Audit. Respondents noted that having clear lines of escalation documented, as well as core operational resilience plans easily accessible for staff worked well. Contingency plans which gave options for mitigating worked well also. It was noted that where core skills were understood and a staff matrix employed, managers were enabled to escalate and mitigate more successfully. Respondents also explained that, when staff are given the time to develop an understanding of what the minimum staffing is and what mitigations are available, staff then understood how and when to escalate and mitigate staffing level risks.

Example Areas of Challenge

4.13 Despite the high degree of confidence amongst respondents that there was an awareness of how to escalate staffing level risks, for some services, there was a lack of documentation which detailed written escalation processes. This was often associated with a poor understanding of and compliance with the need to involve professional leaders, as opposed to escalating to local managers or to manage locally. Respondents also noted that not all staff/ leads can ascertain what training skills staff carry and so were not able to risk assess fully as part of the risk escalation process. Training skills other staff carry can be held at ward level by Mangers and not all training is recorded and easily assessable from a central digital resource.

4.14 **Graph 3.** Q2 Compliance & Assurance Audit 2024
How confident are you that staff within your service(s) are aware of who to escalate staffing level risks to?



4.15 When asked “How confident are you that staff within your service(s) are aware of who to escalate staffing level risks to?” (Graph 3 above), 95% of respondents were “confident” or “very confident.” 5% did not know or were “not confident”. 0% were “Not at all confident

Example Areas of Success

4.16 Respondents noted that having clear lines of escalation was a successful strategy for ensuring their service was aware of who to escalate staffing levels risks to. Examples included senior clinical staff who were available throughout service hours who had oversight of all relevant areas and could redeploy staff to ensure patient and staff safety. This also aligns with the 12IH duty to ensure time given to clinical leaders, that clinical leaders should have the time and resources to ensure appropriate staffing.

4.17 Some services have specified staffing leads who oversee and coordinate staffing across sites. This role was communicated to staff clearly and respondents explained that in some cases this was a stand-alone role. Escalating and mitigating staffing level risk was particularly effective when considerate of other disciplines and when employing a pan Lothian approach.

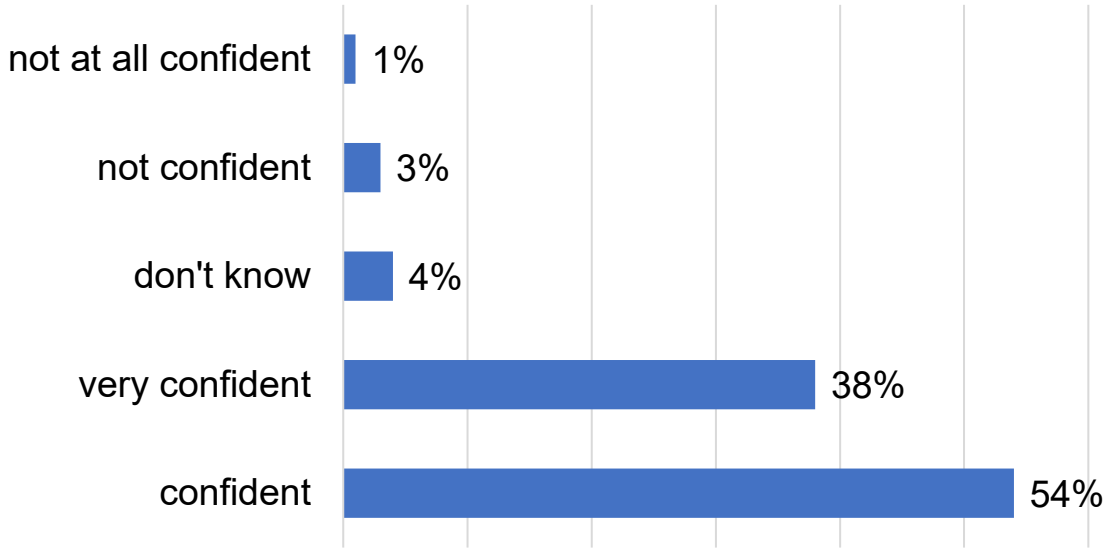
Example Areas of Challenge

4.18 Respondents displayed a high degree of confidence when asked if they knew who to escalate staffing level risks to. However, respondents recognised that individuals who can potentially mitigate staffing level risks often require training and development and to possess a specific skill set. Respondents also noted that unplanned absence given at short notice, staff not reporting for duty and

general staffing issues can mean staff that can escalate or mitigate staffing level risks are not always available during a shift.

4.19 Respondents explained that individuals responsible for assessing and mitigating staffing level risks face many high expectations, including risk mitigation. This task becomes particularly challenging during periods of high demand on services, such as when work is being triaged. During these times, it is crucial for staff to evaluate the workload that can be managed by the available team members. Thus, staff need the capacity to risk assess and mitigate often when there are the biggest demands on their role. Safeguarding this capacity for mitigation and escalation would align with the 12IH duty to ensure adequate time given to clinical leaders, where clinical leaders require the time and resources to ensure the supervision and wellbeing of staff and to ensure appropriate staffing more generally.

4.20 **Graph 4.** Q2 Compliance & Assurance Audit 2024
How confident are you that staff within your service(s) know how to escalate staffing level risks over a 24-hour period (including on-call services)?



4.21 When asked “How confident are you that staff within your service(s) know how to escalate staffing level risks over a 24-hour period (including on-call services)?” (Graph 4 above), 92% of respondents were “confident” or “very confident”. 7% Didn’t know or were “not confident”. 1% were “Not at all confident”

Example Areas of Success

4.22 Respondents explained that staff knew how to escalate staffing level risks over a 24-hour period (including on-call services) best when plans were documented and readily available at any time throughout service hours. This information was often accessible on safe staffing sheets, SharePoint, Microsoft Teams channels or through scheduled email communications, shared inboxes and resilience plans. Staff knew how to escalate successfully over 24 hours when

risk escalation and mitigation were integrated into daily practice and became second nature. Furthermore, when roles and responsibilities were shared, the continuity of mitigation and escalation arrangements was maintained, even if certain key stakeholders were unexpectedly unavailable. Similarly, knowing how to successfully escalate and mitigate over 24 hours included considering planned leave; how to escalate when those that mitigate are on leave but also how to react when staff are off leave and staffing level risks have been identified.

Example Areas of Challenge

4.23 Robust processes, practices and procedures that are embedded in culture are required to ensure a service knows how to escalate staffing level risks over a 24-hour period (including on-call services). Respondents noted challenges around ensuring a robust communication, escalation and cascade processes. Community services explained that although there was a process in place to fully assess risk and to ensure risk is assessed at all times, this can be challenging in specialist services.

4.24 Respondents also noted that where there is no clearly written process in place for staffing level risk escalations; this can result in a poor understanding of, and compliance with, involving professional leaders.

4.25 Ensuring staff know how to escalate over a 24-hour period (including on-call services) was also challenging where there were high sickness absence rates, vacant, hard to recruit to posts and high leadership turnover. The effects of high leaver rates from leaders within services can come at the cost of firmly establishing escalation procedures. Respondents explained that any lack of strategic continuity can also influence compliance, with delays in progressing actions. For example, achieving a more formal structured documentation of escalation plans.

12IE Duty to have arrangements to address severe and recurrent risks

4.26 This duty requires Boards to have arrangements set out how information on staffing risks will be collated, analysed and recorded, (including reporting to The Board when required). The Act does not define what a severe or recurrent risk is – organisations are expected to determine a locally accepted definition.

4.27 **Table 5.** Duty to have arrangements to address severe and recurrent risks, compliance by professional group, Q2 Compliance & Assurance Audit 2024

Professional Group	RAYG Rating Overall Compliance
AHPs	Limited
Healthcare Scientists	Limited
Medical	Limited
Midwifery	Limited
Nursing	Reasonable
Pharmacy	Limited
Psychology	Limited
Grand Total	Limited

4.28 **Graph 5.** Q2 Compliance & Assurance Audit 2024
Does your service(s) regularly produce and/or receive reports regarding addressing severe and/ or recurrent staffing level risks within your area?



4.29 When asked “Does your service(s) regularly produce and/or receive reports regarding addressing severe and/ or recurrent staffing level risks within your area?” (Graph 5 above), 38% responded “Yes” and 62% responded “No” or “Partially”.

Example Areas of Success

4.30 Respondents noted that daily analysis and monthly reporting supported forward planning to put in place measures to mitigate risks arising such as the safe movement of staff. Datix was a particularly successful reporting tool for addressing severe and recurrent risks. Services noted that staffing levels reported as a factor in incidents can be annotated with staffing data and escalated to senior staff. Quarterly summary reports can be produced from Datix and reviewed at the monthly workforce meetings. Areas that were

successful had administration support, or utilised newer roles introduced to fill gaps left by harder to fill more traditional posts. Utilising the information gained from analysing the recurrent risk identified to inform recruitment campaigns was particularly successful, and timely recruitment was highlighted by respondents to ensure no lag time between posts falling vacant and being filled.

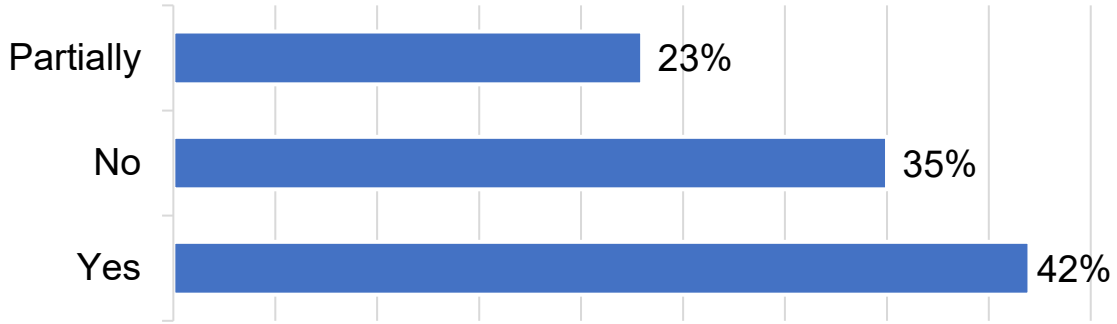
4.31 Respondents noted that severe and recurrent risk data was utilised effectively when linked with waiting list data, recognising the interplay between staffing risks and unmet service demand or "Queue." Waiting times are reviewed and managed weekly and so there is a synergetic opportunity to address severe and recurrent risks whilst managing waiting lists.

Example Areas of Challenge

4.32 Multiple respondents noted that lacking a formal process inhibited services from meeting the 12IE duty to have arrangements to address severe and recurrent risks. Other services, particularly smaller teams with individual clinical workloads had no Standard Operating Procedure (SOP) in place on what actions were to be taken if recurrent critical gaps were identified and no cover could be provided. Other services noted that there was no formal process for recording staffing gaps that could be used to monitor trends in severity and duration of risk. Respondents noted that templates would be helpful in this regard.

4.33 Addressing severe and recurrent risks was particularly challenging when the recurrent risk was unplanned absences. Within multi-disciplinary teams, addressing severe and recurrent risks including producing and/or receiving reports can be difficult when cross professional management of risks is required.

4.34 **Graph 6.** Q2 Compliance & Assurance Audit 2024
Has your service got an agreed definition of severe and recurrent staffing risks?



4.35 When asked "Has your service got an agreed definition of severe and recurrent staffing risks?" (Graph 6 above), 42% responded "Yes" and 58% responded "No" or "Partially".

4.36 Some examples of how services currently define severe and recurrent risks include:

- Staffing levels are below agreed minimum staffing levels.
- Reporting RED (for a defined length of time).
- Breaching capacity plan capacity limits.
- There is a critical/severe loss of workforce capacity ≤50% and/or >50% reduction in staff training.
- At one of four levels which have been defined relating to a percentage reduction in workforce capacity.
- Skilled workforce not available to deliver service.
- Staffing below what is defined in the workforce plan.
- At a RAG status based on staffing levels (i.e. on SafeCare).
- Registered staff unavailable for elective or emergency lists.
- There are Sickness absences and vacancy gaps.
- Unable to increase in-post staffing.
- Unsafe number of practitioners on a night shift.
- At one of 3 levels to define a severe level of risk.
- Any reported red risk is defined as a severe risk. Any amber risk reported for over 1 month is defined as a recurrent risk.
- Defined in risk assessments, mitigation documents and in Governance Assurance Framework (GAF).
- Not delivering a pathway.
- Long term sickness absence (can be viewed in Tableau dashboard).
- Increase in referrals.

4.37 This list suggests that how services the define severe and recurrent risks varies across services. However, services generally consider consistent staffing levels that are below agreed limits. There are specific time periods to define when something is recurrent, and ratings used to categorise these situations to identify the level of risk. Identifying risk might also include instances where they have been unable to deliver services over an agreed period, or where service activity or demand is not being met at a particular level. These definitions can be contained in documents such as GAFs, which can define limits or tipping points.

4.38 **Graph 7.** Process for defining severe and recurrent risks: Thematic Analysis Q2 Compliance & Assurance Audit 2024

Staffing Levels and Capacity

- Monitoring staffing levels
- Understanding unsafe staffing levels
- Identifying the impact of vacancies and long-term absences on staffing.

Risk Management

- Risk registers
- Risk assessments
- Risk matrixes

Operational Processes

- Huddles and other staffing meetings
- SafeCare and other staffing tools
- Standard Operating Procedures (SOPs)

Business Continuity & Contingency Planning

- Business continuity plans
- Contingency planning
- Retraction plans and resilience strategies



Example Areas of Success

4.39 The Act can be thought of as operationalising workforce planning. Effective workforce planning includes service workforce plans and strategic workforce plans that are mutually dependent. Respondents note that addressing severe and recurrent risks worked well when the process was integrated into service workforce plans. In Health and Social Care Partnership areas for example, defining and prioritising severe and recurrent risks involves considering strategic directions. Thus, defining severe and recurrent risks is often done within a strategic and operational context.

4.40 Professions that have created an escalation framework to facilitate addressing severe and recurrent risks were partially successful. For example, a framework which combined tools into a single document and was available on the intranet. Successful frameworks also gave multiple potential responses and explained the governance being applied in various scenarios. This supported managers to make decisions on how to best operate a system based on assessments that take into account factors like patient acuity measures, staffing availability, system-wide pressures, and other variables like skills and availability of clinical leaders.

Example Areas of Challenge

4.41 Within the Act, complying with the 12IE duty to have arrangements to address severe and recurrent risks includes agreeing and defining what severe and recurrent staffing risks looks like, as well as reviewing and agreeing processes to monitor and manage such risks. In some areas, a lack of training and a lack of clarity around roles and responsibilities was a barrier to services complying with these requirements.

4.42 Services overwhelmingly reported that there were barriers to addressing severe and recurrent risks, even when robust processes were in place. For example, when, budgets where fixed, vacant posts were difficult to fill, service demands were changing, there were restrictions on bank and agency as well as statutory, mandatory, and clinical demands on an aging workforce.

12IF Duty to seek clinical advice on staffing

4.43 This duty places the requirement on Boards to put, and keep in place, arrangements for seeking and having regard to appropriate clinical advice in making decisions and putting in place arrangements in relation to staffing under the various sections of the Act; and to put, and keep in place, arrangements for recording and explaining decisions which conflict with that clinical advice. Those individuals who have given appropriate clinical advice can then decide whether to request a review of the final decision on a risk (except one made and Board level) and decide if they wish to record disagreement with that decision.

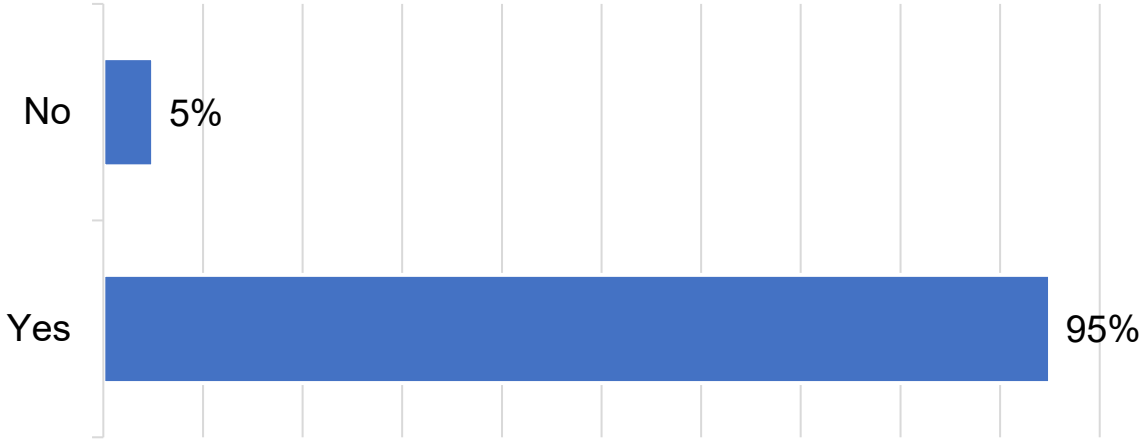
4.44 Clinical advice will be appropriate when it comes from someone with sufficient seniority and clinical expertise in the relevant clinical area and will be dependent on local context/ clinical governance structures.

4.45 Section 8.7 of The Health and Care (Staffing) (Scotland) Act 2019: statutory guidance (Appendix 1) gives an example of how and when an organisation would seek and have regard to clinical advice.

4.46 **Table 6.** Duty to seek clinical advice on staffing, compliance by professional group, Q2 Compliance & Assurance Audit.

Professional Group	RAYG Rating Overall Compliance
AHPs	Reasonable
Healthcare Scientists	Reasonable
Medical	Substantial
Midwifery	Reasonable
Nursing	Reasonable
Pharmacy	Reasonable
Psychology	Reasonable
Grand Total	**Reasonable**

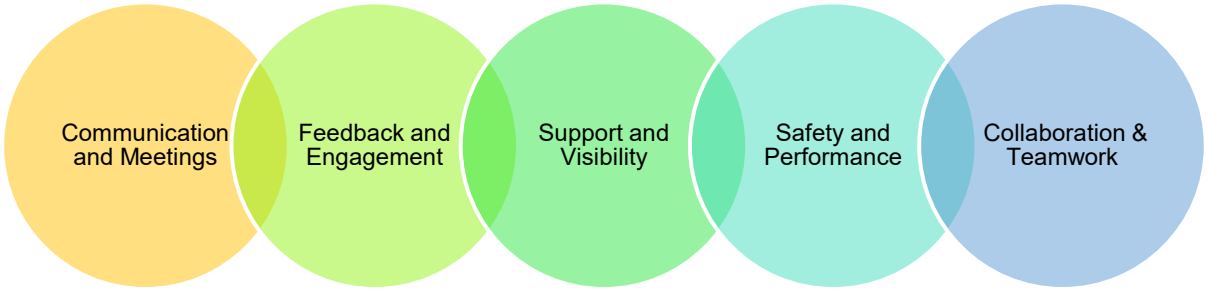
4.47 **Graph 8.** Q2 Compliance & Assurance Audit 2024
As a clinical leader/manager, do you regularly encourage and support staff to give views on staffing?



4.48 When asked “As a clinical leader/manager, do you regularly encourage and support staff to give views on staffing?” (Graph 8 above) 95% responded “Yes” and 5% responded “No”.

4.49 If those competing the Audit answered “yes” to this question, respondents were then asked to explain how they encourage and support staff to give views on staffing. The themes are highlighted below in **Graph 9**.

4.50 **Graph 9.** Q2 Compliance & Assurance Audit 2024
Please explain how you encourage and support staff to give views on staffing.



Communication and Meetings: Regular team meetings, daily huddles, 1:1 supervision, and various forms of communication (emails, newsletters)

Feedback and Engagement: Encouraging staff to provide feedback through mechanisms like Datix, anonymous and identifiable communications, and staff questionnaires.

Support and Visibility: Open door policies, being present and approachable, senior visibility, and on-call managers.

Safety and Performance: Encouraging staff feedback when monitoring staff safety, absence reporting, escalating risk, and through quality improvement efforts.

Collaboration and Teamwork: Working together, in partnership, in integrated teams, and with professional leadership.

Example Areas of Success

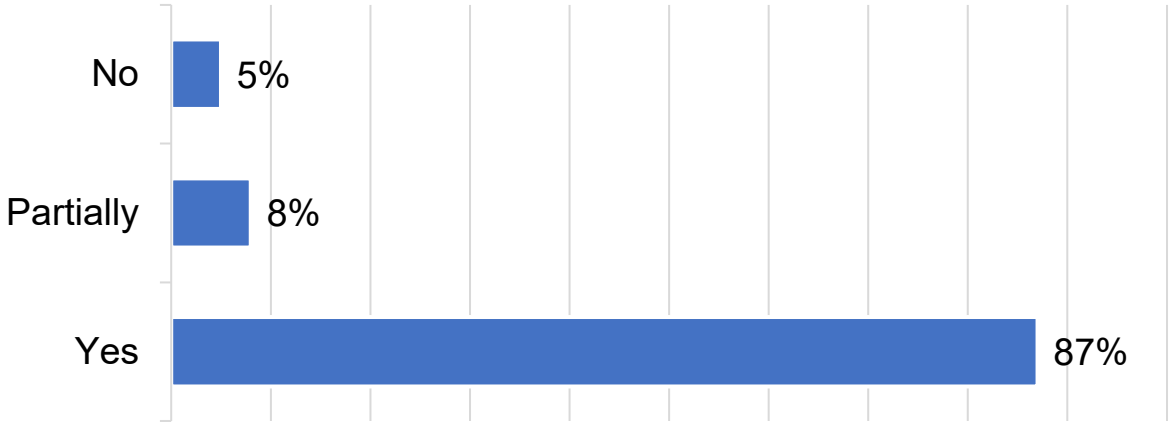
4.51 Obtaining staff views is central to the Act and is part of the Guiding Principles and the 12IJ duty to follow the common staffing method. Respondents explained that effective communication between staff at all levels was essential for seeking and having regard to clinical advice. Good communication can better update staff on staffing decisions made or allow senior leaders to more effectively listen and act on a clinical professional view. Clinical advice may be sought from more than one individual and may not be linear and so effective communication skills are required. Services also noted the importance of openness and honesty and creating an environment where staff feel they can speak up and provide advice on staffing.

Example Areas of Challenge

4.52 Some services had no robust process in relation to seeking and having regard to clinical advice and recording views on staffing. There is a requirement within the Act to document decisions which conflict with clinical advice. Respondents explained that there are multiple Board wide mechanisms such as i-Matter for

capturing staff views, but these questions do not pertain to appropriate staffing levels. Other services that record views on staffing decisions do so ad hoc and do not integrate this legislative requirement into daily practices, processes and procedures. Respondents explained that a significant challenge is the lack of a SOP which would support the recording of clinical advice and could be used when reviewing and making staffing decisions or when seeking clinical advice from outside the service.

4.53 **Graph 10.** Q2 Compliance & Assurance Audit 2024
Do you have a clear professional structure in place to enable you to seek the appropriate clinical advice on staffing decisions?



4.54 When asked “Do you have a clear professional structure in place to enable you to seek the appropriate clinical advice on staffing decisions?” (Graph 10 above) 87% responded “Yes” and 13% responded “No” or “Partially”.

Example Areas of Success

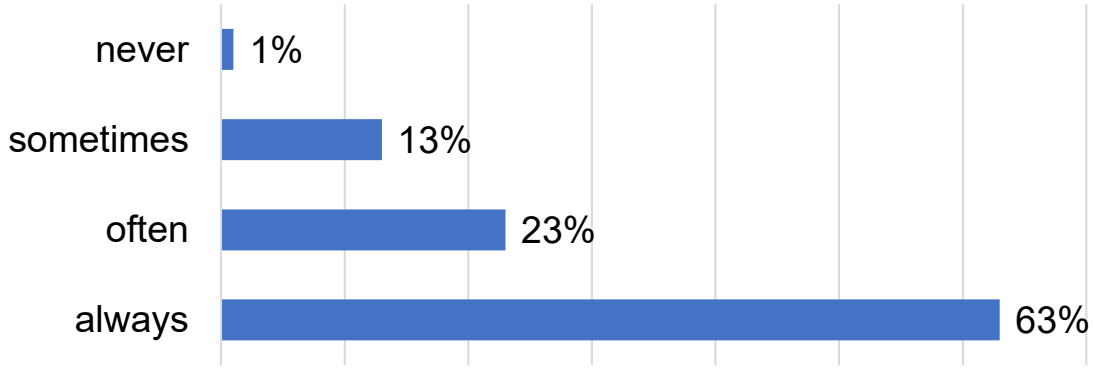
4.55 Services that were successful with meeting the duty to seek clinical advice had clearly defined roles and responsibilities within their service and within the professional line. Such that it was possible to seek and have regard to appropriate clinical advice, dependent on the local context and clinical governance structures. For example, senior clinical operational leaders were available throughout service hours to provide advice and guidance whilst having an overview of the service and understood the processes that needed to be put in place. Successful areas also understood who and where to obtain appropriate clinical advice within the professional line, with some areas having a direct line to director level staff.

4.56 Respondents found that integrating the process of seeking clinical advice into their mitigation, escalation, and real-time staffing processes led to greater compliance with this requirement. Therefore, they were successful in meeting the duty to seek clinical advice when it was incorporated into daily routines, such as team huddles, where they also addressed risk escalation and real-time staffing needs.

Example Areas of Challenge

4.57 Understanding who should give clinical advice can be challenging. For example, when attempting to identify a definitive point of contact in relation to seeking clinical advice on staffing across sites. Respondents explained that training may help with defining roles and responsibilities, as services perceived a lack of training on who to seek advice from - one person, a deputy or a designated team? In addition, respondents explained that, if who can give clinical advice is defined in a SOP, this process may need to be monitored. In some cases, this role is completed by professional leads on temporary contracts. Therefore, it is important to establish robust arrangements to ensure oversight of this process and maintain continued compliance.

4.58 **Graph 11.** Q2 Compliance & Assurance Audit 2024
Within my service(s), appropriate clinical advice is taken into account during day-to-day staffing decisions



4.59 When asked “Within my service(s), appropriate clinical advice is taken into account during day-to-day staffing decisions” (Graph 11 above) 86% responded “always” or “often” and 14% responded “sometimes”. 0.8% answered “never”.

Example Areas of Success

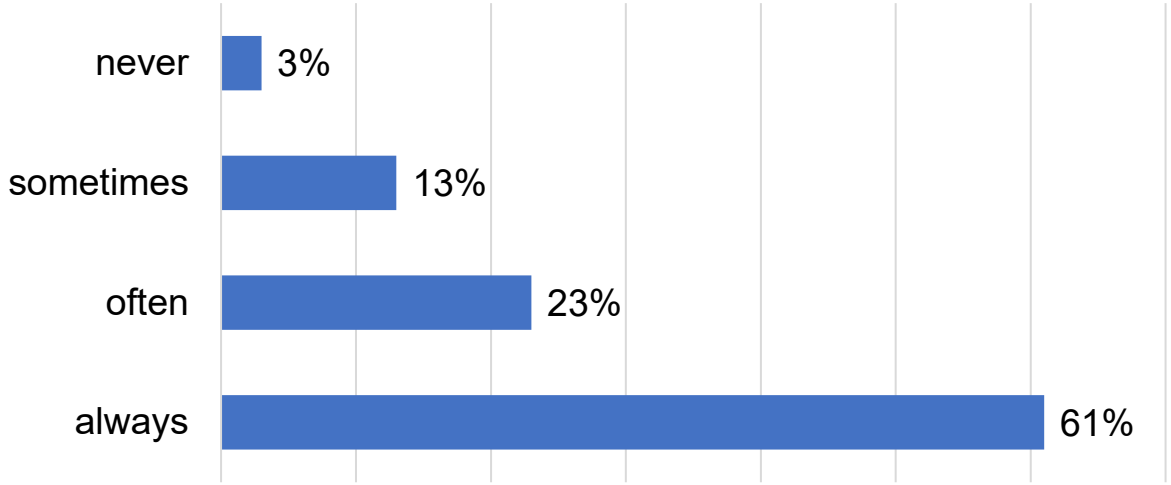
4.60 Having the appropriate organisational structure in place allowed services to prioritise and enabled partnership working, especially within huddles which provided a space in which to seek and have regard to clinical advice across multiple specialties within a single profession. Respondents explained that having the right infrastructure in place enabled services to meet obligations within the duty to seek clinical advice on staffing. For example, some areas had individuals who could give appropriate clinical advice on staffing available as bleep holders.

Example Areas of Challenge

4.61 Once an individual(s) has been identified, it can be challenging to obtain specific types of clinical advice on staffing. For example, advice on the acceptable consequences of staffing decisions; if there is a sustained risk on staffing it can be difficult to get advice on what is an acceptable duration of withdrawal of service to mitigate a staffing risk. Respondents did note that wider escalation processes are available to seek support, but if no help is available then seeking and having regard to clinical advice can be challenging. In

addition, some professionals must still develop a governance process for the consideration of disagreements and requests for review. This process will be considered in the context of future Health and Care Staffing Reporting and Workforce Planning. Integrating Workforce Planning processes with Duties in the Act is a key requirement of the legislation and will be monitored annually by Healthcare Improvement Scotland and the Scottish Government in annual returns.

4.62 **Graph 12.** Q2 Compliance & Assurance Audit 2024
Within my service(s), appropriate clinical advice is taken into account during service or establishment reviews:



4.63 When asked “Within my service(s), appropriate clinical advice* is taken into account during service or establishment reviews” (Graph 12 above) 84% responded “always” or “often” and 13% responded “sometimes”. 3% answered “never”.

Example Areas of Success

4.64 Services documented the escalation and mitigation of decisions taken with electronic records by email then stored on a shared drive. Some areas electronically documented twice daily staffing meetings. The recording of decisions in relation to staffing on easily accessible records enables those individuals who gave clinical advice on staffing as part of the decision-making process to be updated on any decisions made and the reasons for those decisions. Those individuals can then make a fully informed decision on whether to record their disagreement with the decisions and/or request a review of the decision of risk. Good record keeping of decisions around real-time staffing risk escalation and mitigation can allow any individual to access the staffing decisions made of which they were part of the process.

Example Areas of Challenge

4.65 Respondents explained that when making staffing decisions for their areas, staff do not always seek and have regard to “appropriate” clinical advice as

defined within the Act. For some services, multidisciplinary working injects a level of complexity with ensuring appropriate clinical advice can be sought and regarded over 24 hours. For example, some specialty multidisciplinary teams may have AHP cover out of hours who should not give clinical advice on staffing for Nursing matters (or vice versa) as defined with the legislation. This is exacerbated when central departments that could provide appropriate advice do not have out of hours cover. Respondents explained that staff tend to report in sick during out of hours, and this delays putting plans in place until clinical advice can be sought.

12IB Duty to ensure appropriate staffing: agency workers

4.66 The Act stipulates that, the board must report on the number of occasions that it has paid an agency worker more than 150% of the amount that would be paid to a full-time equivalent employee to fill the equivalent post for the same period. The report must include the number of occasions on which it is paid more than 150%, the amount paid on each occasion and the circumstances that have required the higher amount to be paid. The Scottish Government provide a template for this report which includes the figures to be used for a full-time equivalent employee for each band / grade so that all Boards are reporting consistently.

4.67 The duty does not prohibit the use of workers above the 150% figure, rather it states that the amount to be paid to secure the services of an agency worker should not exceed 150%, but if it does then all instances of this have to be reported quarterly to the Scottish Ministers.

4.68 Compliance with the duty to ensure appropriate staffing: agency workers is not surveyed within the Compliance & Assurance Audit. The reporting obligations are managed through the Staff Bank (the service securing all supplementary staffing) rather than via the wider workforce.

4.69 It should be noted that agency spend will be managed through numerous operational and professional groups. Parallel work in NHS Lothian to manage agency utilisation is in place and reports to the Workforce Thematic Efficiency Programme Board.

4.70 The agency reports should cover the following periods and are required to be submitted according to the timelines set out in table 7.

4.71 **Table 7.** NHS Lothian: Agency Reporting Timeline and Update

Period	Deadline	Status
01 March to 30 June	31 July 2024	Submitted
01 July to 30 September	31 October 2024	Submitted
01 October to 31 December	31 January 2025	Not Yet Started
01 January to 31 March	30 March 2025	Not Yet Started

4.72 During the period 01 July to 30 September 2024, there were 232 occasions (a reduction of 86 shifts from Q1) on which the Health Board paid over 150% to an agency worker, compared to the amount that would be paid to a full-time equivalent employee to fill the same post for the same period. This is 4.7% (50% Reduction on Q1) of the total number of agency shifts (4929) used by all professions in NHS Lothian in 2024.

4.73 During the period 01 July to 30 September 2024, 83% of shifts using higher cost agency workers (as defined above) were to cover vacancy gaps. For example, in hard to recruit areas such Elderly and General Psychiatry. During this period, the Medical profession accounted for 74% of agency shifts, 18% of agency shifts were used by Nursing and 8% by Healthcare Science roles.

Recommendations

5.0 Action to Address Gaps

The Health and Care Staffing Programme Board have commissioned:

- Board wide policy and guidance to be produced, laying out definitions and requirements to comply with the Act, which will ensure all staff understand their roles and responsibilities with regards to the Act. The Statutory Guidance will help inform this. This includes, but is not limited to increasing clarity:
    - around the roles and responsibilities when seeking and having regard to clinical advice.
    - with defining severe and recurrent risks.

- The Board wide communication and education planning group to continue work to raise awareness among all levels of staff utilising national educational resources. For example, communication and education on:
    - How to mitigate staffing level risks.
    - Roles and responsibilities when addressing severe and recurrent risks.
    - Who to seek clinical advice on staffing from.

- The Health and Care Staffing Professional Leads to further analyse on the results per profession and per area and report locally through governance groups on key findings, identifying any profession specific gaps and actions required to mitigate.

- The Health and Care Staffing Professional Leads to continue to work together to share areas of success, good practice, and areas of challenge to work towards consistency across the Board and overall improved compliance including work to:

    - assure consistency and benchmarking within each duty e.g. variations in professional judgement.
    - develop and onboard systems to support duties e.g. HealthRoster, SafeCare, eJobPlan.
    - integrate the data into service planning, workforce planning and improvement cycles.
    - Enhance the availability of out-of-hours clinical advice on staffing, risk escalation and mitigation, particularly from central departments.

An update on these actions will be provided in future quarterly reports.

List of appendices

The following appendices are included with this report:

Appendix 1

Statutory Guidance Health and Care (Staffing) (Scotland) Act 2019



Statutory Guidance
Health and Care Sta

Appendix 2

Q2 August/ September 2024 Compliance and Assurance Audit Questions



Q2
August_September 2

Appendix 3

Scottish Government Exemplar Annual Report Template



HCSA - Q2
Reporting Template

Appendix 4

Q2 Red, Amber, Yellow and Green (RAYG) Calculations



Q2 RAYG Rating
Calculations.docx

Health and Care (Staffing) (Scotland) Act 2019

Quarterly Board Compliance Report

Quarter 3

01 October – 31 December 2024

Date:

Report Authors:
Fiona Tynan, Associate Nurse Director, Corporate Nursing
Kevin Dickson, Health and Care Staffing Lead

Executive Lead: Alison Macdonald, Executive Nurse Director

Situation

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

2.1 The Act aims to enable high quality care and improved outcomes for people using services in both health and care by helping to ensure appropriate staffing. The Act places duties on health boards, care service providers, Healthcare Improvement Scotland, the Care Inspectorate and Scottish Ministers.

2.2 All clinical staff, including staff who provide clinical advice, are subject to the duties within the Act. Leaders/ Managers of clinical teams also have specific duties under the Act to comply with. The Act does not apply to non-clinical staff e.g. administrative and maintenance staff etc.

2.3 Section 12IF of the Act sets out that quarterly reports, as a minimum, on compliance with the Act, are to be provided to the Board of the relevant organisation(s) by the Executive-level clinician on the board with responsibility for the legislation, in this case, the Executive Nurse Director. These reports must include staff's views on compliance. A Board wide Compliance and Assurance Audit (hereafter referred to as the Audit) was distributed to managers during Quarter 1 (Q1) and Quarter 2 (Q2) to gather staff views.

2.4 This quarterly report serves two purposes:

- to provide NHS Lothian's Board with a summary of compliance levels across all the duties and requirements of the Act.

- to provide NHS Lothian's Board with an update on progress against approved recommendations from the Q2 Health and Care (Staffing) (Scotland) Act 2019 Quarterly Board Compliance Report.

2.5 The report details compliance with the duties through the systems and processes that are in place to meet the requirements of the Act and ensure appropriate staffing. It does not include reporting on any workforce data as this is not a requirement of the Act.

2.6 Applying the Scottish Government rating system, the overall level of assurance is "Reasonable". That is, systems and processes that are aligned with the duties in the Health & Care (Staffing) (Scotland) Act 2019 are in place for, and used by, 50% or above of all services/ professional groups managed by respondents to the Q1 and Q2 Compliance and Assurance Audit. Utilising the Corporate Governance and Assurance system employed within NHS Lothian's Board, the assurance level for Quarter 3 (Q3) remains **Moderate** on how effectively NHS Lothian is meeting its legal duties within the Health & Care (Staffing) (Scotland) Act 2019.

Background

3.0 The duties under the provisions of the Act set in statute the 12IA Duty to ensure appropriate staffing; “that at all times suitably qualified and competent individuals from such a range of professional disciplines as necessary are working in such numbers as are appropriate for the health, wellbeing and safety of patients or service users and the provision of high-quality health care.”

3.1 There are further duties within the Act:

- **12IB Duty to ensure appropriate staffing: agency worker** (reporting instances of high-cost agency staff, when agency costs have been higher than 150% of the equivalent NHS staff cost for the equivalent post for the same period).

- **12IC Duty to have real time staffing assessment in place and 12ID; Duty to have a risk escalation processes in place** (having procedures in place for identifying risks relating to staffing and then mitigating these or escalating as required).

- **12IE Duty to have arrangements to address severe and recurrent risks** (Having arrangements set out on how information on staffing risks will be collated, analysed and recorded, including reporting to The Board when required). The Act does not define what a severe or recurrent risk is – organisations are expected to determine a locally accepted definition.

- **12IF Duty to seek clinical advice on staffing** (to have in place arrangements for seeking and having regard to appropriate clinical advice in making staffing decisions and having arrangements for recording and explaining decisions that conflict with that clinical advice).

- **12IH Duty to ensure adequate time given to clinical leaders** (giving sufficient time and resources to clinical leaders to carry out their leadership role).

- **12Il Duty to ensure appropriate staffing: training of staff** (to ensure that staff are provided with information and training to implement the duties in The Act effectively **and** ensure that staff are suitably qualified and able to maintain competence in their role).

- **12IJ Duty to follow common staffing method, including 12IL training and consultation of staff.** The Common Staffing Method is a consistent triangulated assessment with nine components including reviewing the results of staffing level tools which should be run once per year. This Duty requires organisations to use the Common Staffing Method as a framework for gathering and analysing relevant staffing and quality data.

This helps clinical leaders understand and evidence staffing requirements and quality of care for their clinical areas.

3.2 The Act also lists '**guiding principles'** to be met when organisations are arranging staffing:

(a) that the main purposes of staffing for health care are:

(i) to provide safe and high-quality services, and

(ii) to ensure the best health care or care outcomes for service users

(b) in so far as consistent with these main purposes, staffing is to be arranged while:

(i) improving standards and outcomes for service users;

(ii) taking account of the particular needs, abilities, characteristics and circumstances of different service users;

(iii) respecting the dignity and rights of service users;

(iv) taking account of the views of staff and service users;

(v) ensuring the wellbeing of staff;

(vi) being open with staff and service users about decisions on staffing;

(vii) allocating staff efficiently and effectively, and

(viii) promoting multi-disciplinary services as appropriate.

3.3 All these principles must be considered together when determining staffing levels, and organisations are also expected to provide information on the steps they have taken to have regard to the guiding principles in the Board's annual report to Scottish Ministers.

3.4 Section 2 of the Act "Guiding principles etc. in health care staffing and planning" stipulates that Boards must also have regard to the guiding principles when planning or securing the provision of health care from a third party.

3.5 NHS Lothian's Health and Care Staffing Programme Board, chaired by the Executive Nurse Director sets direction and provides oversight on multi-professional work pan Lothian to ensure compliance with the duties within the Act.

3.6 NHS Lothian has established a core team to support the implementation of the Act and a network of lead professionals.

3.7 A Reporting Subgroup was commissioned to consider all legislative requirements regarding reporting and to develop a reporting plan to ensure

NHS Lothian's compliance with the duties within the Act. This plan was supported by the Corporate Management Team (CMT) in January and April 2024, including development of a board wide Compliance and Assurance Audit to help gather accurate data on compliance with the duties.

3.8 The Quarter 1 (Q1) and Quarter 2 (Q2) Board Compliance Reports were approved by NHS Lothian's Board on 12 August and 4 December 2024 respectively. Both reports utilised the Corporate Governance and Assurance system employed within NHS Lothian's Board. The level of Moderate Assurance of how effectively the organisation had carried out its duties was provided and accepted for both reports. This Moderate Assurance was based on an overall "Reasonable Assurance" rating generated by the Scottish Government's compliance scoring.

Assurance Level Rating

3.9 Responses from the Q1 and Q2 Audit were used to rate compliance at NHS Lothian level and by profession. A Red, Amber, Yellow and Green (RAYG) system (Table 2) of categorising the assurance level is employed throughout this report. This aligns with the rating system employed within the Health and Care (Staffing) (Scotland) Act 2019 Annual Reporting Template on compliance, provided by the Scottish Government (SG). Aligning the rating system in the Board's quarterly reports will enable the accurate formulation of the annual report submitted to the Scottish Government. Boards are free to develop their own format/ template for quarterly reporting as none has been provided by the Scottish Government.

3.10 **Table 2.** Red, Amber, Yellow and Green (RAYG) Compliance Ratings

Green (substantial assurance)	Systems and processes are in place for and used by all services and professional groups managed by respondents.
Yellow (reasonable assurance)	Systems and processes are in place for, and used by, 50% or above of all services/ professional groups managed by respondents.
Amber (limited assurance)	Systems and processes are in place for, and used by, under 50% of all services and professional groups managed by respondents.
Red (No assurance)	No systems are in place.

3.11 Please note, the RAYG ratings are based on question responses to the Compliance and Assurance Audit questions per Duty and draw on data from both the Q1 and/or the Q2 Audit.

3.12 The Scottish Government have indicated that Boards will be expected to demonstrate robust processes are in place to meet legislative requirements. A common thread throughout the Statutory Guidance is that the legislation is not

prescriptive in nature, therefore with the exception of the staffing level tools, the processes, practices and procedures Boards choose to use is often at their discretion.

3.13 Since enactment on 1 April 2024, Healthcare Improvement Scotland's (HIS) role and function has changed to monitoring health boards compliance with the duties as cited within the legislation.

3.14 HIS will write each quarter to request a copy of the Board's Internal Quarterly Report and Use of High-Cost Agency Staff Report and at the end of the financial year will write to request a copy of the Board's Annual Report to Scottish Government and Workforce Plan. To support this function, HIS has written to the Board's Executive Leads for the Act inviting them to attend Quarterly Board Engagement calls, providing an opportunity to discuss the content and progress as identified within the Board Quarterly reports.

3.15 The Q2 Board Compliance report was approved on 4 December 2024 and was based on data from the Q2 Compliance and Assurance Audit.

Assessment

Overall level of assurance

4.0 The overall level of assurance per Duty in Q3 did not change when compared with Q2. 12IE Duty to have arrangements to address severe & recurrent risks changed from Reasonable Assurance in Q1 to Limited Assurance in Q2. This change is attributed to the application of focused questions in Q2, which reduced uncertainty and provided a deeper understanding of the compliance level for the 12IE Duty compared to Q1.

4.1 **Table 3.** Overall level of assurance by Duty
Q1, Q2 and Q3, 2024 Compliance & Assurance Audit

Duty	12IA	12IC	12ID	12IE	12IF	12IH	12II	12J&L
	Appropriate staffing	Real-time staffing assessment	Risk escalation process	Address severe & recurrent risk	Seek clinical advice on staffing	Adequate time for clinical leaders	Training of staff	Follow the common staffing method
Quarter 1	Limited	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
Quarter 2	Limited	Reasonable	Reasonable	Limited	Reasonable	Reasonable	Reasonable	Reasonable
Quarter3	Limited	Reasonable	Reasonable	Limited	Reasonable	Reasonable	Reasonable	Reasonable

4.2 The overall level of assurance across all duties remains unchanged at Reasonably Assured:

4.3 **Overall Level of Assurance, of how the organisation has carried out its duties under section 2 of the 2019 Act, and sections 12IA, 12IC, 12ID, 12IE, 12IF, 12IH, 12II, 12IJ and 12IL, as of December 2024:**

Reasonably Assured

12IB Duty to ensure appropriate staffing: agency workers

4.4 The Act stipulates that, the board must report on the number of occasions that it has paid an agency worker more than 150% of the amount that would be paid to a full-time equivalent employee to fill the equivalent post for the same period. The report must include the number of occasions on which it is paid more than 150%, the amount paid on each occasion and the circumstances that have required the higher amount to be paid. The Scottish Government provide a template for this report which includes the figures to be used for a full-time equivalent employee for each band / grade so that all Boards are reporting consistently.

4.5 The Duty does not prohibit the use of workers above the 150% figure, rather it states that the amount to be paid to secure the services of an agency worker should not exceed 150%, but if it does then all instances of this have to be reported quarterly to the Scottish Ministers.

4.6 Compliance with the Duty to ensure appropriate staffing: agency workers is not surveyed within the Compliance & Assurance Audit. The reporting obligations are managed through the Staff Bank (the service securing all supplementary staffing) rather than via the wider workforce.

4.7 It should be noted that agency spend will be managed through numerous operational and professional groups. Parallel work in NHS Lothian to manage agency utilisation is in place and reports to the Workforce Thematic Efficiency Programme Board.

4.8 The agency reports should cover the following periods and are required to be submitted according to the timelines set out in table 7.

4.9 **Table 7.** NHS Lothian: Agency Reporting Timeline and Update

Period	Deadline	Status
01 March to 30 June	31 July 2024	Submitted
01 July to 30 September	31 October 2024	Submitted
01 October to 31 December	31 January 2025	On track for submission
01 January to 31 March	30 March 2025	Not Yet Started

4.10 Narrative for the period 01 July to 30 September agency data was provided within the Quarter 2 Health and Care (Staffing) (Scotland) Act 2019, Quarterly Board Compliance Report and narrative for the period 01 October to 31 December will be provided in the Quarter 4 report.

Update on Recommended Actions to Address Gaps in Compliance

5.0 The following updates on progress with recommendations from the 2024/25 Quarter 2 Board Compliance and Assurance Report are based on the views of NHS Lothian's Professional Leads for the Health and Care (Staffing) (Scotland) Act 2019.

The Health and Care Staffing Programme Board have commissioned:

5.1 Board wide policy and guidance to be produced, laying out definitions and requirements to comply with the Act, which will ensure all staff understand their roles and responsibilities with regards to the Act. The Statutory Guidance will help inform this. This includes, but is not limited to increasing clarity:

- around the roles and responsibilities when seeking and having regard to clinical advice.
- with defining severe and recurrent risks.

Areas of success, achievement or learning and resultant actions

5.2 Clinical advice should be sought and had regard to when complying with all health duties within the Act including when defining severe and recurrent risks. The Allied Health Professions (AHP) Health and Care Staffing Working Group have agreed to collaborate, share and further develop agreed definitions for severe and recurrent risks. This work will commence in Q3. Over 70% of AHP professional leads report full compliance with structures and support for staff to give clinical advice and views regarding staffing levels. Structure and support mechanisms includes regular staff meetings and huddles that contain formal agenda items to discuss staffing level and risks.

5.3 Pharmacy teams all have resilience plans which help define staffing level risks and a process has been drafted for staff to record their disagreement with staffing decisions and request a review. Further work is ongoing within Pharmacy on how severe and recurrent risks are defined and managed. The Pharmacy profession is involved in a SafeCare (real-time staffing assessment) pilot, and SafeCare can enable the Pharmacy service to identify recurrent risks using novel methods, through the aggregation and reporting of staffing level risks that are not currently captured within Pharmacy.

5.4 Within Nursing & Midwifery, a Standard Operating Procedure (SOP) and Guidance for applying the Common Staffing Method (see section 3.1) in Nursing and Midwifery workforce reviews is being tested. This includes governance via the Nursing and Midwifery Workforce Programme Board, and testing is ongoing within Community Nursing. Once this Common Staffing Method Guide and SOP has been tested, implementation will proceed in all Nursing and Midwifery areas, ensuring Senior Nurses and Midwives have oversight of all workforce reviews to ensure they are compliant with the legislation and that the professional voice/ appropriate clinical advice has been sought.

5.5 In addition, a SOP around the real-time staffing assessment requirements of the Act, using the SafeCare System, was implemented in Nursing and Midwifery and is being developed and tested in non-inpatient areas.

5.6 Understanding how to define and identify severe and recurrent risks will involve analysing staffing level risks over time that were identified and collated as part of a real-time staffing assessment. Professional Leads and Administrative staff within the Psychology service are working collaboratively around the completion of a Psychology specific real-time staffing tool and the mechanisms for escalation. The Psychology specific real-time staffing tool integrates with clear line management structures that allow queries on staffing to be raised (to comply with the Duty to have a risk escalation process in place). Whilst a risk register is used to flag longer term challenges with staffing issues in particular services (to comply with the Duty to address severe and recurrent risks). An audit tool to monitor compliance has been also developed. However, due to the limited number of escalations within the Psychology service, due to how the service operates, work is in progress to understand whether the right mechanisms to identify severe and recurrent risks are in place.

5.7 The afore mentioned board wide policies and guidance being developed are profession specific. However, overarching policies and guidance for certain duties will be developed which will include templates for managers to use to lay out procedures to their staff. This work will be driven through the establishment of a Health & Care Staffing Professional Leads Group, with individual subgroups that will report into NHS Lothian's Health and Care Staffing Programme Board.

Areas of escalation, challenges or risks

5.8 Defining severe and recurrent risks has been challenging when definitions of risk levels are subject to wider consensus and benchmarking across NHS Scotland Boards, as is the case within the Allied Health Professions. There are no national programmes to support this work. In mitigation, the AHP Workforce Planning Lead for NHS Lothian collaborates with colleagues nationally to share learning; however, the role of AHP Workforce Planning Lead within NHS Lothian is not recurringly funded.

5.9 Producing Board wide policy and guidance or laying out definitions and requirements to comply with the Act can be challenging when there are time constraints, with work required to be produced between quarterly Board compliance reports. However, a Lead for the development of Health & Care Staffing policies and guidance has been appointed and will link in with the Professional Leads Group for support with development and testing.

5.10 To increase clarity around the roles and responsibilities when seeking and having regard to clinical advice, work is required to clearly articulate which parts of staffing decisions fall into clinical advice over and above existing processes such as recruitment and Workforce Organisational Change. The Psychology Senior Management Team plans to review practice and legislation to consider this issue further.

5.11 Language employed within the Act can be a barrier to increasing clarity around seeking and having regard to clinical advice. Staff groups might not consider terms used as applicable. For example, staff within the Pharmacy service use terms such as “clinical staff” differently from how it is applied within the Act. The Pharmacy profession will review and contribute to any policy/ guidance produced to ensure it reflects their service whist continuing to educate staff about key differences between profession specific and legislative language.

The Health and Care Staffing Programme Board have commissioned:

5.12 The Board wide communication and education planning group to continue work to raise awareness among all levels of staff utilising national educational resources. For example, communication and education on:

- How to mitigate staffing level risks.
- Roles and responsibilities when addressing severe and recurrent risks.
- Who to seek clinical advice on staffing from.

Areas of success, achievement or learning

5.13 The Health & Care Staffing Communication and Education Group which consists of professional leads from across NHS Lothian has created a centrally available resource on the staff intranet, which includes links to all national Health & Care Staffing resources, as well as local information per professional group. A quarterly review process has been set up to ensure these resources remain remains relevant and update.

5.14 NHS Lothian’s Health and Care Staffing Professional Leads attend shared learning events run by Healthcare Improvement Scotland (HIS). HIS provide a monitoring role within the legislation and organise learning events that are a good opportunity to learn and share. Such events decrease uncertainty by providing information and guidance on the legislation, which is dispersed across NHS Lothian, raising awareness among all levels of staff. Dissemination has taken place within various professional groups and through Health and Care Staffing learning events provided by the Health and Care Staffing Team.

5.15 Such learning events include the Corporate Induction for new starts within NHS Lothian. The Health and Care Staffing Team now has a recurring agenda item to present within the induction week schedule. This proactive approach to communication and education on various aspects on the Act provides an opportunity to raise awareness among all levels of staff at a formative juncture.

5.16 Users of the Health and Care Staffing Compliance and Assurance Audit explained that the survey also served as an educational tool. Respondents gained knowledge of the Act though viewing the legislation broken down into separate Duties with descriptions of legislative obligations. The reflections that are required to compete the Audit for a service, helped areas to consider what the legislation means for their area(s) and actions to increase compliance. NHS Lothian’s Health and Care Staffing Professional Leads have supported key stakeholders through making the Audit available as part of an initial scooping exercise, understand compliance for their area and or profession.

5.17 Similarly, the Health and Care Staffing Team have contributed to profession specific staff training days within Nursing and Healthcare Science to raise awareness of the legislation and encourage the use of national resources such as the TURAS Skilled level learning resource. Widening the use of national resources will form part of future professional lead group efforts going forward. TURAS Skilled level learning resource uptake is monitored through monthly reports compiled by Healthcare Improvement Scotland. These reports, which are pre-filtered at NHS board level, are then analysed by the Health and Care Staffing Team and sent to professional leads to encourage uptake of the resources within their professions. The learning resources contain information at different levels on the Act, from foundation to practitioner. During 2024 (to-date) 370 staff completed the HIS Skilled Health and Care Staffing learning resource on TURAS. This is a 234% increase from 107 completions in 2023 (data available from May 2023).

Areas of escalation, challenges or risks

5.18 The number of staff completing the HIS Informed Health and Care Staffing learning resource on TURAS peaked in April 2024 around enactment and has decreased month on month throughout the rest of 2024. This actuality is reflected in the Q2 recommendation to “raise awareness among all levels of staff using national resources”.

5.19 As suggested by the TURAS education uptake results for 2024 (to-date), activity to promote learning resource completion has declined post enactment. The Health and Care Staffing Leads Group for NHS Lothian will create new objectives to increase compliance with national resources and meet the recommendations of the Board. As mentioned previously, this Group is to be re-formed with a new Chair to proceed recommendations through 2025/26. One challenge for professional leads in this area is that data provided by HIS on resource completions cannot be broken down by board then profession to produce targeted actions for improvements.

5.20 The Pharmacy profession has identified further educational needs around specific duties and within specific services. For example, some service leads answered 'No' to certain questions around compliance within the Audit, despite robust process being in place. Thus, the Audit identified opportunities to raise awareness among staff about existing compliance and robust processes. This includes educating areas on recognising and capturing current practices or communicating the availability of underutilised processes.

5.21 Within the Psychology service there is limited or no flexibility to move staff quickly as a response to short term or unexpected absence. This creates a challenge for the Psychology profession, as redeploying staff is integral to pre-available real-time staffing assessment tools such as SafeCare. Therefore, a profession specific real-time staffing tool was designed for use within Psychology. The flexibility to redesign and innovate is purposively built into the Act, supporting profession specific approaches to complying with the legislation.

5.22 Within the Psychology service, an audit process is being refined to ensure that escalations and safe staffing patterns are being identified and worked through onto risk registers by the Senior Management Team. Board recommendation of raising awareness among all levels of staff is an additional task for administration and lead staffing groups within Psychology. For example, training on staff has used staff capacity and a real-time staffing tool has added additional recording practices into any absence. The Psychology Service is undergoing an administration review as well as a review of staffing in light of reduced Scottish Government funding for Psychology posts and this additional administrative ask is being factored into decision-making.

The Health and Care Staffing Programme Board have commissioned:

5.23 The Health and Care Staffing Professional Leads to further analyse on the results per profession and per area and report locally through governance groups on key findings, identifying any profession specific gaps and actions required to mitigate.

Areas of success, achievement or learning

5.24 The Audit results have decreased uncertainty by enabling the identification of gaps in compliance by profession and location. These insights allowed Professional Leads to raise awareness among all levels of staff, identifying development needs and resultant actions.

5.25 Within the Allied Health Professions, reports on the Health and Care Staffing reporting position, progress and next steps are formally received and discussed through NHS Lothian's AHP Health and Care Staffing Working Group and through the AHP Workforce Planning Group. Profession specific escalations of staffing risk are formally raised through the AHP Workforce Planning Group, and in profession-specific fora. The Board wide communication and education around defining severe and recurrent risks will further enhance these business processes.

5.26 The Q1 Health & Care Staffing Board Compliance Report (Q1 Report) was discussed at the Nursing and Midwifery Workforce Programme Board, with Nursing and Midwifery specific areas of success and challenge highlighted. Areas identified in the Q1 Report are also flagged on risk registers in Psychology and results from the Audit and the Board Compliance Report are discussed at senior leadership meetings and with service leaders within Pharmacy.

5.27 The Audit results are also used to raise awareness among all levels of staff by helping to identify relevant educational resources. Within the Pharmacy profession, there is an appetite for a board wide approach to education and the Pharmacy profession is exploring the inclusion of Health and Care Staffing modules as part of staff personal development plans.

5.28 Building on successes going forward will involve further reports to professional groups to share key findings and use the narrative from the raw data to inform and drive improvement work. Healthcare Science improvement work will be framed utilising national resources. For example, a checklist shared at The Health and Care Staffing Act: Sharing the Learning Event will support monitoring, recording and progression with the legislation. Analysing Audit results and reporting locally will also involve making Health and Care Staffing a standing item, with an expectation for regular updates, like the practice within Pharmacy professional groups.

5.29 The Medical profession note progress across all rotas with national e-Rostering implementation. Once Medical staff and their rotas have migrated to the national HealthRoster system, they will automatically have access to SafeCare. This system can be used to meet requirements of the Duty to have a real-time staffing assessment, risk escalation process in place and the Duty to address severe and recurrent risks. SafeCare pulls data on available staffing from HealthRoster to enable staffing level risk assessments and will provide the medical profession with novel data to analyse and report locally through governance groups on key findings, identifying any gaps and actions required to mitigate.

Areas of escalation, challenges, or risks

5.30 The work of Professional Leads to further analyse results and report locally through governance groups on key findings, identifying any profession specific gaps and actions required to mitigate is currently maintained within some professions without a dedicated Health & Care Staffing Professional Lead. For example, there is no dedicated lead for the Healthcare Science Profession. A workforce paper is being progressed via the Diagnostic Anaesthetics Theatres and Critical care (DATCC) management team on the Healthcare Science profession to address this gap within Healthcare Science.

5.31 In addition, there is no recurrent funding in place for the professional AHP Workforce Planning lead who undertakes analysis and Health and Care Staffing programme leadership across all 13 AHP professions, in all NHS Lothian operational areas. Without dedicated professional Health and Care Staffing leads there is a risk of duplication and reduced coordination. Lothian Chief Officers have been approached to consider proportionately funding the AHP Workforce Planning Lead on a recurring basis and should this not be agreed have been asked to detail how they propose to meet the requirements for AHPs.

5.32 The Q1 and Q2 Compliance and Assurance Audit produced a vast array of quantitative and qualitative information. An analysis of results was provided in the Q1 and Q2 Health and Care Staffing Board Compliance Reports. The Audit results are also analysed by professional leads to develop targeted actions. However, the short time periods between quarterly reports restricts the amount analysis and local reporting that can be progressed quarter on quarter. The decision to provide an update in Q3 and not run a Q3 Audit was positively

received by professional leads and this will allow time to report locally as well as develop and implement action plans.

The Health and Care Staffing Programme Board have commissioned:

5.33 The Health and Care Staffing Professional Leads to continue to work together to share areas of success, good practice, and areas of challenge to work towards consistency across the Board and overall improved compliance including work to:

- assure consistency and benchmarking within each duty e.g. variations in professional judgement.
- develop and onboard systems to support duties e.g. HealthRoster, SafeCare, eJobPlan.
- integrate the data into service planning, workforce planning and improvement cycles.
- Enhance the availability of out-of-hours clinical advice on staffing, risk escalation and mitigation, particularly from central departments.

Areas of success, achievement or learning

5.34 Across NHS Lothian, professional leads for Health & Care Staffing are working to share areas of success, good practice, and areas of challenge. This collaboration can be inter-professional in nature. For example, most Healthcare Science services do not use SafeCare for real-time staffing assessment as it is not available to them yet. Pharmacy colleagues are trialling configuration changes to SafeCare, and the findings will be shared across all professions who do not use SafeCare.

5.35 The Health and Care Staffing Team has also worked closely with Pharmacy to share best practice and develop and onboard systems to support meeting obligations in the legislation. This includes the SafeCare Clinical Lead for NHS Lothian delivering training for the Pharmacy profession. The eRostering Team also supported Pharmacy with getting ready to pilot the system.

5.36 One AHP profession, Speech and Language Therapy, is live on HealthRoster and is piloting HealthRoster features. HealthRoster is the national electronic rostering system that is being rolled out across NHS Scotland. The AHP feature pilot will commence early 2025 and will report widely through Non-medical Job Planning Group, throughout AHP professions in NHS Lothian, and there is considerable interest across NHS Scotland AHPs.

5.37 Support from key stakeholders across Corporate Nursing is key to effectively piloting HealthRoster or SafeCare features that meet legislative obligations.

5.38 The Act can be viewed as operationalising workforce planning. A key component of the legislation involves considering how identified compliance risks are used to inform workforce plans and this is measured in the Health and Care Staffing Annual Report on compliance that is submitted to The Scottish

Government. This will involve integrating Audit data into Board and service workforce planning cycles, especially when planning the required workforce as part of the 6 steps to Integrated Workforce Planning that is recommended for use by the Scottish Government. Board workforce plans have 3-year actions with an annual review. The Healthcare Science actions from NHS Lothian's 3 Year Workforce Plan includes Lothian's Healthcare Science Professional Lead conducting an options appraisal of where Healthcare Science services are located within the management structure. This activity will look for opportunities to improve service planning, workforce planning and quality improvement cycles and can draw on compliance data from the Audit.

5.39 It is recognised that once board wide guidance is embedded, it will be possible to better monitor these individual workstreams.

Areas of escalation, challenges, or risks

5.40 The rollout of SafeCare within Nursing & Midwifery adult inpatient areas began in May 2015 and has been mandated for use in all adult inpatient areas since February 2022. Pharmacy is the only non-Nursing & Midwifery profession currently trialling SafeCare. The Pharmacy lead noted that this isolation can be challenging since SafeCare was designed for inpatient Nursing areas, and Pharmacy will use it differently, without patient numbers and acuity data. The rollout of the reduced working week has further complicated this, as the HealthRoster Team has reduced capacity due to the transition to the reduced working week, which also affects SafeCare. This has limited real-time staffing assessments and paused AHP onboarding to HealthRoster, a prerequisite for SafeCare. The HealthRoster Team's support is essential for SafeCare's success, and capacity challenges may intensify as more professions adopt it. The Pharmacy lead also highlighted additional training needs for HealthRoster, requiring extra resources.

5.41 e-JobPlan is a software application that sits within HealthRoster and can help professions covered by the Act comply with legislative obligations. The further use of e-JobPlan for AHPs would require financial resource to purchase sufficient licences. An AHP pilot of this system will inform the position for non-medical professions wider than the Allied Health Profession. e-JobPlan will support the oversight and optimisation of NHS Lothian AHP staffing positions and this work is paused until HealthRoster, with SafeCare are live in all AHP services.

5.42 Within Psychology, meeting the Duty to have a real-time staffing assessment in place has involved an additional system rather than using existing systems such as SafeCare, which is time consuming. Psychology will move to HealthRoster at some point; however, the timescales are currently unclear. Integrating findings from real-time staffing and safe staffing into workforce planning will take some time as there are no existing benchmarks for Psychology nationally, but this is under consideration as Psychology progresses compliance with the Act. Actions taken to address this situation include linking in with Heads of Psychology Scotland around national

Psychology directives and attending Health & Care Staffing Programme Board meetings with other Health & Care Safe Staffing Leads.

Other work ongoing/ planned/ completed

5.43 The Healthcare Science profession have made progress with the 12IA Duty to ensure appropriate staffing, as the majority of services have been able to absorb the 30-minute reduction in the working week by re-organising methods of delivering services. However, the Professional Lead for Healthcare Science explained that there is likely to be a service impact for most Healthcare Science services for any further reduction to the working week and services are currently working on risk assessments.

5.44 The Psychology Service plan to implement senior management team logs for legislative obligations around seeking and having regard to clinical advice, risk escalation, risk mitigation and time to lead. Issues have been identified with some of these requirements and plans are being considered that can mitigate these. This includes further work regarding seeking and having regard to clinical advice as described within the Act and ensuring the staff group understands this Duty, such as having robust processes in place to record views and decisions on staffing made that go against clinical advice. Risk registers are used currently, and steps have been taken to mitigate short-term situations where possible. Within the Psychology service, the compliance issues being identified are not acute and therefore immediate action is not taken, as it is not possible to find an immediate mitigation. However, existing processes such as a risk register and workforce organisational change are options. Due to wider issues in Psychology, some steps for progressing issues like the broader staffing structure are on hold at present.

5.45 The Duty to follow common staffing method is a triangulation approach within the Act to making decisions around staffing and includes the use of staffing level tools in Nursing and Midwifery. An internal audit assessing the internal controls on this Duty is underway in Q3. The audit also considers workforce planning in Nursing and the adherence to the statutory guiding principles. Audit sample areas are the Royal Infirmary Edinburgh and Royal Edinburgh and Associated Services (REAS).
Collaborative work is ongoing with Healthcare Improvement Scotland on the development and testing of Nursing Children and Young People and Mental Health & Learning Disabilities staffing level tools on SafeCare. Staffing level tools allow areas to capture patient acuity typically over a two-week period and for comparison with funded establishments. This approach is outlined in the Duty to follow common staffing method. The staffing level tools are currently hosted on the SSTS system and Healthcare Improvement Scotland plan to transfer tools onto the SafeCare system incrementally going forward.

5.46 Development and testing are also ongoing with Community Nursing and Maternity Assurance Frameworks. Using a quality management approach, the frameworks will ensure consistent, robust processes and systems for measuring, assuring, and reporting on the quality of care and practice. The data will be used in applying the Common Staffing Method in workforce reviews.

Further updates on these actions will be provided in future quarterly reports.

Health and Care (Staffing) (Scotland) Act 2019 Annual Report

1 Section 12IM of the National Health Service (Scotland) Act 1978 ("the 1978 Act") as inserted by section 4 of the Health and Care (Staffing) (Scotland) Act 2019 ("the 2019 Act") requires all Health Boards, relevant Special Health Boards delivering direct patient care (i.e. NHS 24, the Scottish Ambulance Service Board, the State Hospitals Board for Scotland and the National Waiting Times Centre Board) and NHS National Services Scotland (referred to in the 2019 Act as the "Agency") (collectively referred to as "relevant organisations" in this template), to publish, and submit to Scottish Ministers, an annual report setting out how they have carried out their duties under sections 12IA (including how the relevant organisation has had regard to the guiding principles in section 2 of the Act), 12IC, 12D, 12E, 12F, 12IH, 12II, 12IJ and 12IL of the 1978 Act (all inserted by section 4 of the 2019 Act).

2 Section 2(1) of the 2019 Act requires Health Boards, relevant Special Health Boards delivering direct patient care (i.e. NHS 24, the Scottish Ambulance Service Board, the State Hospitals Board for Scotland and the National Waiting Times Centre Board) and NHS National Services Scotland (referred to in the 2019 Act as the "Agency") (collectively referred to as "relevant organisations" in this template), when carrying out the section 12IA duty to ensure appropriate staffing, to have regard to the guiding principles for health and care staffing in section 1 of the Act. Section 2(3) of the 2019 Act requires relevant organisations to provide information to the Scottish Ministers on an annual basis on the steps they have taken to comply with this requirement. Section 2(4) of the 2019 Act reqiures this information to include how these steps have improved outcomes for service users.

3 Section 2(2) of the 2019 Act requires Health Boards, relevant Special Health Boards delivering direct patient care (i.e. NHS 24, the Scottish Ambulance Service Board, the State Hospitals Board for Scotland and the National Waiting Times Centre Board) and NHS National Services Scotland (referred to in the 2019 Act as the "Agency") (collectively referred to as "relevant organisations" in this template), when planning or securing the provision of health care from a third party under the 1978 Act to consider both the guiding principles for health and care staffing in section 1 of the Act and the need for the third party to have appropriate staffing arrangements in place. Section 2(3) of the Act requires relevant organisations to provide information to the Scottish Ministers on an annual basis on the steps they have taken to comply with this requirement. Section 2(4) of the 2019 Act requires this information to include how these steps have improved outcomes for service users.

4 Reporting for section 12IB (duty to ensure appropriate staffing: agency workers) is within a separate quarterly report and not included in this template.

5 Guidance on completing the template can be found below. Completed reports must be returned to hcsa@gov.scot by 30 April 2025. If you require further assistance or have any queries, please contact hcsa@gov.scot.

Report approval

6 This tab should be completed by the person signing off the report. An electronic signature is acceptable.

7 The Act requires the annual reports to be published by relevant organisations. Please enter a hyperlink to the webpage where the report can be found.

Summary

8 This tab asks for an overall summary of how the relevant organisation has carried out all of the duties and requirements of the Act. This should include all NHS functions provided by all professional disciplines covered under the Act (see https://www.gov.scot/publications/health-and-care-staffing-scotland-act-2019-overview/pages/roles-in-scope-of-the-act/ for more details of which staff groups are covered under the Act).

9 Following receipt of the reports from relevant organisations, the Scottish Ministers must collate these and lay a combined report before Parliament, along with an accompanying statement setting out how the information will be taken into account in policies for staffing of the health service. To enable this process, the information provided by relevant organisations must be comprehensive and pertinent to the staffing of the health service. Please complete these questions in detail, setting out the key achievements, outcomes, learning and risks and how this information has been used to inform workforce planning at the local level.

10 The tab then asks for an overall level of assurance of the relevant organisation's compliance with the Act, using the assurance categories as detailed below.

Individual duties / requirements

11 The next tabs look at specific elements within each of the individual duties / requirements of the Act, asking relevant organisations to provide an assessment of compliance against each statement, using the RAG classification below. Again, this should include all NHS functions, provided by all professional disciplines covered under the Act, with the exception of 12IJ and 12IL which only apply to certain types of health care, in certain locations using certain employees (more information is provided in these tabs). Next to the column for the RAG status is a column entitled 'Comment'. In this column, relevant organisations should provide detail to explain the RAG status, detailing evidence of compliance where appropriate, or gaps and areas of ongoing focus. For example, details of the organisational structures, systems and / or processes being used, such as SafeCare or SOPs in place. If the RAG status is not green then explanation should be provided advising of any gaps or areas of ongoing work, and of the NHS functions and / or professional groups that do not have systems and processes in place / are not using them.

12 Next, the relevant organisation is asked to provide details of areas of success, achievement and learning associated with the particular duty or requirement, along with indicating how this could be used in the future (for example, could learning in one area be applied to other areas). Again, in order to provide meaningful information that can inform health care staffing policy, relevant organisations are asked to complete this in some detail.

13 The relevant organisation is then asked to provide details of any areas of risk where they have been unable to achieve or maintain compliance with the particular duty or requirement, or where they have faced any challenges or risks in carrying out their duties or requirements. In this section, relevant organisations are also asked what actions have been or are being taken to address this - to show the 'pathway to green'. Again, in order to provide meaningful information that can inform health care staffing policy, relevant organisations are asked to complete this in some detail.

14 Finally, relevant organisations are asked to provide a declaration of the level of assurance they have regarding compliance with the specific section of the 1978 / 2019 Act, using the classification as below.

15 Two tabs, section 12IA and 'planning and securing services' ask additional questions to enable appropriate feedback to evidence compliance with these duties or requirements. Similar to above, these should be answered in s

RAG status

16 When asked to provide a RAG status, please use this key.

Green		Systems and processes are in place for, and used by, all NHS functions and all professional groups
Yellow		Systems and processes are in place for, and used by, 50% or above of NHS functions and professional groups, but not all of them
Amber		Systems and processes are in place for, and used by, under 50% of all NHS functions and professional groups
Red		No systems are in place for any NHS functions or professional groups

17 **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.

Name of organisation:	NHS Lothian
Report authorised by:	*Alison Macdonald* *Executive Nurse Director* *17/03/2025*
Location where report is published:	Board Papers – Lothian NHS Board

Summary report

Please answer the questions below, to provide an overall assessment of how the organisation has carried out its duties under section 2 of the 2019 Act, and sections 12IA, 12IC, 12ID, 12IE, 12IF, 12IH, 12II, 12IJ and 12IL of the 1978 Act (inserted by section 4 of the 2019 Act).

1 Please advise how the information provided in this report has been used or will be used to inform workforce plans.

NHS Lothian's Workforce Plan (2022–2025) was developed with input from senior leaders across various sectors, including acute care, primary care, HSCPs, finance, strategic planning, professional leads, and partnership leads. The plan ensures that every job family participates in meaningful workforce planning and creates workforce enablers to support delivery, including patient and staff engagement. Services and professions have developed 12-month action plans, which are overseen by the Workforce Planning and Development Programme Board to ensure effective implementation.

The Health and Care Staffing Leads at NHS Lothian are working closely with the Workforce Planning Team to continue integrating compliance monitoring outputs into the workforce planning process. This collaboration supports Board and service-level workforce plans that are informed by compliance information contained within this report, including successes and challenges around compliance. There is a local agreement to include compliance information in a new Health and Care Staffing section in NHS Lothian's Board Workforce Plan and annual updates to the Scottish government.

Through the continued reporting of compliance monitoring outputs through profession-specific workforce and other governance groups, the compliance audits and the information contained in this report informs key stakeholders who contribute to strategic and service workforce plans. This provides staff views on compliance and ultimately informs targeted workforce planning actions. The insights gained are crucial for understanding the current state of compliance and identifying areas that require improvement.

This approach ensures a cohesive link between compliance monitoring outputs and workforce planning, informing both annual and three-year board workforce planning actions. By maintaining this connection, NHS Lothian can ensure that workforce planning is responsive to compliance issues and that strategic decisions are based on accurate and up-to-date information. This comprehensive approach supports the overall goal of delivering high-quality care and maintaining a well-supported and engaged workforce.

2 Please summarise any key achievements and outcomes as a consequence of carrying out the duties and requirements in the Act.

The 2024/25 Compliance and Assurance Audits for NHS Lothian highlighted several key achievements and outcomes as a result of carrying out the duties and requirements in the Act. Encouraging staff views, effective real-time staffing assessments, and roster management were noted as significant successes. Other achievements included reviewing exit questionnaires and creating leadership capacity for clinical research. Workforce data was also utilised to support recruitment initiatives, including modern and graduate apprenticeships and career progression pathways.
NHS Lothian's Health and Care Staffing Programme Board sets direction and provides oversight on multi-professional work pan Lothian to ensure compliance with the duties within the Act. Membership reflects the range of professions covered by the legislation together with key stakeholders and each profession is working to create capacity to both lead and work on projects overseen by the Programme Board. The Programme Board also ensures work is aligned with local and national workstreams such as Excellence in Care and the Healthcare Staffing Programme at Healthcare Improvement Scotland.
A significant programme of improvement work in Maternity Services in Lothian is underway to enhance patient safety, quality of care, and the working environment for staff. This programme, initiated in August 2024, is being closely monitored by the Executive Team. Additionally, staffing levels across the organisation are being reviewed in line with the new Health and Care Staffing legislation. The review of Maternity Services, completed in mid-December, has led to the creation of numerous new posts to address the rising complexity of cases. Recruitment for these permanent positions is ongoing, with interim staffing support from the Staff Bank. The Healthcheck work following the Common Staffing Method has also resulted in significant staffing increases for both CAMHS and Maternity services.
Senior leaders from various sectors collaborated to establish NHS Lothian's Workforce Plan (2022–2025), ensuring inclusive workforce planning and the development of workforce enablers. The plan includes 12-month action plans and integrates compliance monitoring outputs into workforce planning processes. The NHS Lothian Staff Engagement and Experience Framework aims to improve staff wellbeing and learn from patient experiences via Care Opinion.
The "SafeCare" system has been effectively used in Nursing for almost 10 years, allowing for real-time staffing assessments and risk mitigation. Additionally, Pharmacy piloted the use of SafeCare with significant support from NHS Lothian stakeholders and SafeCare will be implemented across all Pharmacy services. The Clinical Research Nursing Leadership Team developed a 'Safe to Start' matrix and a Clinical Research Prioritisation Matrix to support decision-making in research activities. Psychology is trialling a profession-specific real-time staffing tool.
Successful systems for escalating and mitigating staffing risks over 24 hours involve clear communication and documentation. Senior clinical staff oversee staffing and can redeploy staff to ensure safety. Some services have specified staffing leads who coordinate staffing across sites. Other services have clear lines of escalation and well-documented plans help staff manage risks effectively. Tools like Datix are used for reporting and addressing risks, and a "Health Check" template consolidates staffing data to support data-driven decision-making and continuous improvement.

3 Please summarise any key learning and risks identified as a consequence of carrying out the duties and requirements in the Act.

Key learnings and risks identified in NHS Lothian's 2024/25 Compliance and Assurance Audits include challenges with access to the SafeCare system, particularly for Allied Health Professionals (AHPs). Small speciality teams and services face difficulties when staffing is assessed as at risk, as there are limited options for supplementary staffing or redeployment across services. The Psychology service has challenges with flexibility in staff movement, impacting their ability to respond to short-term absences. Ensuring a system to escalate and mitigate staffing risks over 24 hours is challenging due to workforce capacity constraints and the complexity of standardising risk escalation processes, especially in non-bedded areas.

There is a high degree of confidence among staff in knowing who to escalate staffing risks to, but training and development are needed for those who can mitigate these risks. Unplanned absences and general staffing issues can mean that staff capable of escalating or mitigating risks are not always available. Robust processes and clear communication are essential for effective risk management, but challenges remain in specialist services and where no formal processes are in place. The lack of training and clarity around roles and responsibilities also hinders compliance with the duty to address severe and recurrent risks.

Barriers to addressing severe and recurrent risks include fixed budgets, difficulty filling vacant posts, changing service demands, and restrictions on bank and agency staff. Obtaining specific clinical advice on staffing can be challenging, especially during out-of-hours periods. Training on who should give clinical advice and ensuring oversight of this process is necessary. Time constraints, availability of suitable training courses, and funding are additional barriers to ensuring appropriate staffing through training. Further work is needed to support teams in managing clinical areas whilst maintaining high standards of care, including establishing continuous review processes. Some nursing and midwifery specialities lack nationally validated staffing level tools, complicating the training and application of the Common Staffing Method. Existing tools can be time-consuming and challenging to use, highlighting the need for further improvements in processes and recording arrangements to comply with the legislation.

4 Please indicate the overall level of assurance of the organisation's compliance with the Act, reflecting the report submitted.

Reasonable Assurance

1 Guiding principles for health and care staffing
2 Guiding principles etc. in health and care staffing and planning
12IA Duty to ensure appropriate staffing

Section	Item	Status	Comment
12IA(1)	Clearly defined systems and processes are in place, and utilised, in all NHS functions and professional groups to ensure that at all times suitably qualified and competent individuals, from such a range of professional disciplines as necessary (see guidance for details of professional disciplines included within the Act) are working in such numbers as are appropriate for the health, wellbeing and safety of patients; the provision of safe and high-quality health care; and in so far as it affects either of those matters, the wellbeing of staff.	Amber	All staff groups are represented at The Health & Care Staffing Programme Board which leads multi-professional efforts to establish a consistent, systematic approach applicable across all services. This will ensure compliance with the overarching duty, providing assurance that staffing levels are appropriate and that patients are not exposed to unnecessary risk due to workforce challenges. The Programme Board reports to the Staff Governance Committee, ensuring alignment with staff governance frameworks and well-being priorities in accordance with legislative requirements.
12IA(2)(a)	These systems and processes include having regard to the nature of the particular kind of health care provision	Green	NHS Lothian is assured, that the nature of the particular kind of healthcare is a priority in staffing decisions and workforce planning. Leaders, managers, and decision-makers are expected to incorporate healthcare provision as a key consideration when determining staffing levels. For nursing and midwifery in in-patient settings, NHS Lothian has implemented a successful annual scheduling of Staffing Level Tools, ensuring systematic workforce assessments. Individual Boxi reports are distributed to area managers, accompanied by guidance on interpreting results and applying the Common Staffing Method utilising a reporting template. Staff then use professional judgement to assess if staffing is sufficient or needs adjustment due to changes in healthcare provision. For other professions, a robust workforce planning process is followed. When mapping the service change, health care provision is always one goal/ benefit of change. The workforce planning process also includes the continued reporting of compliance monitoring outputs through profession-specific workforce groups; the board compliance audits provide staff views on appropriate staffing and healthcare provision for understanding the required workforce as part of the workforce planning cycle. Professional leads, clinical teams, and managers continuously review and adjust staffing based on healthcare provision changes. Systems and processes support future workforce planning and address immediate or medium-term changes impacting staffing needs, ensuring appropriate staffing.
12IA(2)(b)	These systems and processes include having regard to the local context in which it is being provided	Yellow	Board Compliance and Assurance Audits conducted in 2024/25 confirmed that staffing decisions and workforce planning take into account local context, including geography and service structures that influence staffing needs. However, further assessment is planned for 2025/26 to ensure that systems and processes for this are consistently implemented across all NHS functions and professional groups within NHS Lothian.
12IA(2)(c)	These systems and processes include having regard to the number of patients being provided it	Amber	Patient demand analysis informs staffing decisions and workforce planning across services. However, real-time staffing processes and systems vary across professional groups. Many professions lack validated workload tools that enable the robust consideration of patient numbers. To ensure consistency and compliance with this Duty, a further assessment is planned for 2025/26 to confirm that these systems are effectively implemented and utilised across all NHS functions and professional groups within NHS Lothian.
12IA(2)(d)	These systems and processes include having regard to the needs of patients being provided it	Amber	Evidence from the Board Compliance and Assurance Audits showed that the analysis of the needs of patients requiring service provision is considered in staffing decisions and workforce planning. However, this subsection of the Duty depends on real-time staffing processes and systems, which vary across professions. Furthermore, many professions lack validated workload tools that enable the robust consideration of patient acuity/ needs. Therefore, further assessment and assurance that these systems and processes are in place and used by all NHS functions and professional groups in NHS Lothian is planned for 2025/26. This aims to achieve consistency across the Board and improve compliance with this Duty.
12IA(2)(e)	These systems and processes include having regard to appropriate clinical advice	Yellow	NHS Lothian is assured, that in all staffing decisions that appropriate clinical advice is sought. NHS Lothian's professional leads provide guidance on seeking clinical advice and its interaction with other legislative duties, though detailed information on clinical advice is often not recorded. The Q1 board compliance audit highlighted the need for more guidance on this process, and the Q3 report recommends education, communications, and board-wide SOPs to support compliance. During 2024/25, NHS Lothians Corporate Management Team supported that each profession should identify and resource a Professional Lead to ensure compliance with the Act and support teams in compliance with the legislation.
2(1)	These systems and processes include having regard to the guiding principles when carrying out the duty imposed by section 12IA	Amber	Further assessment and assurance that systems and processes having regard to the guiding principles are in place and used by all NHS functions and professional groups in NHS Lothian is planned for 2025/26. This aims to achieve consistency across the Board and improve compliance with this Duty.
	There is a clearly defined mechanism for monitoring compliance with this duty and escalation of non-compliance (when this cannot be adequately met)	Yellow	Compliance with this duty will be monitored through the Health & Care Staffing Programme Board with escalation via professional Workforce Governance Groups/Senior Management Teams as required. During 2024/25, NHS Lothian conducted two compliance and assurance audits to assess adherence to this Health Duty and other regulations. The Q1 Audit, with 62 questions, involved professional leads and produced extensive feedback. This audit identified robust processes and highlighted challenges in meeting this Duty's requirements (detailed below). The governance route for compliance reports based on these audits includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum, and the Board, with escalation as needed. In addition, each profession has governance arrangements to ensure the leadership team is aware of gaps and compliance. Efforts are underway to expand the audit and compliance report to include roles like Registered Chaplains and Public Health. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring all services align with the requirements of the Act.

Please provide information on the steps taken to comply with section 12IA.
These are steps taken to comply with 12IA in general. Examples could include information about workforce planning, national and international recruitment, retention, retire and return, service redesign, innovation, staff wellbeing, policies around supplementary staffing.

NHS Lothian has adopted a comprehensive approach to comply with the 12IA, focusing on workforce planning, recruitment, retention, service redesign, innovation, staff wellbeing, and policies around supplementary staffing.

The Workforce Plan (2022–2025) is central to NHS Lothian's compliance with this Duty. This plan ensures that each profession is included in meaningful workforce planning. It involves developing workforce enablers to support the plan's implementation, such as staff engagement and patient experience. Services and professions have created 12-month action plans to support year-round delivery. The Health and Care Staffing Leads engage with the Workforce Planning Team to integrate compliance monitoring outputs into the workforce planning process. This helps identify successes and challenges around compliance, informing Board and service-level workforce plans.

To support the recruitment pipeline, NHS Lothian has implemented modern and graduate apprenticeships and career progression pathways. These initiatives aim to attract new talent and ensure a steady flow of qualified professionals. National and international recruitment efforts are also part of this strategy, ensuring that the organisation can meet its staffing needs.

Retention strategies are crucial for maintaining a stable workforce. NHS Lothian reviews exit questionnaire information to understand why staff leave and to address any underlying issues. The retire and return scheme is another key initiative, encouraging experienced professionals to return to work, thereby retaining valuable expertise within the organisation.

Creating additional leadership and management capacity for clinical research is an example of service redesign. This initiative aims to enhance the quality of care and support innovation within the organisation. By fostering a culture of continuous improvement, NHS Lothian ensures that best practices are shared and effectively implemented.

The NHS Lothian Staff Engagement and Experience Framework focuses on improving staff wellbeing. This framework includes listening to and learning from patient experiences via Care Opinion, which can influence simple changes in practice and procedures. By prioritising staff wellbeing, NHS Lothian aims to create a supportive and positive work environment.

The Health and Care Staffing Professional Leads will continue to collaborate, sharing successes and good practices. They will analyse audit results by profession and area, report key findings, and address profession-specific gaps. This collaborative approach ensures that all staff members are well-equipped to meet their obligations under this Duty. By nurturing a culture of continuous improvement and support, NHS Lothian aims to create an environment where best practices are not only shared but also effectively implemented.

Please provide information on how these systems and processes, and their application, have improved outcomes for service users

This should include - but not be limited to - data in relation to patient safety and quality of care measures and outcomes, patient feedback and adverse event reporting; what this data has shown and any trends; and any actions taken as a result.

NHS Lothian provides regular Board-level reports on various quality performance indicators and outcome measures. Additionally, the Annual Review serves as the formal process for the Scottish Government to assess each Health Board's performance over a 12-month period. Patient experience measures are detailed in the NHS Lothian Patient Experience Strategic Plan Report. All three report types are accessible online.

Recognising the need to include patient outcome data and assess the impact of staffing in Health & Care Staffing reporting, the Health & Care Staffing Programme Board has tasked the Patient Outcomes Programme Board with reviewing its aim and function. This review aims to agree on a suite of patient outcome measures that align with legislation and incorporate staffing and the Guiding Principles. The findings will be shared with all professional groups via the Health & Care Staffing Programme Board.

For Nursing and Midwifery, the LACAS framework ensures consistent delivery of quality person-centred care across NHS Lothian services. This framework promotes quality assurance activities to inform and drive improvement in line with the Board's objectives, quality strategy, and quality management approach. It builds on the national Excellence in Care (EIC) work by identifying quality standards that incorporate EIC measures and align with the EIC Framework, focusing on person-centredness, compassion, fundamentals of care, and communication. Local teams are supported to use quality data and resources to identify and plan improvements, promoting a culture of continuous improvement using a quality management system approach.

The AHP dashboard reports on the AHP Governance and Assurance Framework, including operational and professional RAG levels of evidence in categories like safe, effective, person-centred, and regulatory. Pharmacy has an assurance framework but seeks clarity on outcome measures and is willing to collaborate with national stakeholders.

The Quality Improvement Support Team aims to enhance care quality, safety, and effectiveness, and improve patient and staff experiences through service change and data management. This team provides local and strategic support to achieve sustainable improvements. Adverse events are reported and reviewed to improve care, with staff receiving training on adverse event management and the duty of candour.

NHS Lothian values patient, carer, and service user feedback, using methods like Care Opinion to influence practice changes. Over the last 12 months 80% of respondents to the Care Opinion site survey would recommend NHS Lothian. Annual complaints and feedback reports are submitted to the Scottish Government and published online.

Areas of success, achievement or learning

Please provide details of areas of success, achievement or learning associated with carrying out the requirements.

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	This should describe the situation: what is the success, achievement or learning? For example, application of eRostering has allowed senior personnel to be able to see staffing in real-time across all areas, allowing staff to be reallocated as required to reduce level of risk.	This should describe how the success, achievement or learning could be used in the future. For example, continue the roll out of eRostering across the organisation, using learning from areas that have already implemented.
Multiple professions and services	Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits listed encouraging staff views, effective local real-time staffing assessments and effective roster management as related to successes with this Duty. Other examples shared by the other professions include reviewing exit questionnaire information, the retire and return scheme, creating additional leadership and management capacity for clinical research and utilising workforce predictor data (age/retirement/undergraduate trainee numbers and vacancies). Other ongoing initiatives to support the recruitment pipeline reported included modern and graduate apprenticeships and career progression pathways.	The Health and Care Staffing Professional Leads will continue to collaborate, sharing successes and good practices. For example, they will share best practices from services that successfully encouraged staff views, had effective local real-time staffing assessments, and managed rosters efficiently. They will also highlight areas that utilised exit questionnaire information, benefited from retire and return schemes, or created additional leadership and management capacity for clinical research. Additionally, they will share successes in supporting graduate apprenticeships and implementing career progression pathways. By nurturing a culture of continuous improvement and support, the Health and Care Staffing Professional Leads aim to create an environment where best practices are not only shared but also effectively implemented, ensuring all staff members are well-equipped to meet their obligations under the Act.
Multiple professions and services	Senior leader representatives from Acute Care, Primary Care, HSCPs, Finance, Strategic Planning, Professional Leads, and Partnership Leads collaborated to establish NHS Lothian's Workforce Plan (2022–2025). The plan stipulates that significant measures must be taken to ensure that each job family is included in workforce planning that is meaningful and that workforce enablers are developed for each to support and underpin the plan's implementation, including staff engagement and patient experience. Services and professions have created 12-month action plans to support the year-round delivery and the Health and Care Staffing Leads are engaging with the Workforce Planning Team to ensure that that outputs of compliance monitoring efforts are integrated into the workforce planning process - to identify any successes and challenges around compliance and use this to inform Board and service level workforce plans. Other examples include The NHS Lothian Staff Engagement and Experience Framework aimed at improving and encouraging staff wellbeing and listening and learning from the experience of patients via Care Opinion which can then be used to influence simple changes in practice and /or procedures.	The Health and Care Staffing Professional Leads will further analyse the results by profession and area from the board-wide compliance and assurance audits. They will report locally through governance groups on key findings, identifying any profession-specific gaps and actions required to address them. This will include the continued reporting of compliance monitoring outputs through profession-specific workforce groups. This work will inform senior leaders, who contribute to NHS Lothian's Board and service Workforce Plans, thereby informing both annual and three-year board workforce planning actions. This approach ensures a cohesive link between compliance monitoring efforts and strategic workforce planning.

Areas of escalation, challenges or risks

Please provide details of areas of escalation where the relevant organisation has been unable to achieve or maintain compliance, or any challenges or risks associated with carrying out the requirements, and the actions in place to address these.

Area of escalation / challenge /	Details	Action
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	This should describe the situation: what is the challenge or risk identified? For example, there may be difficulty with recruiting a particular staff specialty or recruitment in a remote / rural location.	This should describe what actions have been / are being / will be taken to address the situation. For example, if there is difficulty in recruiting in a particular specialty or remote / rural location, the relevant organisation may have investigated retire and return schemes or upskilling and career development for existing staff. It may also have looked at how the service could be redesigned.
Multiple professions and services	All audit Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits mentioned recruitment challenges, financial pressures and increasing demand as challenges in ensuring appropriate staffing at all times. Many professions also noted that few services have funding models to support 52 weeks/year service - yet patient demand is whole year and that this routinely compromises appropriate staffing levels. Audit respondents highlighted ensuring suitable supplies of competent individuals in small specialist teams, while managing vacancies and leave as particularly challenging, exacerbated by an aging workforce and financial constraints. Healthcare Scientists, Psychology and AHP all reported that articulating the required workforce is hampered by a lack of workforce benchmarking across NHS Scotland or tools to understanding workforce demand.	Staffing professionals and clinical leads from across NHS Lothian will continue to address workforce challenges at a local and national level. This work includes understanding current workforce capacity, forecasting future workforce needs, and identifying gaps. It also involves developing strategies to address workforce gaps, implementing local and service workforce plans, and continuously monitoring and evaluating their effectiveness to ensure appropriate staffing. The Health and Care Staffing Professional Leads will continue to collaborate, share successes and develop guidance to support this work.
Multiple professions and services	With regards to the Guiding Principles in Healthcare Staffing and Planning, it is recognised by NHS Lothian's Health & Care Staffing Programme Board that more work is required to understand compliance around the requirements for when planning or securing the provision of health care from another person, it has regard to the guiding principles and there is a need for the person from whom the provision of health care is to be secured to have appropriate staffing arrangements in place. A challenge is understanding how to capture the contracting processes across NHS Lothian and whether these processes are robust enough to meet the legislative requirements. Further guidance is being produced by Scottish Government to support understanding this requirement.	The board-wide communication and education planning group will continue to support services and work towards consistency across the Board, improving overall compliance. This group will review current processes related to securing healthcare from other providers to ensure they adhere to the guiding principles and confirm that appropriate staffing arrangements are in place. This information will inform board-wide policy and guidance, provide targeted support, and be supplemented by future guidance from the Scottish Government to enhance understanding and compliance with these requirements. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring all services align with the requirements of the Act.

Declaration: The relevant organisation has systems and processes in place to meet the requirements of this duty, and has carried out this duty through the presence and use of appropriate systems and processes as detailed above.

Level of Assurance: Please indicate level of assurance provided

Limited assurance

12IC Duty to have real-time staffing assessment in place

Section	Item	Status	Comment
12IC(1)	Clearly defined systems and processes are in place, and utilised, for the real-time assessment of compliance with the duty to ensure appropriate staffing, in all NHS functions and professional groups.	Yellow	The system or process in place and utilised for the real-time assessment of compliance with the duty to ensure appropriate staffing varies between services and professions depending on whether SafeCare is used or another type of real-time staffing assessment. All staff can identify risks from staffing levels, and the team leader will assess and address these risks locally based on demand, activity, and professional judgement. All staff can report staffing level risks or concerns to their team leader or line manager. All staff can raise a staffing level risk by completing an NHS Lothian adverse event reporting form and providing a text description of the risk or concern. This information is then entered into the Datix system prior to escalation to senior leadership for mitigation where possible. The real-time staffing assessment system "SafeCare" has been in use within Nursing for almost 10 years with high levels of compliance in the completion of census data, and the system is also used effectively to mitigate risk. Respondents to the Q1 Compliance and Assurance audit 2024/25 within Nursing noted real-time staffing successes including a well-planned use of SafeCare, effective communication to staff, good support for staff regarding SafeCare, as well as continued compliance with SafeCare census entry, allowing for data-based decision making. Across NHS Lothian, daily staffing huddles and, in community nursing, local huddles reporting into Health & Social Care Partnership Resilience Meetings if required, provide an opportunity to mitigate and escalate any staffing level risks identified through a real-time staffing assessment. Non-nursing areas are testing the use of SafeCare, some using SafeCare differently without the patient acuity function. There are SOPs for non-nursing use of SafeCare available on the intranet that will enable real-time staffing assessments for professions where patient acuity is not an effective measure of service demand. In addition to nursing SOPs for SafeCare, the use of SafeCare is monitored across nursing for compliance with a report distributed to managers weekly. Real-time staffing compliance with SafeCare is a prerequisite before agency usage can be considered, thus increasing compliance in this area. Ongoing work includes more professions utilising SafeCare. This requires the onboarding of largely non-nursing professions onto the HealthRoster/ Allocate system where the SafeCare application is hosted.
12IC(2)(a)	These systems and processes include the means for any member of staff to identify any risk caused by staffing levels to the health, well-being and safety of patients; the provision of safe and high-quality health care; or, in so far it affects either of those matters, the wellbeing of staff.	Yellow	The rollout of SafeCare within Nursing & Midwifery adult inpatient areas began in May 2015 and has been mandated for use as a means for identifying risk caused by staffing levels in all adult inpatient areas since February 2022. SafeCare Red Flags are utilised within SafeCare for review, mitigation or escalation of risks at Safety Huddles inclusive of any risk raised by the team without direct access to SafeCare. The system or process for identifying any risk also varies between services and professions depending where SafeCare is used or another and type real-time staffing assessment. However, staff can identify risks from staffing levels, and the team leader will assess and address these risks locally based on demand, activity and professional judgement. The Pharmacy profession has completed a SafeCare (real-time staffing assessment) pilot, and SafeCare can enable the Pharmacy service to identify recurrent risks using novel methods, through the aggregation and reporting of staffing level risks that are not currently captured within Pharmacy. Further work is required to enable more professions to utilise SafeCare. The rollout of the reduced working week has further complicated this, as the internal HealthRoster Team has reduced capacity due to the transition to the reduced working week, which also affects SafeCare. For example, this has limited real-time staffing assessments and paused AHP onboarding to HealthRoster, a prerequisite for SafeCare. The HealthRoster Team's support is essential for SafeCare's success, and capacity challenges may intensify as more professions adopt it. The Pharmacy lead also highlighted additional training needs from HealthRoster, requiring extra resources. This training is currently supported by the Health & Care Staffing team but similarly demand may increase as more professions adopt SafeCare.
12IC(2)(b)	These systems and processes include the means for the initial notification / reporting of that risk to the relevant individual with lead professional responsibility.	Yellow	All staff can report staffing level risks or concerns with their team leader or line manager. All staff can also raise a staffing level risk through completing an NHS Lothian adverse event reporting form and providing a text description of the risk or concern. This information is then entered into the Datix system prior to escalation to senior leadership. In nursing and midwifery, all Datix reports that include nursing and midwifery staffing levels as a factor are annotated with staffing data and escalated to the Executive Nurse Director with quarterly summary reports produced at Nursing and Midwifery Workforce Governance Groups. AHP respondents Datix entries form a daily report that is sent to Senior Management, identifying and recording plans to deal with staffing. SafeCare also has the facility to raise red flags to provide the initial notification of a staffing level risks. Work is ongoing to ensure that flags can be raised to individuals beyond the ward level. However not all professions have access to SafeCare. The Pharmacy profession is involved in a SafeCare (real-time staffing assessment) pilot, and SafeCare can enable the Pharmacy service to notify and report risks using the Red Flags function. An NHS Lothian Psychology specific real-time staffing tool is available for use and integrates with clear line management structures that allow queries on staffing to be raised. Further work is required to enable more professions to utilise SafeCare. This work will require the onboarding of largely non-nursing professions on HealthRoster. A non-nursing and nursing SOP on SafeCare has been produced and is available on the staff intranet. Which supports staff to notify where a staffing level risk has been identified on SafeCare. A clear Pharmacy structure is also available to all staff on the staff intranet, which supports the application of this section of the Duty, including a who's who document introducing key leaders across the service. Board wide guidance is required to articulate the next steps once a risk has been flagged, and this is reflected in the Board recommendation to produce board wide guidance to unsure clarity around having a risk escalation process in place. Work has begun within the health and care staffing programme board to understand the escalation landscape; however, there are challenges with non-nursing professions that have less clear escalation routes. For many areas the first notification of risk will involve Datix systems.
12IC(2)(c)	These systems and processes include the means for mitigation of risk, so far as possible, by the relevant individual with lead professional responsibility, and for that individual to seek, and have regard to, appropriate clinical advice as necessary.	Yellow	As with identifying risk, the means for mitigating risk will vary between services and professions depending on whether SafeCare is used or another type of real-time staffing assessment. However, all staff can mitigate staffing level risks, and the team leaders will mitigate these risks locally based on demand, activity, and professional judgement. Once NHS Lothian has been updated to the latest version of HealthRoster, staffing levels in SafeCare can be escalated and mitigated by staff beyond the team/ roster in which the risk was raised. Currently, this is not possible within the current version. As mentioned previously, there are resource constraints that inhibit the immediate rollout of SafeCare across all professions, and this also restricts the means by which those professionals not on SafeCare can mitigate staffing level risks. Some services that do not use SafeCare plan to implement senior management team logs for legislative obligations around risk mitigation and time to lead. Risk registers are currently used within these areas, and steps have been taken to mitigate short-term situations where possible. Team Huddles, Site/Area Safety Huddles, Safety Pauses, Excel spreadsheets, and Teams channel check-ins are all used as a means to mitigate risk. Further work around creating board-wide guidance and education and communication efforts recommended by the board will support areas to ensure consistency across professions and that these processes and systems are robust enough to meet legislative requirements
12IC(2)(d)	These systems and processes include means for raising awareness among all staff of the methods for identifying risk, reporting to the individual with lead professional responsibility , mitigation, and seeking and having regard to clinical advice.	Yellow	Raising awareness among all staff of the methods for identifying risk will involve centrally available resources. NHS Lothian's Health & Care Staffing Communication and Education Group which consists of professional leads from across NHS Lothian has created a centrally available resource on the staff intranet, which includes links to all national Health & Care Staffing resources, as well as local information per professional group. A quarterly review process has been set up to ensure improve these resources and remain remains relevant All staff receives an induction into their role which will include these systems and processes and all staff are aware of the process through local site / service / team meetings. All staff have a responsibility to raise concerns regarding staffing levels. NHS Lothian's Health and Care Staffing Professional Leads also attend shared learning events run by Healthcare Improvement Scotland (HIS). Such events decrease uncertainty by providing information and guidance on the legislation, which is dispersed across NHS Lothian, raising awareness among all levels of staff. This Dissemination has taken place within various professional groups and through Health and Care Staffing learning events provided by the Health and Care Staffing Team. Some professions utilise monthly articles in newsletters to raise awareness in addition to local channels such as groups or meetings. Users of the NHS Lothian Health and Care Staffing Compliance and Assurance Audit explained that the survey served as an educational tool. Respondents gained knowledge of the Act though viewing the legislation broken down into separate Duties with descriptions of legislative obligations. The reflections that are required to compete the Audit for a service, helped areas to consider. More work is required to raise awareness amongst staff on the methods for identifying risk. 56% of respondents to NHS Lothian's 2024/25 Quarter 1 Compliance and Assurance Audit answered no or partially when asked if staffing assessment and risk escalation arrangements documented and readily available to all clinical staff. This is reflected in the approved board recommend to produce board wide policy and guidance, laying out definitions and requirements to comply with the Act, which will ensure all staff understand their roles and responsibilities with regards to the Act. The audit breaks down by area and profession to support targeted actions.
12IC(2)(e)	These systems and processes include means for encouraging and enabling all staff to use the systems and processes available for identifying and notifying risk to the individual with lead professional responsibility.	Yellow	Encouraging and enabling all staff to use the systems and processes available has taken place within various professional groups and through Health and Care Staffing events provided by the Health and Care Staffing Team or nursing training days for example. Such events include the Corporate Induction for new starts within NHS Lothian. The Health and Care Staffing Team now has a recurring agenda item to present within the induction week schedule. This proactive approach to communication and education on various aspects on the Act provides an opportunity to encourage and enable among all levels of staff at a formative juncture. The Health and Care Staffing Team has raised awareness of legislation through profession-specific training days and promoted the TURAS Skilled level learning resource. Healthcare Improvement Scotland TURAS learning resource uptake reports are analysed and shared with professional leads to encourage resource use within professions. TURAS resource completion has declined post enactment (to-date), The Health and Care Staffing Leads Group for NHS Lothian will create new objectives to increase compliance with national resources and meet the recommendations of the Board. This group is to be re-formed with a new Chair to proceed recommendations through 2025/26. One challenge for professional leads in this area is that data provided by HIS on resource completions cannot be broken down by board then profession to produce targeted actions for improvements. Respondents within Nursing to the Q1 2024/25 compliance and assurance noted encouraging and enabling staff to use real-time staffing systems Including a well-planned use of SafeCare, effective communication to staff, good support for staff regarding SafeCare as well as continued compliance with SafeCare census entry, allowing for data-based decision making.
12IC(2)(f)	These systems and processes include the means to provide training to relevant individuals with lead professional responsibility on how to implement the arrangements in place to comply with this duty.	Yellow	The Health & Care Staffing Team continues to provide regular professional-specific training one-to-one and at team or service level. Two SOPs have been created and made available centrally on the intranet to provide guidance for both Nursing and non-nursing professionals on the use of SafeCare, the real-time staffing resource. There is an array of general and profession-specific health and care staffing training materials and information on the staff intranet that staff groups are regularly directed to in training sessions. Frameworks are in place with appropriate supervisors, mentors, and peer support. Also, group education sessions, peer reviews, induction plans, and training days are available to enable training. Efforts to encourage and enable all staff to use available systems and processes have been integrated into various professional groups and Health and Care Staffing events, with the Health and Care Staffing Team now regularly presenting at the Corporate Induction for new NHS Lothian staff. The 2024/25 Compliance and Aesurance Audit helped identify training needs that enable the identification of focused profession-specific training needs. The Health and Care Staffing Compliance and Assurance Audit also served as a training tool, helping respondents understand the Act by breaking down its duties. Reflections required for the Audit encouraged areas to consider legislative implications and compliance actions. The audit has an option to print results upon conclusion for use by service leads to ensure that those with lead professional responsibility understand their duties and how to implement any arrangements. Further work is required to ensure full compliance with this section of the Act, and a new governance and reporting structure has been set up to include a communications and education operational subgroup, which will be chaired by professional leads and include staff. This will continue the work of the communications and education workgroup previously set up. Including how to remove barriers to complying with various legislative requirements within the Act, such as supporting the attendance of non-core service requirements. With limited time for training, other than what is essential to perform a role, absences of staff can have a negative impact on the time set aside for training. Availability of suitable training courses and money to attend training courses was also noted as a barrier to ensuring appropriate staffing through the training of staff.
12IC(2)(g)	These systems and processes include means for ensuring that individuals with lead professional responsibility receive adequate time and resources to implement those systems and processes.	Yellow	Within the 2024/25 compliance and assurance audits, all professions reported not having access to SafeCare yet as a challenge in meeting this duty, some because the system is not yet available to them, or due to the testing, or because the calculators are not accurately reflecting their area. Healthcare Scientists, Nursing, and AHP all mentioned small speciality teams/services and services being impacted when staffing is assessed as at risk as there are no options to mitigate by utilising supplementary staffing or redeploying from other areas. Within the Psychology service, there is limited or no flexibility to move staff quickly as a response to short-term or unexpected absence. This creates a challenge for the Psychology profession, as redeploying staff is integral to pre-available real-time staffing assessment tools such as SafeCare. And redeploying staff is the main way to mitigate staffing level risks. Therefore, a profession-specific real-time staffing tool was designed for use within Psychology. An audit process across the psychology service is being refined to ensure that escalations and safe staffing patterns are being identified and worked through onto risk registers by the Senior Management Team. The Board recommendation of raising awareness among all levels of staff is an additional task for administration and lead staffing groups within Psychology. For example, training on staff capacity and a real-time staffing tool has added additional recording practices into any absence. The Psychology Service is undergoing an administration review as well as a review of staffing in light of reduced Scottish Government funding for Psychology posts, and this additional administrative ask is being factored into decision-making. The adoption of SafeCare can reduce the time and resources required to comply with the duty to have a real-time staffing assessment; those areas where SafeCare is mandated often find that completing SafeCare twice a day can be a small demand on time and resources once confident in using the system and inputting patient data. In this way, NHS Lothian has been successful in supporting services by providing one-to-one training and site visit drop-in sessions where staff can attend at their convenience throughout the day.

There is a clearly defined mechanism for monitoring compliance with this duty and escalation of non-compliance (when this cannot be adequately met)	Yellow	During 2024/25, NHS Lothian conducted two compliance and assurance audits to monitor adherence to this Health Duty and other legislative requirements. The Q1 Audit, with 62 questions, involved professional leads and produced extensive feedback. This audit identified robust processes and highlighted challenges in meeting this Duty's requirements. The audit results were used to rate compliance by Board and profession in the Board Quarterly Compliance Reports, using a Red, Amber, Yellow, and Green (RAYG) system. The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum, and the Board, with escalation as needed. In addition, each profession has governance arrangements to ensure the leadership team is aware of gaps and compliance. SafeCare compliance is monitored weekly and is mandatory for Nursing inpatient areas. This system supports self-monitoring and has improved compliance. Efforts are underway to expand the audit and compliance report to include roles like Registered Chaplains and Public Health. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring all services align with the requirements of the Act.

Areas of success, achievement or learning

Please provide details of areas of success, achievement or learning associated with carrying out the requirements.

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	This should describe the situation: what is the success, achievement or learning? For example, areas that have implemented and are using SafeCare are finding it easy to be able to record risks that are identified and the mitigation measures implemented and clinical advice received. Reports extracted from the system are demonstrating an auditable trail of decision-making.	This should describe how the success, achievement or learning could be used in the future. For example, this success is being used to demonstrate to other areas the benefits of using SafeCare and supporting its implementation.
Adult in-patient Nursing	The real-time staffing assessment system "SafeCare" has been in use within Nursing almost 10 years with high levels of compliance in completion of census data, and the system is also used effectively to mitigate risk. Nursing Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits to NHS Lothian's 2024/25 Compliance and Assurance Audits noted real-time staffing successes including a well-planned use of SafeCare, effective communication to staff, good support for staff regarding SafeCare as well as continued compliance with SafeCare census entry, allowing for data-based decision making.	The successes within Adult in-patient Nursing and SafeCare will be used to inform Board wide policy and guidance, that lays out definitions and requirements to comply with the Act which will ensure all staff understand their roles and responsibilities with regards to the Act. The Statutory Guidance will also help inform this.
Clinical Research Nursing	The Clinical Research Nursing Leadership Team developed a 'Safe to Start' matrix in 2023, based on the Acute Safe to Start model. This informs the Team Huddles assessment of the staffing situation in real time in each of the individual clinical research teams. In addition, there is an agreed Clinical Research Prioritisation Matrix, which supports decision making regarding research activity if staffing is not at an optimal level. These assessments are not formally recorded in any system; however, each team would be aware of the actions to take if staffing were not optimal.	The Health and Care Staffing Professional Leads will continue to work together. This will include sharing successes and good practices of the real-time staffing system developed and implemented within Clinical Research Nursing, which is of particular relevance to other areas that may not directly assess workforce demand based on patient acuity. The aim is to work towards consistency across the Board and overall improve compliance with this duty.
Psychology	After collaboration with colleagues across Scotland and with Public Health Scotland, Psychology are trialling a profession specific real-time staffing tool which will enable teams to meet with requirements of the Act and facilitate operational management.	The board-wide communication and education planning group will continue to work to raise awareness among all levels of staff, utilising national educational resources. This work can support services with utilising the Psychology-specific real-time staffing tool, ensuring that legislative requirements are met throughout.
Pharmacy	Pharmacy ran a pilot of SafeCare for 8 weeks across 7 different rosters. This included a clinical pharmacy team, a dispensary, a distribution team, a medicines management team and a primary care team (which included Hub). This success is equally applicable to duties 12IE and 12ID. Following a presentation of results to the pharmacy senior leadership team it was agreed in principle that pharmacy will adopt SafeCare across the whole service.	Currently undergoing a process of information sharing with key stakeholders across NHS Lothian. The development of a robust plan is required for full implementation and to determine what resources are needed. There is also a need to determine what resources are available within the pharmacy and medicines service and NHS Lothian's eRoster team. The 7 rosters of the pilot have decided to continue using SafeCare and the pharmacy leadership team have endorsed this.

Areas of escalation, challenges or risks

Please provide details of areas of escalation where the relevant organisation has been unable to achieve or maintain compliance, or any challenges or risks associated with carrying out the requirements, and the actions in place to address these.

Area of escalation / Challenge / Risk	Details	Action
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	This should describe the situation: what is the challenge or risk identified? For example, there may be difficulty with encouraging and enabling certain professional groups to use the systems and processes.	This should describe what actions have been / are being / will be taken to address the situation. For example, if there is difficulty in engaging certain professional groups, what measures have been put in place with regard to increasing this such as using professional networks, staff representatives etc.
Non-Nursing Professions	All professional groups reported challenges in meeting this Duty due to the lack of access to SafeCare, with some unable to use the system as it is not yet available to them. Additionally, the impact of the Reduced Working Week on the Healthrostering Team has caused delays in onboarding professions onto the system. Additional resources are needed to support both the implementation and the sustained successful use of the system. Healthcare Scientists, Nursing and AHP all mentioned small speciality teams/services and services being impacted when staffing is assessed as at risk as there are no options to mitigate by utilising supplementary staffing or redeploying from other areas.	The Health and Care Staffing Professional Leads will continue to collaborate, sharing successes and good practices. This includes successful tool runs and valuable insights gained from positive staff engagement and the availability of comprehensive training and support. These insights will be used to support those areas that do not have access to SafeCare yet with the onboarding, help with the impact on small specialty teams/services, and with testing issues with SafeCare calculators. For example, the successful engagement with the staffing level tools across NHS Lothian and the success with training availability will be especially useful learning for replication when rolling out SafeCare across non-nursing services in the future. By nurturing a culture of continuous improvement and support, the Health & Care Staffing Professional Leads aim to create an environment where best practices are not only shared but also effectively implemented, ensuring all staff members are well-equipped to meet their obligations under the Act.
Psychology	Within the Psychology service there is limited or no flexibility to move staff quickly as a response to short term or unexpected absence. This creates a challenge for the Psychology profession, as redeploying staff is integral to pre-available real-time staffing assessment tools such as SafeCare.	The board-wide communication and education planning group will continue to work to raise awareness among all levels of staff, utilising national educational resources. This work will support services utilising NHS Lothian's Psychology-specific real-time staffing tool that will consider the limited or no flexibility to move staff quickly in response to short-term or unexpected absences within the psychology service. The flexibility to redesign and innovate is purposefully built into the Act, supporting profession-specific approaches to complying with the legislation, ensuring that legislative requirements are met throughout.
Psychology	Within the Psychology service, an audit process is being refined to ensure that escalations and safe staffing patterns are being identified and worked through onto risk registers by the Senior Management Team. Board recommendation of raising awareness among all levels of staff is an additional task for administration and lead staffing groups within Psychology. For example, training on staff has used staff capacity and a real-time staffing tool has added additional recording practices into any absence. The Psychology Service is undergoing an administration review as well as a review of staffing in light of reduced Scottish Government funding for Psychology posts and this additional administrative ask is being factored into decision-making.	The Health and Care Staffing Professional Leads will continue to collaborate, sharing successes and good practices. This includes successful tool runs and valuable insights gained from positive staff engagement and the availability of comprehensive training and support. These insights will shared to help support services with administrative staff capacity challenges and aid in training. Services can also learn from the SafeCare implementation in NHS Lothian, including a well-planned use of SafeCare, effective communication to staff, good support for staff regarding SafeCare, and continued compliance with SafeCare census entry, allowing for data-based decision-making.

Declaration: The relevant organisation has systems and processes in place to meet the requirements of this duty, and has carried out this duty through the presence and use of appropriate systems and processes as detailed above.

Level of Assurance: Please indicate level of assurance provided

Reasonable Assurance

12ID Duty to have risk escalation process in place

Section	Item	Status	Comment
12ID(1)	Clearly defined systems and processes are in place, and utilised, in all NHS functions and professional groups, for the escalation of any risk identified through the real-time staffing assessment processes which has not been possible to mitigate.	Yellow	Services with effective staffing risk escalation systems report having simple, streamlined processes without unnecessary complexity. These systems focused on clear communication between senior and experienced staff, ensuring that staffing risks were promptly escalated to a senior decision-maker. Successful escalation processes were closely linked to service retraction plans, with clearly defined minimum staffing levels and explicit thresholds for initiating retraction. Well-communicated and documented escalation points, where concerns could be raised, discussed, and action plans agreed upon, proved particularly effective. A key strength of the most resilient systems was their ability to operate seamlessly across 24 hours, allowing all staff to take appropriate action when needed. These systems also incorporated wider site-wide escalation mechanisms, with thorough documentation tracking actions and activities. This tracking helped maintain continuity over 24 hours, particularly for tasks such as redeploying staff or raising red flags. The SafeCare system was notably effective in supporting these efforts. Optimal escalation processes were those integrated into existing workflows, in line with legislative recommendations. For example, they were reinforced through regular team meetings, daily huddles, one-on-one discussions, and various communication methods (emails, newsletters)—all supported by an open and transparent workplace culture. Despite strong confidence among respondents that a 24-hour escalation system was in place, findings from the Boards Q2 compliance and assurance audit revealed a significant gap in documented escalation processes. A lack of written procedures often correlated with poor understanding and compliance regarding the need to involve professional leaders, rather than defaulting to local managers or attempting to manage issues locally. To address this gap, improvements will be made in line with Board-wide recommendations on communication, education, and the development of Standard Operating Procedures (SOPs).
12ID(2)(a)	These systems and processes include the means for the lead with professional responsibility to report the risk to a more senior decision-maker.	Yellow	The analysis from NHS Lothian's compliance reports highlights that 95% of respondents reported being "confident" or "very confident" that staff within their service know who to escalate staffing risks to. Effective systems are established, including structured escalation frameworks where senior clinical staff are accessible during all service hours to oversee staffing levels. Additionally, designated staffing leads exist in some services to coordinate risk mitigation and redeployment efforts. Despite the high level of confidence reported, challenges persist, including the need for further training and development for individuals responsible for assessing and mitigating risks. There are also issues with staffing availability due to unplanned absences at short-notice. Addressing these gaps through structured training programs and ensuring contingency plans for short notice absences will strengthen risk escalation mechanisms.
12ID(2)(b)	These systems and processes include the means for that senior decision-maker to seek, and have regard to, appropriate clinical advice, as necessary, when reaching a decision on a risk, including on how to mitigate it.	Green	NHS Lothian has integrated a structured process for senior decision-makers to seek and consider clinical advice when addressing staffing risks. Successful systems for escalating and mitigating staffing risks over 24 hours feature simple processes centred around communication between senior and experienced staff. These systems are linked with service retraction plans, defining minimum staffing levels and critical points for escalation. Effective documentation and communication ensure all staff can act accordingly, with tools like SafeCare proving useful. Clear lines of escalation ensure services know who to contact for staffing risks, with senior clinical staff available to oversee and redeploy staff as needed.
12ID(2)(c)	These systems and processes include the means for the onward reporting of a risk to a more senior decision-maker in turn, and for that decision-maker to seek, and have regard to, appropriate clinical advice as necessary, when reaching a decision on a risk, including on how to mitigate it.	Yellow	As above, NHS Lothian has integrated a structured process for senior decision-makers to seek and consider clinical advice when addressing staffing risks. The SafeCare system, utilised within Nursing for over nine years, enables real-time staffing assessments and data-driven risk mitigation decisions. Additionally, established practices such as twice-daily staffing huddles ensure that staffing concerns are proactively addressed, and escalation points are clearly communicated to staff. In Clinical Research settings, a Safe to Start matrix further supports staffing risk assessments, however challenges remain where SafeCare is not yet fully available to all professional groups.
12ID(2)(d)	These systems and processes include means for this onward reporting in (c) to escalate further, as necessary, in order to reach a final decision on a risk, including, as appropriate, reporting to members of the board of the relevant organisation.	Green	All services have established Business Continuity Plans, service-level risk registers, and a structured risk escalation process through governance groups to strategic risk registers as required. All professional groups are represented on The Board Workforce Planning Committee. Escalation of staffing risks are taken through Corporate Management Team risk registers which capture medium- and long-term staffing risks. Additionally, mechanisms are in place to facilitate the escalation of urgent concerns through appropriate professional and managerial channels, ensuring informed decision-making at the senior and executive levels with necessary clinical input.
12ID(2)(e)	These systems and processes include means for notification of every decision made following the initial report, and the reasons for that decision, to anyone involved in identifying the risk, attempting to mitigate the risk, escalation of the risk and providing clinical advice.	Yellow	The compliance audits indicate that most services have established structured communication pathways to ensure staff involved in identifying, mitigating, and escalating staffing risks are informed of decisions and their rationale. However, improvements are needed across all professional groups to enhance the notification process, particularly for those identifying risks. While this communication is primarily verbal, stronger assurance is required to establish robust and consistent notification processes. In some services, dedicated staffing leads oversee coordination across sites, ensuring consistency in reporting decisions back to relevant teams. While staffing decisions are discussed in huddles and team meetings, there is no standardised system for formally recording and tracking these decisions across all professional groups. Compliance reports highlight that during high-demand periods (e.g., triage situations), decision-makers often face competing priorities, which can delay communication to those who initially reported the risk. Additionally, professions without access to SafeCare face greater challenges in consistently documenting staffing decisions. To address these issues, the Board has approved a recommendation to introduce standardised SOPs across all disciplines, ensuring that the decision notification process is consistent, transparent, and aligned with legislative requirements. Furthermore, developing the necessary infrastructure to document decision-making processes and outcomes remains a priority.
12ID(2)(f)	These systems and processes include means for anyone involved in identifying the risk, attempting to mitigate the risk, escalation of the risk and providing clinical advice to record any disagreement with any decision made following the initial identification of a risk.	Amber	All staff have the ability to escalate concerns regarding staffing decisions by following the processes outlined in 12ID(1). For services using SafeCare, this is done through the red flag functionality which also provides reporting, while other staff follow local operational procedures. While these systems and processes exist within operational and professional lines not all processes are documented or recorded. However, Pharmacy have developed a formal process for staff to be able to record disagreement and/ or request a review of a staffing decision. The implementation of SafeCare to other professions along with its upgrade to its red flag functionality will enhance the detection of severe and recurring risks through reporting. Improvements are needed in the process of recording and communicating staffing decisions across all professional groups. This includes ensuring that decisions are properly documented, providing feedback to the clinical advisor, and establishing a mechanism for them to dispute decisions that conflict with their clinical advice. The Health and Care Staffing Programme Board will oversee the work required to make these improvements.
12ID(2)(g)	These systems and processes include means for anyone involved in identifying the risk, attempting to mitigate the risk, escalation of the risk and providing clinical advice to request a review of the final decision made on an identified risk (except where that decision is made by members of board of the relevant organisation).	Amber	As above
12ID(2)(h)	These systems and processes include means for raising awareness amongst all staff of the arrangements stated in (a) to (g) above.	Yellow	Raising staff awareness of risk identification methods will be supported by centrally available resources. NHS Lothian's Health & Care Staffing Communication and Education Group has developed an intranet resource linking national Health & Care Staffing materials with local information for each professional group. A quarterly review process ensures ongoing improvements and relevance. All staff receive role-specific induction covering these systems and processes and are informed through local meetings. They are also responsible for raising staffing concerns. Professional leads attend Healthcare Improvement Scotland (HIS) shared learning events, which provide guidance on legislation and support awareness at all levels. These insights are disseminated across professional groups and through Health & Care Staffing learning events. In addition, Pharmacy utilise a monthly newsletter to raise awareness of legislative requirements and developments. The NHS Lothian Health & Care Staffing Compliance and Assurance Audit has served as an educational tool, helping respondents understand the Act by breaking it down into legislative duties and obligations. Completing the audit has encouraged reflection on staffing processes. However, further awareness is needed. In the 2024/25 Q1 Compliance and Assurance Audit, 58% of respondents answered "no" or "partially" when asked if staffing assessment and risk escalation arrangements were documented and accessible to all clinical staff. In response, the Board has approved a policy and guidance initiative to clarify definitions, requirements, and staff responsibilities under the Act. The audit's area- and profession-specific breakdown will help drive targeted actions.
12ID(2)(i)	These systems and processes include the means to provide training to relevant individuals with lead professional responsibility and other senior decision-makers on how to implement the arrangements in place to comply with this duty.	Yellow	As above, a range of general and professional-specific health and care staffing training materials and information is available on the staff intranet, which staff groups are regularly directed to during training sessions. Efforts to encourage staff to engage with available systems and processes are integrated into professional groups and Health and Care Staffing events. The Health and Care Staffing Team now presents regularly at NHS Lothian's Corporate Induction for new staff. The 2024/25 Compliance and Assurance Audit identified training needs and highlighted profession-specific training gaps. It also served as a learning tool, helping staff understand the Act by breaking down its duties. Audit reflections encouraged services to assess legislative implications and compliance actions. Service leads can print audit results for reference and implementation of professional responsibilities. Further work is needed for full compliance, leading to the establishment of a new governance and reporting structure, including a communications and education operational subgroup, chaired by professional leads with staff representation. This continues the work of the previous communications and education workgroup. Key barriers to compliance include limited training time due to service demands, staffing shortages impacting training availability, and funding constraints for courses. Addressing these challenges will help ensure appropriate staffing through improved access to and participation in training programs.
12ID(2)(j)	These systems and processes include means for ensuring that individuals with lead professional responsibility and other senior decision-makers receive adequate time and resources to implement the arrangements.	Yellow	Professions highlight job planning, demand and capacity planning, and job description reviews as valuable for compliance with this subsection of the duty. Regular 1:1 meetings between senior leaders and team leads, and time allocated during annual Personal Development Plans with six-monthly reviews, are widely used and monitored processes that ensure clinical leaders have the time and resources to implement arrangements under this duty. Professions are exploring what 'time to lead' means. In 2025/26, a newly established professional lead group will operationalise and deliver the strategic objectives of the Health and Care Staffing Programme Board, setting direction on multi-professional subgroup work across Lothian to ensure compliance with this duty. This includes establishing operational policies, guidelines, and communication & education. Key considerations will be the time and resources required to implement arrangements under this duty, supported by professions reporting locally through governance groups on key findings and identifying gaps and actions needed to mitigate them. Overall, professions recognise the need to set aside time for these arrangements, though staff shortages can make this challenging.
	There is a clearly defined mechanism for monitoring compliance with this duty and escalation of non-compliance (when this cannot be adequately met)	Yellow	During 2024/25, NHS Lothian conducted two compliance and assurance audits to monitor adherence to this Health Duty and other legislative requirements. The Q1 Audit, with 62 questions, involved professional leads and produced extensive feedback. This audit identified robust processes and highlighted challenges in meeting this Duty's requirements. The audit results were used to rate compliance by Board and profession in the Board Quarterly Compliance Reports, using a Red, Amber, Yellow, and Green (RAYG) system. The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum, and the Board, with escalation as needed. In addition, each profession has governance arrangements to ensure the leadership team is aware of gaps and compliance. SafeCare compliance is monitored weekly and is mandatory for Nursing inpatient areas. This system supports self-monitoring and has improved compliance. Efforts are underway to expand the audit and compliance report to include roles like Registered Chaplains and Public Health. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring all services align with the requirements of the Act.

Areas of success, achievement or learning

Please provide details of areas of success, achievement or learning associated with carrying out the requirements.

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	This should describe the situation: what is the success, achievement or learning? For example, senior decision-makers in paediatric nursing were identified and chain of escalation communicated to all personnel. Individuals are now much better aware of who to contact during any particular shift in the event that a risk needs to be escalated.	This should describe how the success, achievement or learning could be used in the future. The procedures for identifying the chain of escalation that were used in paediatric nursing are now being trialled and rolled out across other areas.
Multiple professions with services over 24 hours (including on-call services)	Those services that had a successful system in place to ensure that staffing risks can be escalated and mitigated over 24-hours (including on-call services) often had a simple escalation system without unnecessary additional layers. A system that was centred around the communication of risk between senior and experienced staff. Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits explained that successful systems and processes in place over 24 hours were often closely intertwined with service retraction plans and where it was clearly articulated what the minimum staffing number was and when this retraction would happen. Furthermore, well communicated and documented critical points at which to escalate concerns and have discussions and agree a plan of action was particularly effective. All staff across 24 hours were able to action these plans and the most resilient systems and processes in place involved wider escalation across site, with documentation tracking actions and activity. Tracking of activity and actions was useful to maintain continuity over 24 hours with such activities as redeploying of staff or raising red flags, where using the SafeCare system was a particularly effective tool.	The Health and Care Staffing Professional Leads will further analyse the results per profession and per area from the board wide compliance and assurance audits. They will report locally through governance groups on key findings, identifying any profession-specific gaps and actions required to mitigate them. The success of simple and effective escalation systems, integration with service retraction plans and well documented and communicated critical points will inform any action plans where mitigations are required.
Multiple Professions in services where staff are redeployed	Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits noted that having clear lines of escalation was a successful strategy for ensuring their service was aware of who to escalate staffing levels risks to. Examples included senior clinical staff who were available throughout service hours who had oversight of all relevant areas and could redeploy staff to ensure patient and staff safety. This also aligns with the 12IH duty to ensure time given to clinical leaders, that clinical leaders should have the time and resources to ensure appropriate staffing. Some services have specified staffing leads who oversee and coordinate staffing across sites. This role was communicated to staff clearly and Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits explained that in some cases this was a stand-alone role. Escalating and mitigating staffing level risk was particularly effective when considerate of other disciplines and when employing a pan Lothian approach.	The Health and Care Staffing Professional Leads will continue to work together. This will include sharing learnings on the importance of clear lines of escalation, the successful use of dedicated staffing leads, and an effective interdisciplinary and pan-regional approach to risk escalation. The aim is to work towards consistency across the Board and overall improve compliance with this duty
Multiple professions with services over 24 hours (including on-call services)	Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits explained that staff knew how to escalate staffing level risks over a 24-hour period (including on-call services) best when plans were documented and readily available at any time throughout service hours. This information was often accessible on safe staffing sheets, SharePoint, Microsoft Teams channels or through scheduled email communications, shared inboxes and resilience plans. Staff knew how to escalate successfully over 24 hours when risk escalation and mitigation were integrated into daily practice and became second nature. Furthermore, when roles and responsibilities were shared, the continuity of mitigation and escalation arrangements was maintained, even if certain key stakeholders were unexpectedly unavailable. Similarly, knowing how to successfully escalate and mitigate over 24 hours included considering planned leave; how to escalate when those that mitigate are on leave but also how to react when staff are off leave and staffing level risks have been identified.	The success and insights gained regarding the importance of risk escalation and mitigation documentation, accessibility, integration into daily practice, shared roles and responsibilities, and planning for staff leave will be used to inform board-wide policy and guidance. This policy will define and outline the requirements to comply with the Act, ensuring all staff understand their roles and responsibilities. The statutory guidance will also help shape this policy.
Pharmacy	Pharmacy ran a pilot of SafeCare for 8 weeks across 7 different rosters. This included a clinical pharmacy team, a dispensary, a distribution team, a medicines management team and a primary care team (which included 'Hub). This success is equally applicable to duties 12IC and 12IE. Following a presentation of results to the pharmacy senior leadership team it was agreed in principle that pharmacy will adopt SafeCare across the whole service.	Currently undergoing a process of information sharing with key stakeholders across NHS Lothian. We need to develop a robust plan for full implementation and determine what resources we need. We also need to determine what resources we have within the pharmacy and medicines service and our eRoster team. The 7 rosters of the pilot have decided to continue using SafeCare and the pharmacy leadership team have endorsed this.

Areas of escalation, challenges or risks

Please provide details of areas of escalation where the relevant organisation has been unable to achieve or maintain compliance, or any challenges or risks associated with carrying out the requirements, and the actions in place to address these.

Area of escalation / Challenge / Risk	Details	Action

This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	This should describe the situation: what is the challenge or risk identified? For example, there may be difficulty with ensuring relevant individuals involved in reporting, mitigating, escalating or giving clinical advice on a risk are notified of decisions made and the reasons for them.	This should describe what actions have been / are being / will be taken to address the situation. For example, if there is difficulty in notifying relevant individuals about decisions made and the reasons for them, what measures have been put in place to ensure this happens, such as providing training, increasing awareness and auditing to identify root causes.
Multiple professions with services over 24 hours (including on-call services)	Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits explained that ensuring a system is in place to escalate and mitigate staffing risks over 24 hours (including on-call services) is challenging due to workforce capacity constraints and the time required to develop risk escalation procedures. Frequent fluctuations in workforce demand make standardising a risk escalation process difficult, especially in non-bedded areas. This complexity increases with unpredictable demands, such as infectious outbreaks. Additionally, having a system that meets the needs of all key stakeholders and considers the risk variance over geographical areas risk adds further complexity.	The board-wide communication and education planning group will continue to work to raise awareness among all levels of staff, utilising national educational resources. The national educational resources will support services in complying with this Duty, addressing challenges such as workforce capacity and time constraints, fluctuations and unpredictable demands, and meeting stakeholder needs and geographical variances in risk. This work will run alongside continued efforts to increase compliance rates with TURAS Learning Resources.
Multiple professions and services	Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits displayed a high degree of confidence when asked if they knew who to escalate staffing level risks to. Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits recognised that individuals who can potentially mitigate staffing level risks often require training and development and to possess a specific skill set. Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits also noted that unplanned absence given at short notice, staff not reporting for duty and general staffing issues can mean staff that can escalate or mitigate staffing level risks are not always available during a shift.	The challenge or risk will continue to be used to inform board-wide policy and guidance, outlining definitions and requirements to comply with the Act, ensuring all staff understand their roles and responsibilities. Notably, the success in Healthcare Science and the creation of a comprehensive education and skills competency framework with NES and the Scottish Government. Board-wide policy and guidance can direct services to similar frameworks that provide flexibility, support career progression at all practice levels, and are backed by robust education and training programs. This will support compliance with the duty by addressing training and skills development gaps and the availability of key staff. Board-wide guidance will also support services with mitigating the effects of unplanned absences that impact the application of this duty.
Multiple professions and services	Robust processes, practices and procedures that are embedded in culture are required to ensure a service knows how to escalate staffing level risks over a 24-hour period (including on-call services). Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits noted challenges around ensuring a robust communication, escalation and cascade processes. Community services explained that although there was a process in place to fully assess risk and to ensure risk is assessed at all times, this can be challenging in specialist services. Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits also noted that where there is no clearly written process in place for staffing level risk escalations; this can result in a poor understanding of, and compliance with, involving professional leaders.	The challenges and risks will continue to inform board-wide policy and guidance, outlining definitions and requirements to comply with the Act, ensuring all staff understand their roles and responsibilities. Notably, the issues with communication and escalation processes, risk assessment in specialist services, and the lack of clearly written processes will be addressed in board-wide policy and guidance. With the aim is to achieve consistency across the Board and improve compliance with staffing duties.

Declaration: The relevant organisation has systems and processes in place to meet the requirements of this duty, and has carried out this duty through the presence and use of appropriate systems and processes as detailed above.

Level of Assurance: Please indicate level of assurance provided

Reasonable Assurance

12IE Duty to have arrangements to address severe and recurrent risks

Section	Item	Status	Comment
12IE(1)(a)	Clearly defined systems and processes are in place, and utilised, in all NHS functions and professional groups, for the collation of information relating to every risk escalated to such a level as the relevant organisation considers appropriate.	Yellow	As per 12ID, professional groups utilise different systems and processes to escalate staffing risks. However, all groups maintain risk registers and have escalation procedures in place for reporting severe and recurrent risks at service level and escalate to the Corporate Management Team if required. Datix has been widely recognised as an effective reporting tool for identifying and escalating severe and recurrent risks. Staffing levels contributing to incidents can be annotated with staffing data and escalated to senior staff for appropriate action. Summary reports generated from Datix provide valuable insights that are reviewed in monthly workforce meetings. Despite the presence of these systems, gaps remain in formalised processes, particularly in smaller teams or specialised services. Several services lack a structured SOP for addressing recurrent staffing gaps, leading to inconsistencies in how risks are recorded and mitigated. The absence of formal documentation processes inhibits the ability to track trends in severity and duration of risk over time. Standardised templates to be produced will be beneficial in recording, monitoring, and escalating severe and recurrent risks Ongoing work aims to assess and refine staffing escalation procedures, ensuring alignment with clinical governance and professional team structures.
12IE(1)(b)	Clearly defined systems and processes are in place, and utilised, in all NHS functions and professional groups, to identify and address risks that are considered severe and / or liable to materialise frequently.	Yellow	NHS Lothian has established systems and processes to identify and mitigate severe and recurrent staffing risks, but definitions and consistency in implementation vary across services, which may hinder system-wide consistency in escalation and response strategies. Even where robust risk management processes exist, services face budgetary constraints, recruitment challenges, and increasing workforce pressures. Unfilled vacancies and lack of supplementary staffing supply can make it difficult to mitigate recurrent risks effectively. Within multi-disciplinary teams, managing risks can also be complex when cross-professional collaboration is required to assess and mitigate risks across different staff groups.
12IE(2)(a)	These systems and processes include the means for recording risks that are considered severe and / or liable to materialise frequently.	Green	As above, Datix is recognised as an effective reporting tool for identifying and escalating severe and recurrent risks.
12IE(2)(b)	These systems and processes include the means for reporting of a risk considered severe and / or liable to materialise frequently, as necessary, to a more senior decision-maker, including to members of the board of the relevant organisation as appropriate	Green	As per 12ID(2)(d) All services have service-level risk registers, and a structured risk escalation process through governance groups to corporate risk registers as required. Escalation of staffing risks are taken through Corporate Management Team risk registers which capture medium- and long-term staffing risks. Additionally, mechanisms are in place to facilitate the escalation of urgent concerns through appropriate professional and managerial channels, ensuring informed decision-making at the senior and executive levels with necessary clinical input.
12IE(2)(c)	These systems and processes include means for mitigation of any risk considered severe and / or liable to materialise frequently, so far as possible, along with a requirement to seek and have regard to appropriate clinical advice in carrying out such mitigation.	Green	NHS Lothian are assured, that all staffing decisions made to mitigate severe staffing risks are informed by appropriate clinical advice.
12IE(2)(d)	These systems and processes include means for identification of actions to prevent the future materialisation of such risks, so far as possible.	Yellow	Services that successfully prevent risks integrate staffing risk data into workforce planning strategies, ensuring timely recruitment and mitigation of vacancies. Escalation frameworks have been implemented in some areas, consolidating risk management tools and providing structured governance for decision-making. Waiting list data and staffing risks are reviewed together, allowing proactive service adjustments to minimise disruptions caused by workforce shortages. Plans are being made through The Health and Care Staffing Programme Board to enhance training and awareness to ensure managers and clinical leaders understand their roles in preventing recurrent staffing risks.
	There is a clearly defined mechanism for monitoring compliance with this duty and escalation of non-compliance (when this cannot be adequately met)	Yellow	During 2024/25, NHS Lothian conducted two compliance and assurance audits to monitor adherence to this Health Duty and other legislative requirements. The Q1 Audit, with 62 questions, involved professional leads and produced extensive feedback. This audit identified robust processes and highlighted challenges in meeting this Duty's requirements. The audit results were used to rate compliance by Board and profession in the Board Quarterly Compliance Reports, using a Red, Amber, Yellow, and Green (RAYG) system. The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum, and the Board, with escalation as needed. In addition, each profession has governance arrangements to ensure the leadership team is aware of gaps and compliance. SafeCare compliance is monitored weekly and is mandatory for Nursing inpatient areas. This system supports self-monitoring and has improved compliance. Efforts are underway to expand the audit and compliance report to include roles like Registered Chaplains and Public Health. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring all services align with the requirements of the Act.

Areas of success, achievement or learning

Please provide details of areas of success, achievement or learning associated with carrying out the requirements.

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	This should describe the situation: what is the success, achievement or learning? For example, a recurrent risk was identified in the capacity of one laboratory, leading to a delay in testing samples and communicating sample results. Following investigation, the process for booking in samples was streamlined and an admin coordinator was appointed. This has improved performance and the lab is now meeting its targets.	This should describe how the success, achievement or learning could be used in the future. For example, the organisation is now looking at whether the changes implemented in the one lab could be applied to other labs, to improve performance across the division.
Multiple professions and services	Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits to NHS Lothian's 2024/25 Compliance and Assurance Audits noted that daily analysis and monthly reporting supported forward planning to put in place measures to mitigate risks arising such as the safe movement of staff. Datix was a particularly successful reporting tool for addressing severe and recurrent risks. Services noted that staffing levels reported as a factor in incidents can be annotated with staffing data and escalated to senior staff. Quarterly summary reports can be produced from Datix and reviewed at the monthly workforce meetings. Areas that were successful had administration support, or utilised newer roles introduced to fill gaps left by harder to fill more traditional posts. Utilising the information gained from analysing the recurrent risk identified to inform recruitment campaigns was particularly successful, and timely recruitment was highlighted by Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits to ensure no lag time between posts falling vacant and being filled.	The successes will be used to inform Board wide policy and guidance, that lays out definitions and requirements to comply with the Act which will ensure all staff understand their roles and responsibilities with regards to the Act. Particularly the success of daily analysis and monthly reporting in mitigating risks, especially with the use of Datix for addressing severe and recurrent issues and that staffing data can be annotated and escalated to senior staff, with quarterly summary reports reviewed at monthly workforce meetings. The Statutory Guidance will also help inform this.
Multiple professions and services	The Act can be thought of as operationalising workforce planning. Effective workforce planning includes service workforce plans and strategic workforce plans that are mutually dependent. Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits to NHS Lothian's 2024/25 Compliance and Assurance Audits note that addressing severe and recurrent risks worked well when the process was integrated into service workforce plans. In Health and Social Care Partnership areas for example, defining and prioritising severe and recurrent risks involves considering strategic directions. Thus, defining severe and recurrent risks is often done within a strategic and operational context.	The Health and Care Staffing Professional Leads will analyse compliance audit results by profession and area. They will report key findings and identify profession-specific gaps through local governance groups, along with actions needed to address these gaps. When addressing severe and recurrent risks is identified as a profession-specific compliance gap, defining recurrent risk works well when approached as part of service workforce plan development, considering strategic directions - within Health and Social Care Partnership areas. The learning can inform profession specific action plans.
Multiple professions and services	Professions that have created an escalation framework to facilitate addressing severe and recurrent risks were partially successful. For example, a framework which combined tools into a single document and was available on the intranet. Successful frameworks also gave multiple potential responses and explained the governance being applied in various scenarios. This supported managers to make decisions on how to best operate a system based on assessments that take into account factors like patient acuity measures, staffing availability, system-wide pressures, and other variables like skills and availability of clinical leaders.	The Health and Care Staffing Professional Leads will work towards consistency across the Board and overall improve compliance with this duty. Through continuing to work together and share the following successes and good practices: successful professions created escalation frameworks that combined multiple tools into a single document, accessible via the intranet. These frameworks supported managers in making informed decisions by considering factors such as patient acuity, staffing availability, system-wide pressures, and the skills and availability of clinical leaders.
Pharmacy	Pharmacy ran a pilot of SafeCare for 8 weeks across 7 different rosters. This included a clinical pharmacy team, a dispensary, a distribution team, a medicines management team and a primary care team (which included Hub). This success is equally applicable to duties 12IC and 12ID. Following a presentation of results to the pharmacy senior leadership team it was agreed in principle that pharmacy will adopt SafeCare across the whole service.	Currently undergoing a process of information sharing with key stakeholders across NHS Lothian. We need to develop a robust plan for full implementation and determine what resources we need. We also need to determine what resources we have within the pharmacy and medicines service and our eRoster team. The 7 rosters of the pilot have decided to continue using SafeCare and the pharmacy leadership team have endorsed this.

Areas of escalation, challenges or risks

Please provide details of areas of escalation where the relevant organisation has been unable to achieve or maintain compliance or any challenges or risks associated with carrying out the requirements, and the actions in place to address these.

Area of escalation / Challenge / Risk	Details	Action
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	This should describe the situation: what is the challenge or risk identified? For example, collation of data in a particular NHS function has identified a risk that materialises frequently, however identification of actions to prevent future materialisation has not improved the situation.	This should describe what actions have been / are being / will be taken to address the situation. For example, if identification of actions to prevent a frequent risk has not improved the situation, measures to address could have included establishing a working group to investigate and make recommendations, observing practice in the area, interviewing staff, addressing the staff skills mix, allocating additional assistance, redesigning the service etc.
Multiple professions and services	Multiple Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits noted that lacking a formal process inhibited services from meeting the 12IE duty to have arrangements to address severe and recurrent risks. Other services, particularly smaller teams with individual clinical workloads had no Standard Operating Procedure (SOP) in place on what actions were to be taken if recurrent critical gaps were identified and no cover could be provided. Other services noted that there was no formal process for recording staffing gaps that could be used to monitor trends in severity and duration of risk. Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits noted that templates would be helpful in this regard.	The challenges and risks will continue to inform board-wide policy and guidance, outlining definitions and requirements to comply with the Act, ensuring all staff understand their roles and responsibilities. Notably, the lack of formal processes, the absence of standard operating procedures (SOPs), and inadequate recording and monitoring will be addressed in board-wide policy and guidance. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring that all services are aligned with the requirements of the Act.
Multiple professions and services	Within the Act, complying with the 12IE duty to have arrangements to address severe and recurrent risks includes agreeing and defining what severe and recurrent staffing risks looks like, as well as reviewing and agreeing processes to monitor and manage such risks. In some areas, a lack of training and a lack of clarity around roles and responsibilities was a barrier to services complying with these requirements.	The Health and Care Staffing Professional Leads will continue to analyse compliance audit results by profession and area. They will report key findings and identify profession-specific gaps through local governance groups, along with actions needed to address these gaps, particularly where defining and agreeing on risks, monitoring and managing processes, and training and role clarity are identified as profession-specific compliance gaps. Defining recurrent risk works well when approached as part of service workforce plan development, considering strategic directions and making escalation frameworks easily accessible. The learning can inform profession-specific action plans.

Multiple professions and services	Services overwhelmingly reported that there were barriers to addressing severe and recurrent risks, even when robust processes were in place. For example, when, budgets where fixed, vacant posts were difficult to fill, service demands were changing, there were restrictions on bank and agency as well as statutory, mandatory, and clinical demands on an aging workforce.	The Health and Care Staffing Professional Leads will continue to analyse compliance audit results by profession and area. They will report key findings and identify profession-specific gaps through local governance groups, along with actions needed to address these gaps. When fixed budgets and staffing issues, changing service demands, and workforce constraints are identified as profession or service-specific compliance gaps, SMART goals and targeted action plans can be created and implemented.

Declaration: The relevant organisation has systems and processes in place to meet the requirements of this duty, and has carried out this duty through the presence and use of appropriate systems and processes as detailed above.

Level of Assurance: Please indicate level of assurance provided

Reasonable Assurance

12IF Duty to seek clinical advice on staffing

Section	Item	Status	Comment
12IF(1)	Clearly defined systems and processes are in place, and utilised, in all NHS functions and professional groups, to seek and have regard to appropriate clinical advice in making decisions and putting in place arrangements relating to staffing under sections 12IA to 12IE and 12IH to 12IL and to record and explain decisions which conflict with that advice.	Yellow	In the Q1 board compliance and assurance audit, 74% of respondents reported having a process to ensure that appropriate clinical advice is sought and considered in staffing decisions. Respondents highlighted the success of the triumvirate model (nursing/midwifery, medical leadership, and general/service management) in ensuring a professional voice in staffing decisions. Other professions mentioned that daily staffing huddles help ensure compliance with this duty. NHS Lothian has health and care staffing professional leads in-post to support various professions, providing one-to-one support and guidance through professional groups. This support includes guidance on the duty to seek clinical advice and its interaction with other legislative duties. While many professions seek and have regard to clinical advice within organisational structures and daily events, detailed information is often not recorded. A common theme is the need for a formal process to record employee views on staffing levels. The Q1 board compliance audit highlighted the need for more guidance on seeking and having regard to clinical advice, especially regarding recording requirements. The Q3 compliance report recommends education, communications, and board wide SOPs to support this duty.
12IF(2)(a) (i) and (ii)	These systems and processes include the means whereby if a relevant organisation makes a decision which conflicts with clinical advice received, any risks caused by that decision are identified and mitigated so far as possible.	Yellow	In NHS Lothian's Q2 audit, 86% of respondents indicated that appropriate clinical advice is often or always considered in day-to-day staffing decisions. Further work is needed to create board-wide Standard Operating Procedures (SOP) documents to enhance clarity and compliance. These documents will help identify and mitigate risks arising from decisions that contradict clinical advice. This need is reflected in the Board's quarterly compliance recommendations, which call for the development of board-wide policies and guidance. These policies will define requirements to comply with the Act, ensuring all staff understand their roles and responsibilities. The SOP will support robust systems and processes across NHS Lothian, facilitating dialogue and discussion between decision-makers and clinical advisors. This will help inform decision-making and address potential risks associated with different options. If a decision conflicts with clinical advice, any risks or issues will be identified and mitigated as much as possible. The Q2 compliance audit also revealed that 95% of respondents feel encouraged and supported to share their views on staffing. Additionally, 87% reported having clear professional structures in place to seek appropriate clinical advice. Respondents mentioned that regular team meetings, daily huddles, 1:1 supervision, and various forms of communication (emails, newsletters) are used to encourage and support staff in sharing their views on staffing. In addition, annual wellbeing surveys within Pharmacy ask staff views about staffing. These systems and processes provide a foundation for identifying and mitigating risks associated with decisions that go against clinical advice, supported by mechanisms such as real-time staffing tools.
12IF(2)(a) (iii) and (iv)	These systems and processes include the means whereby if a relevant organisation makes a decision which conflicts with clinical advice received, any person who provided clinical advice on the matter is notified of the decision and the reasons for it and this person is able to record any disagreement with the decision made.	Amber	Further work is required to produce board-wide Standard Operating Procedures (SOP) documents to increase clarity and compliance. These documents should ensure that any person who provided clinical advice on a matter is notified of the decision and the reasons for it, and that this person can record any disagreement with the decision. This need is reflected in the approved board quarterly compliance recommendations to produce board-wide policy and guidance. The SOP will support robust systems and processes across NHS Lothian. A common thread throughout Q1 audit responses is the importance of daily huddles in providing the structure to enable clinical advice to be sought and considered across families and healthcare teams. This approach aligns with statutory guidance on utilising existing organisational governance structures and processes, which may already support the delivery of duties under the Act. When asked, "Within my service(s), appropriate clinical advice is taken into account during service or establishment reviews," 84% responded "always" or "often." Similarly, 86% responded "always" or "often" to the statement, "Within my service(s), appropriate clinical advice is taken into account during day-to-day staffing decisions." In practice, notification of decisions made may form part of the decision-making process. However, for those not present when the decision is made or for services without a mechanism for notification and recording disagreement, the SOP will support robust, consistent, and transparent approaches. The Q1 audit respondents explained that information in some areas is not recorded in detail. A common theme among respondents is the need for a process to formally record staff views, specifically on staffing levels. In line with legislative guidance, existing structures should be used where available to meet legislative requirements. For example, regular team meetings, daily huddles, 1:1 supervision, and various forms of communication (emails, newsletters) that are used to encourage and support staff to give views on staffing could also be adapted for notification and recording disagreement where this is not already happening. Pharmacy have developed a process for staff to be able to record disagreement and request a review of a decision made. This is/ will be hosted on the Pharmacy intranet page and will be overseen by a lead pharmacy in workforce planning.
12IF(2)(b)	These systems and processes include the means for individuals with lead clinical professional responsibility for a particular type of health care to report to the members of the board of the relevant organisation on at least a quarterly basis about the extent to which they consider the relevant organisation is complying with the duties in 12IA to 12IF and 12IH to 12IL.	Yellow	Within NHS Lothian, a compliance and assurance audit is used to inform the view of the Executive Nurse Director for NHS Lothian on compliance and create the quarterly board compliance reports. These reports are also created with professional lead input and give compliance by duty as required in the act, as well as providing information on some of the successes and challenges around compliance. A health and care staffing programme board oversees the implementation of the Act and has senior representatives from multiple professions and is chaired by the Executive Nurse Director who is the executive lead for the health and care staffing legislation within NHS Lothian. The compliance report is approved by this programme board. The report also requires approval from the Staff Governance Committee and for information at Lothian's Partnership Forum before going to the NHS Lothian Board for approval. This includes approval of Board recommendations to increase compliance, which are used to direct the work of the programme board and the professional leads when engaging with their professional groups and in their workforce meetings.
12IF(2)(c)	These systems and processes include the means for individuals with lead clinical professional responsibility for a particular type of health care to enable and encourage other employees to give views on the operation of this section and to record those views in the reports to the members of the board of the relevant organisation.	Yellow	During 2024/25, NHS Lothian conducted two compliance and assurance audits to assess adherence to the Health Duty and other requirements across the organisation. An audit was distributed to professional and clinical leads to update the Board on quarterly compliance recommendations, including updates on compliance with various requirements of the duty to seek and consider clinical advice. The Q1 and Q2 audits included both quantitative and qualitative questions on this duty, encouraging staff to share their views on the process of seeking clinical advice on staffing. This work aligns with guiding principles and considers the views of staff and service users. Across the two audits, 290 responses were received. Information from both audits and professional lead updates were used to inform the board's quarterly reports, which articulated views on the operation of this duty and its various subsections. The Q2 audit focused on three duties where compliance gaps had been identified. This included a deep dive into the operation of duty 12IF, with individual questions closely mirroring the subsections of the Duty. Work has begun to further broaden the audit and quarterly compliance report to include roles such as Registered Chaplains and Public Health professionals, ensuring substantial assurance in this area. This work increases compliance with this subsection and the duty more generally. These feedback mechanisms are reinforced through direct engagement with professional leads and operational and professional leaders attending the Health and Care Staffing Programme Board.
12IF(2)(d)	These systems and processes include the means to raise awareness among individuals with lead clinical professional responsibility for a particular type of health care in how to implement the arrangements in this duty.	Yellow	NHS Lothian has established a communication and education subgroup prior to the enactment of the Act, with various communications distributed across the Board. This subgroup will also be involved in developing a communication strategy. The group consists of key stakeholders across NHS Lothian, including professional leads and members of the communications department. Efforts to raise awareness among individuals with lead clinical professional responsibility for a particular type of healthcare will involve increasing the use of national resources across professions. This is a recommendation in the Q3 Board compliance report. The Q1 compliance and assurance audit highlighted the need for more guidance around seeking and considering clinical advice, especially regarding the recording requirements of this duty. Despite the majority of respondents indicating that there is a process in place to ensure that appropriate clinical advice is sought and considered in staffing decisions, this informed the decision to create SOPs in this area. It is also a board recommendation in the latest Q3 compliance report. Education, communications, and SOPs will support robust processes and systems that meet this subsection of the duty.
12IF(2)(e)	These systems and processes include means for ensuring that individuals with lead clinical professional responsibility for a particular type of health care receive adequate time and resources to implement the arrangements.	Yellow	In Acute Nursing, plans to formalise time for clinical leaders and reduce the nursing vacancy gap to provide supernumerary status for Senior Charge Nurses are seen as successful steps towards improving compliance each quarter. Psychology highlighted job planning, demand and capacity planning, and job description reviews as valuable for preparing their services to comply with this duty. Regular 1:1 meetings between senior leaders and team leads, and time allocated during annual Personal Development Plans with six-monthly reviews, are widely used and monitored processes that ensure clinical leaders have the time and resources to implement arrangements under this duty. Furthermore, Pharmacy and AHP are exploring the use of Job Plan, a HealthRoster module that can support services with meeting this subsection of the Duty. AHP are testing this system for both professions. Professions are beginning to understand what 'time to lead' means. During 2025/26, newly established professional lead groups will operationalise and deliver the strategic objectives of the Health and Care Staffing Programme Board, setting direction on multi-professional work across Lothian to ensure compliance with Health & Care duties. This includes establishing operational policies, guidelines, and communication & education to comply with the duty to seek and regard clinical advice. A key consideration will be the time and resources required to implement arrangements. This work will be supported by professions reporting locally through governance groups on key findings, identifying any profession-specific gaps and actions required to mitigate them. Overall, professionals recognise the need to set aside time for these arrangements, though staff shortages can make this challenging.
12IF(3)	These systems and processes include means for the relevant organisation to have regard to the reports received.	Green	The Health & Care Staffing Programme Board is an NHS Lothian strategic group established to set direction and provide oversight on multi-professional work across Lothian, ensuring compliance with the duties within the Health & Care (Staffing) (Scotland) Act 2019. In terms of governance structure, the programme board also drafts and agrees on reporting to the Board, quarterly, and to the Scottish Government. After the programme board, the report also requires approval from the Staff Governance Committee and is shared for awareness at the Lothian Partnership Forum before going to the NHS Lothian Board at least quarterly for approval. The resultant approved board recommendations to increase compliance are used to direct the work of the programme board and the professional leads when engaging with their professional groups and in HIS engagement meetings.
	There is a clearly defined mechanism for monitoring compliance with this duty and escalation of non-compliance (when this cannot be adequately met)	Yellow	During 2024/25, NHS Lothian conducted two compliance and assurance audits to monitor adherence to this Health Duty and other legislative requirements. The Q1 Audit, with 62 questions, involved professional leads and produced extensive feedback. This audit identified robust processes and highlighted challenges in meeting this Duty's requirements. The audit results were used to rate compliance by Board and profession in the Board Quarterly Compliance Reports, using a Red, Amber, Yellow, and Green (RAYG) system. The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum, and the Board, with escalation as needed. SafeCare compliance is monitored weekly and is mandatory for Nursing inpatient areas. In addition, each profession has governance arrangements to ensure the leadership team is aware of gaps and compliance. This system supports self-monitoring and has improved compliance. Efforts are underway to expand the audit and compliance report to include roles like Registered Chaplains and Public Health. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring all services align with the requirements of the Act

Areas of success, achievement or learning

Please provide details of areas of success, achievement or learning associated with carrying out the requirements.

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	This should describe the situation: what is the success, achievement or learning? For example, the views of employees included in the reports prepared by individuals with lead clinical professional responsibility for a particular type of health care identified a potential improvement in working practices in one area.	This should describe how the success, achievement or learning could be used in the future. For example, the potential improvement is being trialled in the one area and if successful will be rolled out across other areas in the organisation.
Multiple professions and services	Services documented the escalation and mitigation of decisions taken with electronic records by email then stored on a shared drive. Some areas electronically documented twice daily staffing meetings. The recording of decisions in relation to staffing on easily accessible records enables those individuals who gave clinical advice on staffing as part of the decision-making process to be updated on any decisions made and the reasons for those decisions. Those individuals can then make a fully informed decision on whether to record their disagreement with the decisions and/or request a review of the decision of risk. Good record keeping of decisions around real-time staffing risk escalation and mitigation can allow any individual to access the staffing decisions made of which they were part of the process.	The successes will be used to inform Board wide policy and guidance, that lays out definitions and requirements to comply with the Act which will ensure all staff understand their roles and responsibilities with regards to the Act. For example, those services that successfully documented decision-making processes did so electronically, ensuring records were stored on a shared drive. And the learning that twice-daily staffing meetings, allowed clinical advisors to stay informed and make fully informed decisions. Any Board wide policy around the duty to seek and have regard to clinical advice can also highlight how good record-keeping practices enable easy access to staffing decisions, facilitating transparency and risk management.
Multiple professions and services	Services that were successful with meeting the duty to seek clinical advice had clearly defined roles and responsibilities within their service and within the professional line. Such that it was possible to seek and have regard to appropriate clinical advice, dependent on the local context and clinical governance structures. For example, senior clinical operational leaders were available throughout service hours to provide advice and guidance whilst having an overview of the service and understood the processes that needed to be put in place. Successful areas also understood who and where to obtain appropriate clinical advice within the professional line, with some areas having a direct line to director level staff.	The board-wide communication and education planning group will continue to work to raise awareness among all levels of staff, utilising national educational resources. This work can support services with emulating the success of services with clearly defined roles and responsibilities, enabling effective clinical advice-seeking based on local context and governance structures. Additionally national educational resources, can support other services with identifying appropriate sources for clinical advice, including direct lines to director-level staff.
Multiple professions and services	Having the appropriate organisational structure in place allowed services to prioritise and enabled partnership working, especially within huddles which provided a space in which to seek and have regard to clinical advice across multiple specialties within a single profession. Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits explained that having the right infrastructure in place enabled services to meet obligations within the duty to seek clinical advice on staffing. For example, some areas had individuals who could give appropriate clinical advice on staffing available as bleep holders.	The Health and Care Staffing Professional Leads will analyse compliance audit results by profession and area. They will report key findings and identify profession-specific gaps through local governance groups, along with actions needed to address these gaps. Having the appropriate organisational structure allowed services to prioritise and foster partnership working, particularly within huddles for multi-specialty clinical advice. The right infrastructure also enabled services to meet obligations for seeking clinical advice on staffing. For example, some areas had bleep holders available to provide appropriate clinical advice on staffing. This learning can inform profession specific action plans.

Areas of escalation, challenges or risks

Please provide details of areas of escalation where the relevant organisation has been unable to achieve or maintain compliance or any challenges or risks associated with carrying out the requirements, and the actions in place to address these.

Area of escalation / Challenge / Risk	Details	Action
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	This should describe the situation: what is the challenge or risk identified? For example, in compiling the reports made to the members of the Health Board, there are good mechanisms in place for the Medical Director to enable and encourage medical employees to give their views, but the mechanisms for seeking the views of other professional groups for which they are responsible, such as pharmacy employees, are not well established. Hence, the views of these employees are not being sought or incorporated into the reports.	This should describe what actions have been / are being / will be taken to address the situation. For example, if the views of all professional groups are not being sought, what measures have been put in place to engage these groups and proactively seek out their opinions.
Multiple professions and services	Once an individual(s) has been identified, it can be challenging to obtain specific types of clinical advice on staffing. For example, advice on the acceptable consequences of staffing decisions; if there is a sustained risk on staffing it can be difficult to get advice on what is an acceptable duration of withdrawal of service to mitigate a staffing risk. Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits noted that wider escalation processes are available to seek support, but if no help is available then seeking and having regard to clinical advice can be challenging. In addition, some professionals must still develop a governance process for the consideration of disagreements and requests for review. This process will be considered in the context of future Health and Care Staffing Reporting and Workforce Planning. Integrating Workforce Planning processes with Duties in the Act is a key requirement of the legislation and will be monitored annually by Healthcare Improvement Scotland and the Scottish Government in annual returns.	The Health and Care Staffing Professional Leads will continue to analyse compliance audit results by profession and area. They will report key findings and identify profession-specific gaps through local governance groups, along with actions needed to address these gaps. For some professions, this will include gaps in obtaining specific types of clinical advice or where staffing gaps are affecting escalation and support. The insights gained can inform profession-specific action plans. The development of board-wide policy and guidance in 2025/26 will address issues around governance processes, handling disagreements, and requests for review.
Multiple professions and services	Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits explained that when making staffing decisions for their areas, staff do not always seek and have regard to "appropriate" clinical advice as defined within the Act. For some services, multidisciplinary working injects a level of complexity with ensuring appropriate clinical advice can be sought and regarded over 24 hours. For example, some specialty multidisciplinary teams may have AHP cover out of hours who should not give clinical advice on staffing for Nursing matters (or vice versa) as defined with the legislation. This is exacerbated when central departments that could provide appropriate advice do not have out of hours cover. Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits explained that staff tend to report in sick during out of hours, and this delays putting plans in place until clinical advice can be sought.	Addressing these challenges around appropriate clinical advice, the complexity of multidisciplinary working, and delays due to out-of-hours sick reporting will require a combination of developments in terms of supportive board-wide policy and guidance, improved communication channels to enable services to seek and have regard to clinical advice over 24 hours, and increased out-of-hours support to ensure that appropriate clinical advice is always available. This communication and education work aligns with the strategic objectives of the Health and Care Staffing Programme Board, which sets direction on multi-professional work across Lothian to ensure compliance with the Health and Care duties.

Multiple professions and services	Understanding who should give clinical advice can be challenging. For example, when attempting to identify a definitive point of contact in relation to seeking clinical advice on staffing across sites. Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits explained that training may help with defining roles and responsibilities, as services perceived a lack of training on who to seek advice from - one person, a deputy or a designated team? In addition, Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits explained that, if who can give clinical advice is defined in a SOP, this process may need to be monitored. In some cases, this role is completed by professional leads on temporary contracts. Therefore, it is important to establish robust arrangements to ensure oversight of this process and maintain continued compliance.	The challenges and risks will continue to inform board-wide policy and guidance, outlining definitions and requirements to comply with the Act, ensuring all staff understand their roles and responsibilities, particularly around clear role definitions. This work will be supported by NHS Lothian's communications and education subgroup to address the training needs raised. The Health & Care Staffing Professional Lead Group will also support and enable oversight mechanisms to address these challenges effectively. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring that all services are aligned with the requirements of the Act

Declaration: The relevant organisation has systems and processes in place to meet the requirements of this duty, and has carried out this duty through the presence and use of appropriate systems and processes as detailed above.

Level of Assurance: Please indicate level of assurance provided

Reasonable Assurance

12(H Duty to ensure adequate time given to clinical leaders

Section	Item	Status	Comment
12H	Clearly defined systems and processes are in place, and utilised, in all NHS functions and professional groups, to ensure that all individuals with lead clinical professional responsibility for a team of staff receive sufficient time and resources to discharge that responsibility and their other professional duties.	Yellow	Leadership responsibilities are incorporated into job descriptions, and tools such as Healthroster and SafeCare help identify clinical leaders working clinically to mitigate risk. Annual appraisals offer indicative measures for leadership activities, enabling tracking of Personal Professional Development progress recorded on TURAS.
12H	These systems and processes include time and resources for these individuals to supervise the meeting of the clinical needs of patients in their care; to manage, and support the development of, the staff for whom they are responsible; and to lead the delivery of safe, high-quality and person-centred health care.	Yellow	Professions reported that job planning, demand and capacity assessments, and job description reviews have helped structure and formalise leadership time and regular 1:1 meetings between senior leaders and team leads ensure that time for leadership responsibilities is prioritised, including meeting the clinical needs of patients in their care and supporting the development of their staff. Annual PDPs and appraisals include discussions on time allocation for leadership roles, with six-monthly reviews to ensure alignment with service needs.
12H	These systems and processes include the means to identify all roles, and therefore individuals, with lead clinical professional responsibility for a team of staff.	Yellow	Leadership responsibilities within NHS Lothian are integrated into job descriptions, with tools like Healthroster and SafeCare enabling the identification of clinical leaders to manage risk. Annual appraisals track leadership activities and personal development progress on TURAS. Job planning, demand and capacity assessments and job description reviews help structure leadership time. Regular 1:1 meetings between senior leaders and team leads ensure leadership responsibilities are prioritised, including patient care and staff development. Despite agreement on the need for sufficient leadership time, staffing shortages make it challenging to balance clinical and managerial duties. Formalising leadership time and addressing staffing gaps can enhance compliance.
12H	These systems and processes include the means to determine what constitutes sufficient time and resources for any particular individual.	Yellow	Across all professions, there is agreement on the need to set aside sufficient time for leadership. However, staffing shortages remain a significant barrier, making it difficult for leaders to balance clinical, managerial, and leadership responsibilities. By continuing to formalise leadership time, improving planning frameworks, and addressing staffing gaps, NHS Lothian can enhance compliance with this duty, ensuring clinical leaders have the necessary time and resources to fulfil both their professional and leadership responsibilities effectively.
12H	These systems and processes include the means for ensuring this duty has been reviewed and considered within the context of job descriptions, job planning and work plans, as appropriate.	Yellow	In Acute areas of Nursing, plans to formalise the time given to clinical leaders and reducing the nursing vacancy gap to provide supernumerary status for Senior Charge Nurses was reported by respondents to the 2024/25 Compliance and Assurance Audits as a success that will see compliance with this duty improve each quarter. And will be reviewed and considered within the context of job descriptions, job planning and work plans, as appropriate. Psychology services cited work completed on Job Planning, demand and capacity planning and job description reviews as valuable in preparing their services to comply with this subsection of the duty. Other areas of compliance with this Duty from multiple professions included regular 1:1 meetings between senior leaders and team leads, and agreeing time during annual Personal Development Plan/ appraisal process with 6 monthly reviews.
12H	These systems and processes include the means to consider outputs from activities carried out to meet this duty in order to inform future workforce planning and protect the leadership time required for clinical leaders.	Yellow	As mentioned above, there are many ways in which the obligations within this duty are reviewed and considered. Additionally, systems are employed across professions to capture clinical leadership activity, such as SafeCare, profession-specific workload tools, or the trial application of activity management and job planning within non-nursing professions. However, there is variability across professions in the tools available and the personal development processes adhered to, with the exceptions of personal development plans (AFC staff) and job plans (e.g., Medical Staff) where there is less variability. The output of these various systems and processes is discussed at local workforce and governance groups across NHS Lothian. However, further work is required to understand the extent to which these outputs inform service workforce plans. The 2024/25 audits considered the time to lead, and this will feed into local workforce groups, which will feed into strategic workforce plans. In 2025, there are plans to integrate compliance findings around this subsection and others into future Board Workforce Plans.
	There is a clearly defined mechanism for monitoring compliance with this duty and escalation of non-compliance (when this cannot be adequately met)	Yellow	During 2024/25, NHS Lothian conducted two compliance and assurance audits to monitor adherence to this Health Duty and other legislative requirements. The Q1 Audit, with 82 questions, involved professional leads and produced extensive feedback. This audit identified robust processes and highlighted challenges in meeting this Duty's requirements. The audit results were used to rate compliance by Board and profession in the Board Quarterly Compliance Reports, using a Red, Amber, Yellow, and Green (RAYG) system. The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum, and the Board, with escalation as needed. In addition, each profession has governance arrangements to ensure the leadership team is aware of gaps and compliance. SafeCare compliance is monitored weekly and is mandatory for Nursing inpatient areas. This system supports self-monitoring and has improved compliance. Efforts are underway to expand the audit and compliance report to include roles like Registered Chaplains and Public Health. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring all services align with the requirements of the Act.

Areas of success, achievement or learning

Please provide details of areas of success, achievement or learning associated with carrying out the requirements.

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	This should describe the situation; what is the success, achievement or learning? For example, senior physiotherapists and team leaders convened a working group to determine what sufficient time and resources would look like for individuals with lead clinical professional responsibility for a team of staff. The outcome of the project was a determination of time and resources for different team leaders, and feedback on for has been positive.	This should describe how the success, achievement or learning could be used in the future. This has now been extended to other AHP areas and trialled to see applicability.
Acute Nursing	In Acute areas of Nursing, plans to formalise the time given to clinical leaders and reducing the nursing vacancy gap to provide supernumerary status for Senior Charge Nurses was reported by respondent to the 2024/25 Compliance and Assurance Audits as a success that will see compliance with this duty improve each quarter.	The Health and Care Staffing Professional Leads will analyse compliance audit results by profession and area. They will report key findings and identify profession-specific gaps through local governance groups, along with actions needed to address these gaps. Plans to formalise the time allocated to clinical leaders, efforts to reduce the nursing vacancy gap, and providing supernumerary status for Senior Charge Nurses are ways to increase compliance with the duty to ensure time given to clinical leaders. This learning can inform profession-specific action plans.
Psychology	Psychology services cited work completed on Job Planning, demand and capacity planning and job description reviews as valuable in preparing their services to comply with this duty.	The Health and Care Staffing Professional Leads will continue to collaborate, sharing successes and good practices to ensure adequate time given to clinical leaders. This includes utilising existing systems and processes, such as Job Planning, demand and capacity planning and job description reviews within Psychology services. The goal is to achieve consistency across the Board and improve compliance with staffing duties.
Multiple Professions	Other areas of success from other professions included regular 1:1 meetings between senior leaders and team leads, and agreeing time during annual Personal Development Plan/appraisal process with 6 monthly reviews. In addition, a job planning pilot within Pharmacy continues to make progress.	The board-wide communication and education planning group will continue to raise awareness among all levels of staff, utilising national educational resources. This work will support services with effective time management and contingency plans to ensure training and non-core service requirements are met. Good practices already employed within the Board to comply with Duty 12(H include using existing systems and processes, such as appraisal and development mechanisms, and TURAS with its annual PDP and appraisal processes. These examples are described in the HIS Statutory Guidance Quick Guide Series: Staff Training and Consultation. Directing services to these resources will increase good practices and build on successes.

Areas of escalation, challenges or risks

Area of escalation / Challenge /	Details	Action
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	This should describe the situation; what is the challenge or risk identified? For example, the process in place to identify the roles, and therefore individuals, with lead clinical professional responsibility for a team of staff does not consistently identify who these individuals are, and therefore sufficient time and resources for these individuals to discharge their responsibilities has not been considered.	This should describe what actions have been / are being / will be taken to address the situation. For example, if the process in place to identify the roles, and therefore individuals, does not consistently identify who those individuals are, what measures have been taken to address this? e.g. working with all staff groups / clinical areas / teams to identify job titles / roles, utilising HR processes and data, utilising eRostering to identify team leaders etc.
Multiple professions and services	There is a need for further work to support teams in determining the necessary time and resources required for clinical area management and maintaining high standards of care. This includes establishing a process to keep these factors under continuous review.	The challenges and risks will continue to inform board-wide policy and guidance, outlining definitions and requirements to comply with the Act, ensuring all staff understand their roles and responsibilities, particularly around clear role definitions. This work will be supported by NHS Lothian's communications and education subgroup to support services with determining the necessary time and resources required for clinical area management and maintaining high standards of care. The Health & Care Staffing Professional Lead Group will also support and enable oversight mechanisms to keep these factors under continuous review. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring that all services are aligned with the requirements of the Act
Multiple professions and services	All professionals acknowledged the importance of setting aside time for leadership. However, this is challenging in the context of staff shortages, which can impact the ability to lead effectively.	The Health and Care Staffing Professional Leads will continue to collaborate and share learnings through local professional governance groups. For example, professions or services that have successfully addressed workforce challenges through flexible working practices, skill-mix reviews, and recruitment drives. Such initiatives can support appropriate staffing that enables the time to lead. Additionally, reviewing and updating policies that exacerbate staffing level challenges and impact the ability to lead effectively is pertinent. The aim is to achieve consistency across the Board and improve compliance across professions and services.

Declaration: The relevant organisation has systems and processes in place to meet the requirements of this duty, and has carried out this duty through the presence and use of appropriate systems and processes as detailed above.

Level of Assurance: Please indicate level of assurance provided

Reasonable Assurance

13(3 Duty to ensure appropriate staffing: training of staff

Section	Item	Status	Comment
13(3	Clearly defined systems and processes are in place, and utilised, in all NHS functions and professional groups, to ensure that all employees receive such training as considered appropriate and relevant for the purposes set out in section 13A(1)(a) and (b) and such time and resources as considered adequate to undertake the training.	Yellow	NHS Lothian has structured training frameworks and professional development pathways to ensure staff receive appropriate and relevant training, in line with section 13A. NHS Lothian has a well-established Education Governance Board, bringing together leaders from various service areas involved in education and professional development across multiple disciplines. This includes medical education, clinical education, and e-health training. The board promotes best practices and consistency in key areas such as training documentation, evaluation, and support for learners with inclusive learning needs.
13(3	These systems and processes include means to determine the level of training required, and time and resource to support this, for all relevant employees.	Yellow	Professions highlight job planning, effective workforce planning, demand and capacity planning, job description reviews, and career development frameworks as valuable methods for determining the level of training required to ensure appropriate staffing. Regular 1:1 meetings between senior leaders and team leads, and time allocated during annual Personal Development Plans with six-monthly reviews, are widely used and monitored processes that ensure mandatory and induction training levels comply with arrangements under this Duty. Respondents to the Q1 compliance and assurance audit also highlight the importance of profession-specific training frameworks for understanding training needs and determining the time and resources required to support this. Further work is required across professions to address barriers to attending non-core service requirements. For example, there is often limited time for training beyond what is essential to perform a role. Absences of other staff can negatively impact the time set aside for training, so enabling the time and resources will go hand in hand with addressing sickness absence rates. The availability of suitable training courses and funding to attend them was also noted as a barrier to ensuring appropriate staffing through staff training.
13(3	These systems and processes include the means to deliver the agreed level of training to all relevant employees.	Green	Collaborative working between higher education organisations, NES and Clinical and Corporate Education is ongoing and ensures access to and the delivery of training and educational frameworks to support career development and progression. This includes working with Practice Development Facilitators and Clinical Educators, who provide specialised support to ensure effective training and development.
13(3	These systems and processes include the means to ensure all relevant employees receive both time and resources to undertake the training.	Yellow	While structured training frameworks exist, securing adequate time and resources for training remains a challenge, particularly due to staff shortages and service demands. Key Challenges Identified from the compliance and assurance audit responses include staff shortages often limiting opportunities for training, as absences impact service delivery. Training having to be prioritised for essential role requirements, limiting access to broader professional development and lack of funding and availability of courses remain barriers, restricting access to specialised training opportunities.
	There is a clearly defined mechanism for monitoring compliance with this duty and escalation of non-compliance (when this cannot be adequately met)	Yellow	During 2024/25, NHS Lothian conducted two compliance and assurance audits to monitor adherence to this Health Duty and other legislative requirements. The Q1 Audit, with 62 questions, involved professional leads and produced extensive feedback. This audit identified robust processes and highlighted challenges in meeting this Duty's requirements. The audit results were used to rate compliance by Board and profession in the Board Quarterly Compliance Reports, using a Red, Amber, Yellow, and Green (RAYG) system. The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum, and NHS Lothian Board meetings. Additionally, Professional Governance arrangements to ensure the leadership team is aware of gaps and compliance. SafeCare compliance is monitored weekly and is mandatory for Nursing inpatient areas. This system supports self-monitoring and has improved compliance. Efforts are underway to expand the audit and compliance report to include roles like Registered Chaplains and Public Health. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring all services align with the requirements of the Act.

Areas of success, achievement or learning

Please provide details of areas of success, achievement or learning associated with carrying out the requirements.

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	This should describe the situation; what is the success, achievement or learning? For example, the psychology division, in conjunction with HR, has just completed a project to provide more accurate capturing of information relating to continued professional development for psychology colleagues. Feedback from employees is that they have found the new system much easier to use and are now recording relevant CPD.	This should describe how the success, achievement or learning could be used in the future. AHP colleagues have now expressed interest in the new system and are undertaking a project to see if they could implement something similar.
Pharmacy	Successful robust processes in place within Pharmacy include Lothian Pharmacy Services Training Framework and Royal Pharmaceutical Society frameworks being in place with appropriate supervisors, mentors and peer support. Also, group education sessions, peer reviews, induction plans and ensuring sufficient training day attendances. A job planning pilot has made significant progress within the Pharmacy profession. Focusing on training the trainers was also cited as a successful strategy within Pharmacy.	The Health and Care Staffing Professional Leads will continue to work towards consistency across the Board and overall improve compliance with this duty. Through continuing to work together and share the following successes and good practices: the Pharmacy profession had successes implementing robust training frameworks with appropriate supervision, mentorship, and peer support. Group education sessions, peer reviews, induction plans, and a train-the-trainers approach were also highlighted as effective. Additionally, a job planning pilot and a focus on training the trainers have significantly advanced the Pharmacy professions compliance with this duty.
Healthcare Science	In Healthcare Science, an Education Subgroup has been formed with a primary aim to explore the development of a comprehensive education and skills competency framework in collaboration with National Education Scotland (NES) and Scottish Government. This will ensure the Healthcare Science workforce in Scotland has access to an educational framework that provides flexibility, supports career progression across all levels of practice and is underpinned by robust education and training programmes, in a Close for Scotland approach.	The successes will be used to inform Board wide policy and guidance, that lays out definitions and requirements to comply with the Act which will ensure all staff understand their roles and responsibilities with regards to the Act. Particularly the success in Healthcare Science, and the creation of a comprehensive education and skills competency framework with NES and the Scottish Government. Board wide policy and guidance can direct services to similar frameworks which aims to provide flexibility, support career progression across all levels of practice, and is backed by robust education and training programs. Supporting compliance with this duty.
Medical & Dental	All professions mentioned training requirements for staff forming part of the annual PDP and appraisal processes documented on TURAS. Medical Staff and Dentists in training have a curriculum approved by the General Medical Council with delivery overseen by NES. Career grade Doctors have an annual appraisal with a personal development plan produced and an allocation of time and budget for study leave as well as time for supporting professional activities.	The Health and Care Staffing Professional Leads will continue to collaborate, sharing successes and good practices to ensure appropriate staffing: training of staff. This includes utilising existing systems and processes, such as approved curricula, appraisal and development mechanisms, and TURAS with its annual PDP and appraisal processes. The goal is to achieve consistency across the Board and improve compliance with staffing duties.

Areas of escalation, challenges or risks

Please provide details of areas of escalation where the relevant organisation has been unable to achieve or maintain compliance or any challenges or risks associated with carrying out the requirements, and the actions in place to address these.

Area of escalation / Challenge / Risk	Details	Action
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	This should describe the situation; what is the challenge or risk identified? For example, clearly defined processes and procedures exist for some groups of staff, e.g. nursing and midwifery, but don't exist for other groups of staff, e.g. healthcare scientists.	This should describe what actions have been / are being / will be taken to address the situation. For example, where processes and processes are not in place for healthcare scientists, what measures need to be put in place to address this (such as working with NES and Health Boards to develop appropriate training programmes, assess training needs of employees and plan for required training to be undertaken.
Multiple professions and services	Across all professions, staffing level challenges are often cited in responses to NHS Lothian's 2024/25 Compliance and Assurance Audits as barriers to complying with various legislative requirements of this duty.	The Health and Care Staffing Professional Leads will continue to collaborate and share learnings through local professional governance groups. For example, professions or services that have successfully addressed workforce challenges through flexible working practices, skill mix reviews, and recruitment drives. Such initiatives can support appropriate staffing that enables training. Additionally, reviewing and updating policies that exacerbate staffing level challenges and restrict services' ability to meet training requirements is pertinent.
Multiple professions and services	Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits explained that time was a barrier to attending to non-core service requirements. With limited time for training, other than what is essential to perform a role. Absences of other staff can have a negative impact on the time set aside for others in training.	The board-wide communication and education planning group will continue to raise awareness among all levels of staff, utilising national educational resources. This work will support services with effective time management and contingency plans to ensure training and non-core service requirements are met. Good practices already employed within the Board to comply with Duty 13B include using existing systems and processes, such as approved curricula, appraisal and development mechanisms, and TURAS with its annual PDP and appraisal processes. These examples are described in the NS Statutory Guidance Quick Guide Series: Staff Training and Consultation. Directing services to these resources may increase good practices and address identified risks.
Multiple professions and services	Availability of suitable training courses and funding to attend training courses was also noted by respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits as a barrier to ensuring appropriate staffing through training of staff.	The board-wide communication and education planning group will continue to support services and work towards consistency across the Board, improving overall compliance with this duty. This group will continue to consider the availability and funding of training courses. This involves factoring in existing systems and processes, as described above and mandatory and non-mandatory training options. In some cases business training functions are already in place and there is inter professional variability. Additionally, the group will consider these challenges in an environment of financial constraints, with the goal of doing more with less.

Declaration: The relevant organisation has systems and processes in place to meet the requirements of this duty, and has carried out this duty through the presence and use of appropriate systems and processes as detailed above.

Level of Assurance: Please indicate t

The challenge of not having all services and professions using the same systems is creating variability, and ti

Continue to support and promote eRostering implementation, and articulate the interdependency between the Act and eRoster. Mitigation of risk is via good governance and engagement with all services through self-assessment returns, which are in use quarterly. Staff can continue to access the operational and professional structures in place to support practice. Datix is available to all staff to record any associated adverse events.

Ability to record and report on all ac

There are robust structures, processes and SOPs in place to support this duty, however there is no consistent method for recording an reporting on this in the absence of SafeCare (linked to above).

As above.

Reasonable Assurance

12IJ Duty to follow the common staffing method
(*The relevant organisation **must only** report on the types of health care, location and employees as detailed in section 12IK)

Section	Item	Status	Comment
12IJ(1)	Clearly defined systems and processes are in place, and utilised, in all the types of health care, locations and employees listed in section 12IK, to follow the common staffing method no less often than the frequency prescribed in Regulations (see https://www.legislation.gov.uk/ssi/2024/43)	Yellow	NHS Lothian has implemented a successful annual scheduling of Staffing Tools, ensuring systematic workforce assessments. Individual Boxi reports are distributed to area managers, accompanied by guidance on interpreting results and applying the Common Staffing Method utilising a reporting template. Workforce Governance Groups for Community Nursing, Mental Health, and Acute Nursing oversee compliance with this duty, ensuring the implementation of staffing establishment reviews based on the Common Staffing Method. Escalation pathways are available to the Health and Care Staffing Programme Board and the Nursing & Midwifery Workforce Programme Board, ensuring governance and strategic oversight.
12IJ(2)(a)	These systems and processes include use of the relevant speciality specific staffing level tool and professional judgement tool as prescribed in Regulations (see https://www.legislation.gov.uk/ssi/2024/43), and taking into account results from those tools.	Yellow	Speciality specific staffing level tools have been run in NHS Lothian in 2024/25, this has included the professional judgment and quality assessment tools. The Health and Care Staffing Leads work closely with Healthcare Improvement Scotland to ensure timely integration of updates and developments and participate in testing of new developments.
12IJ(2)(b)	These systems and processes include taking into account relevant measures for monitoring and improving the quality of health care which are published as standards and outcomes under section 10H(1) of the 1978 Act by the Scottish Ministers (including any measures developed as part of a national care assurance framework).	Green	NHS Lothian's Lothian Accreditation & Care Assurance Standards (LACAS) framework, implemented through monthly and bi-annual local assurance programmes, provides organisational oversight to ensure consistent delivery of high-quality, person-centred care across all services. The framework is designed to drive quality assurance and continuous improvement in alignment with the Board's objectives, quality strategy, and quality management approach. It builds upon the national Excellence in Care (EiC) programme by: Defining quality standards that incorporate EiC measures, aligning with the EiC Framework to enhance person-centred care, compassion, fundamentals of care, and communication. Empowering local teams to use quality data and resources to identify, implement, and sustain service improvements. Embedding a culture of continuous improvement, utilising a quality management system approach to ensure sustained excellence in care delivery.
12IJ(2)(c)(i)	These systems and processes include taking into account current staffing levels and any vacancies	Yellow	A Common Staffing Method Assessment Template and Staffing Tools Results Guide has been developed to use as part of the Common Staffing Method which incorporates all of the elements of the CSM and therefore requires the Senior Charge Nurse/Midwife and managers to review quality data along with the workforce data available on the Tableau dashboard.
12IJ(2)(c)(ii)	These systems and processes include taking into account the different skills and levels of experience of employees	Yellow	The skill mix within each area's establishment is included to be reviewed as part of the CSM reporting template.
12IJ(2)(c)(iii)	These systems and processes include taking into account the role and professional duties of individuals with lead clinical professional responsibility for the particular type of health care.	Green	Lead professionals responsible for staffing tool runs, establishment reviews following the common staffing method, and reporting receive comprehensive pre-tool run training tailored to their specific roles and responsibilities. Post tool run, A Health and Care Staffing Lead is available to support analysis of results and the application of the common staffing method if required. A standardised reporting template ensures that essential details are consistently captured in common staffing method reports collated for local Workforce Governance Groups.
12IJ(2)(c)(iv)	These systems and processes include taking into account the effect that decisions about staffing and the use of resources taken for the particular type of health care may have on the provision of other types of health care (particularly those to which the common staffing method does not apply).	Green	Multi professional teams are advised to consider the affect any changes to nursing establishment may have on staffing requirements in the other professions workloads and all teams consider the potential benefits of a skill mix review for the service. Decision-making is conducted with comprehensive oversight of all professional groups and service needs through multi-disciplinary workforce planning teams.
12IJ(2)(c)(v)	These systems and processes include taking into account the local context in which health care is provided.	Yellow	The CSM Reporting Template has a section for considering/detailing local context issues are explored fully to ensure they inform decisions relating to staffing requirements. Examples of local context considerations include, but are not limited to: •Specialism •Demographics (of staff and service users) •Geography (urban/ rural/ remote) •Bed occupancy •Service capacity and demand •Skill mix •Multi-disciplinary teams •Staff turnover.
12IJ(2)(c)(vi)	These systems and processes include taking into account patient needs.	Yellow	The CSM Reporting Template has a section for considering/detailing current patient provision and any unmet needs and prompts for a review of complaints, feedback and shifts in acuity and demand levels.
12IJ(2)(c)(vii)	These systems and processes include taking into account appropriate clinical advice.	Yellow	The reporting template includes a section for recording clinical advice and a section for recording any disagreement with that clinical advice.
12IJ(2)(c)(viii)	These systems and processes include taking into account any assessment by HIS, and any relevant assessment by any other person, of the quality of health care provided.	Yellow	The template prompts for review of local quality data, e.g.: • LACAS outcomes (tool runs are scheduled in between LACAS cycles to ensure this quality data is available) • Number of Adverse Events/SAEs • Patient Experience (complaints/compliments) • Patient activity data, e.g. waiting times • Staff Experience - iMatter Report • Outcome of HIS inspections
12IJ(2)(c)(ix)	These systems and processes include taking into account experience gained from using the real-time staffing and risk escalation arrangements under 12IC, 12ID and 12IE.	Green	The Health & Care Staffing team, who provide training on SafeCare and its real-time risk escalation and recurrent risk functions, designed and contributed to the CSM systems and processes employed within NHS Lothian. Through one-to-one contact with users of SafeCare, they gather staff feedback to identify patterns and areas for improvement in real-time staffing and risk escalation processes. This feedback is then incorporated into systems and processes such as the CSM Reporting Template. Furthermore, the Health and Care Staffing leads provide ongoing training on CSM systems and processes and continuously refine these systems based on past experiences to enhance effectiveness. They also maintain documentation on the CSM systems and processes and encourage feedback to share best practices and lessons learned.
12IJ(2)(c)(x)	These systems and processes include taking into account comments by patients and individuals who have a personal interest in their health care, which relate to the duty imposed by section 12IA.	Amber	The lack of a formal, documented process has been identified as a barrier to fully demonstrating compliance with this statutory duty. This gap may result in missed critical insights necessary for aligning workforce planning with service user needs and experiences. Efforts are underway to implement a structured consultation process to ensure service user input is fully integrated into staffing decisions and compliance requirements are met.
12IJ(2)(c)(xi)	These systems and processes include taking into account comments by employees relating to the duty imposed by section 12IA.	Green	During pre-tool run training, managers are advised that all staff should have the opportunity to participate in staffing tool runs, raise real-time risks, and receive feedback on decisions. To foster open, honest, and transparent discussions, managers are encouraged to share tool run outcomes with their teams and actively gather staff feedback. The reporting template requires documented evidence demonstrating how decisions were discussed within the team and made with their input in mind, ensuring a collaborative and inclusive approach to workforce planning.
12IJ(2)(d)	These systems and processes include means to identify and take all reasonable steps to mitigate any risks.	Yellow	The reporting template includes a section to consider the method of real time staffing assessment and escalation used (SafeCare compliance/Safety Huddles etc) and document any recurrent risks considering, if they are being escalated appropriately and recorded, whether they were adequately mitigated, whether actions can be identified to prevent recurrence and/or longer term mitigation plans.
12IJ(2)(e)	These systems and processes include means to decide what changes (if any) are needed to the staffing establishment and the way in which health care is provided as a result of following the common staffing method.	Green	Most services follow the triumvirate leadership model, incorporating nursing/midwifery, medical leadership, and general/service management, to ensure professional input in staffing decisions. To uphold this approach, the Community, Mental Health, and Acute Nursing/Midwifery Workforce Governance Groups will oversee the implementation of systems and processes required for staffing establishment reviews under the Common Staffing Method with final sign off by the Nursing and Midwifery Workforce Programme Board.
	There is a clearly defined mechanism for monitoring compliance with this duty and escalation of non-compliance (when this cannot be adequately met)	Yellow	During 2024/25, NHS Lothian conducted two compliance and assurance audits to monitor adherence to this Health Duty and other legislative requirements. The Q1 Audit, with 62 questions, involved professional leads and produced extensive feedback. This audit identified robust processes and highlighted challenges in meeting this Duty's requirements. The audit results were used to rate compliance by Board and profession in the Board Quarterly Compliance Reports, using a Red, Amber, Yellow, and Green (RAYG) system. The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum, and the Board, with escalation as needed. In addition, each profession has governance arrangements to ensure the leadership team is aware of gaps and compliance. SafeCare compliance is monitored weekly and is mandatory for Nursing inpatient areas. This system supports self-monitoring and has improved compliance. Efforts are underway to expand the audit and compliance report to include roles like Registered Chaplains and Public Health. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring all services align with the requirements of the Act.

Areas of success, achievement or learning

Please provide details of areas of success, achievement or learning associated with carrying out the requirements.

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	This should describe the situation: what is the success, achievement or learning? For example, application of the common staffing method in adult inpatient provision identified some areas where the staffing establishment needed to be changed, and some areas with potential for service redesign. These changes are now in progression and will be trialled to monitor the outcomes.	This should describe how the success, achievement or learning could be used in the future. For example, following completion of the trials regarding changes in staffing establishment and service redesign, decisions will be taken as the changes made. These could then be used as case studies to inform training for staff about the use of the common staffing method.
Nursing, Midwifery & Medical Professions	Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits noted positive engagement of staff across NHS Lothian with tool runs and the available training for staff and support from the NHS Lothian Health & Care Staffing Team as areas of success with complying with this duty. Additionally, they highlighted the importance of continuous feedback and the proactive approach taken by the Health & Care Staffing Team to address any challenges. This collaborative effort has fostered a culture of learning and improvement, ensuring that staff feel supported and well-prepared to meet their responsibilities effectively.	The Health and Care Staffing Professional Leads will continue to collaborate, sharing successes and good practices. This includes the successful tool runs and the valuable insights that can be gained from the positive staff engagement and the availability of comprehensive training and support. Such insights can be used to increase compliance with other staffing duties and ultimately achieve consistency across the Board. By nurturing a culture of continuous improvement and support, the Professional Leads aim to create an environment where best practices are not only shared but also effectively implemented, ensuring all staff members are well-equipped to meet their obligations in the Act.
Nursing, Midwifery & Medical Professions	Successful work is ongoing across Nursing to develop a "Health Check" template that pulls together the staffing level tools results and other metrics as required by the duty to follow the common staffing method, as part of a triangulated approach to decisions around staffing. This initiative aims to provide a comprehensive overview of staffing needs, ensuring that decisions are data-driven and evidence-based. By integrating various metrics, the template will help identify trends and areas for improvement, with the aim of ultimately enhancing the quality of care provided.	The Health and Care Staffing Professional Leads will analyse compliance audit results by profession and area. They will report key findings and identify profession specific gaps through local governance groups, along with actions needed to address these gaps. Such gaps may include areas that lack the means to make staffing decisions that are data-driven and evidence-based and may benefit from emulating the "Health Check" aggregative model where appropriate. Although such non-nursing areas are not required to follow the Common Staffing Method, a consistent, transparent, evidence-based approach to decisions around staffing should factor into professional action plans.
Nursing, Midwifery & Medical Professions	NHS Lothian successfully ran Staffing Level Tools in 2024 – 25. Areas have used Professional Judgement where there is no SLT available to them such as Theatres and Outpatients. Data from the tool runs have been key to Corporate Nursing's Thematic Work which involves Health checks on all Nurse fundings, establishments and skill mix. Using data from a recent Community Nursing Staffing Level Tool run along with Professional Judgement and Quality Tool provided robust information that was part of a District Nursing review in Midlothian. This had 100% compliance and helped make informed changes within the service. A Common Staffing Method template was tested in this process to ensure all aspects of the duty were being met.	The successes will be used to inform board-wide policy and guidance, laying out definitions and requirements to comply with the Act. This will ensure all staff understand their roles and responsibilities regarding the Act. For example, NHS Lothian has created bespoke staffing level tool guidance, and the success in those areas where staffing level tools have been used will help improve this guidance. Additionally, the successful use of staffing level tools to inform staffing reviews highlights the effectiveness of this approach. It will continue to be used as a means to understand the required workforce and workforce availability as part of the service and strategic workforce planning cycle.

Areas of escalation, challenges or risks

Please provide details of areas of escalation where the relevant organisation has been unable to achieve or maintain compliance or any challenges or risks associated with carrying out the requirements, and the actions in place to address these.

Area of escalation / Challenge /	Details	Action

This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	This should describe the situation: what is the challenge or risk identified? For example, the common staffing method was followed at the required frequency in all areas except emergency care provision with an explanation of why this was not completed, e.g. lack of knowledge / training of personnel.	This should describe what actions have been / are being / will be taken to address the situation. For example, if the common staffing method was not followed in emergency care provision and this was due to lack of knowledge / training, what measures were put in place to address this, e.g. identifying key personnel, provision of training, assistance from experienced personnel in other areas etc.
Nursing & Midwifery	Presently, some nursing and midwifery specialties do not have nationally validated staffing level tools. For example, Community Mental Health Nursing and Research Nursing. Although staff suggest a drive to utilise such tools if available. As such, some areas are running a Professional Judgment Tool only, that typically runs alongside the speciality specific staffing level tools.	The Health & Care Staffing Team and Health & Care Staffing Professional Leads will continue to work collaboratively with Healthcare Improvement Scotland in the development and improvement of validated staffing level tools. This will include supporting HIS with their efforts to engage local services in testing tools where required. For those nursing areas that do not have specialty-specific staffing level tools available, the Health & Care Staffing Team will continue to make professional judgment tools available to support those areas with ensuring appropriate staffing levels.
Nursing, Midwifery & Medical Professions	It was also raised in Audit responses that the tools can be challenging and time consuming to use on SSTS and involve manually typing lots of data. This frustration is confounded by what many have viewed as archaic staffing level tools and calculators that often do not capture the modern nursing role.	The Health & Care Staffing Team and Health & Care Staffing Professional Leads will continue to work collaboratively with Healthcare Improvement Scotland in the development and improvement of validated staffing level tools. This will include supporting HIS with their efforts to engage local services in testing tools where required. The Health & Care Staffing Team will continue to encourage staff engagement and provide comprehensive training and support, especially in those areas that do not have the additional human resource to support tool data entry or where tools have not been updated recently.
Nursing & Midwifery	The primary challenge identified is the delay in implementing a staffing level tool. A coordinated effort to run the tool and complementary studies in the near future to ensure comprehensive data collection is required. Ongoing engagement with HIS and the development of tools for specific nursing areas reflect a broader commitment to gather comprehensive data to understand workload and workforce requirements.	A 2024/25 Royal Infirmary of Edinburgh (RIE) Emergency Care Provision Tool run has been delayed. There is an agreement to run the Emergency Care Provision Tool (ECPT) in early 2025. At the RIE Emergency Department, robust observation studies are planned to run concurrently with the ECPT, enabling the triangulation of data once the observation methodology is finalised and observer training is complete. There is a strong commitment to gather comprehensive data to understand workload and workforce requirements. The ECPT was successfully used in the St John's Hospital (SJH) Emergency Department (ED), SJH Emergency Medical Assessment (EMA), and Western General Hospital (WGH) Medical Assessment Unit (MAU) Trollies. Engagement with Healthcare Improvement Scotland (HIS) is ongoing to explore opportunities for support. NHS Lothian's Community Workforce Governance group agreed that the Profession Judgement (PJ) tool should be completed only in community nursing areas, as the tool is being developed by HIS to produce a required Whole Time Equivalent (WTE). District Nursing (DN) was an exception and conducted a full tool run as part of a DN review. Work is ongoing to engage and support areas with implementing the Clinical Nurse Specialists (CNS) tool, which is under development with HIS to create a recommended WTE.

Declaration: The relevant organisation has systems and processes in place to meet the requirements of this duty, and has carried out this duty through the presence and use of appropriate systems and processes as detailed above.

Level of Assurance: Please indicate level of assurance provided

Reasonable Assurance

12IL Training and consultation of staff
(*The Health Board and Agency **must only** report on the types of healthcare, location and employees as detailed in section 12IK)

Section	Item	Status	Comment
12IL	Clearly defined systems and processes are in place, and utilised, in all the types of health care, locations and employees listed in section 12IK, for the training and consultation of staff.	Yellow	Training in the Common Staffing Method (CSM) is recognised as a priority, with ongoing efforts to ensure consistent understanding and application across the organisation. A key initiative supporting this is the development of a Senior Charge Nurse/Midwife (SCN/M) Development Programme, designed to provide a comprehensive understanding of SCN/M roles and responsibilities, including legislation, common staffing method implementation, and alignment with the Excellence in Care (EiC) Framework. This programme will also integrate the recently launched Leading EiC Programme on TURAS. Until the SCN/M Development Programme is fully developed, launched, and demonstrates measurable learning outcomes, the RAG status remains yellow. However, a robust ongoing training programme is already in place for the Staffing and Professional Judgement Tools, ensuring preparatory training, real-time support during tool runs, and post-run review sessions to effectively analyse results.
12IL(a)	These systems and processes include means to encourage and support employees to give views on staffing arrangements for the types of health care described in section 12IK.	Yellow	The Health & Care Staffing Team designed and contributed to the CSM systems and processes used within NHS Lothian. Through one-to-one contact with users of the CSM, they encourage and gather staff feedback to identify patterns and areas for improvement. This feedback was then incorporated into systems and processes, such as the CSM Reporting Template. The Health and Care Staffing Team also attend Nursing workforce groups to present on the CSM systems and process in place and gather views. Furthermore, the Health and Care Staffing leads provide ongoing one-to-one training on CSM systems and processes and continuously refine these systems based on past experiences to enhance effectiveness. They also maintain documentation on the CSM systems and processes and encourage feedback to share best practices and lessons learned. This all fosters a culture of continuous improvement based on staff views on staffing arrangements for the types of health care described in section 12IK.
12IL(b)	These systems and processes include means for taking into account and using views received to identify best practice and areas for improvement in relation to staffing arrangements.	Yellow	Local Nursing and Midwifery Workforce Governance Groups, responsible for overseeing the application of the Common Staffing Method , play a key role in identifying best practices in staffing arrangements and addressing challenges. However, further work is needed to establish a structured process for systematically sharing best practices across the organisation. This will be facilitated through the Nursing and Midwifery Workforce Programme Board, ensuring consistent learning, collaboration, and continuous improvement in workforce planning and staffing arrangements.
12IL(c)	These systems and processes include training employees (in particular those employees of a type mentioned in section 12IK) who use the common staffing method on how to use it.	Green	A comprehensive four-week preparation period ensures that all key elements for a successful staffing tool run are in place. Training is available in both face-to-face sessions and via MS Teams, providing flexible learning options. Additionally, HIS resource packs are distributed to all teams in advance and remain readily accessible on the Health & Care Staffing intranet pages, ensuring ongoing support and reference materials are available.
12IL(d)	These systems and processes include ensuring that employees who use the common staffing method receive adequate time to use it.	Green	All employees involved in staffing level and professional judgment tool runs are notified during the four-week preparatory period about the time required for completion, ensuring that adequate time is allocated and rostered as needed.
12IL(e)	These systems and processes include providing information to employees engaged in the types of health care mentioned in section 12IK about its use of the common staffing method, including the results from the staffing level tool and professional judgement tool; the steps taken under 12IJ(2)(b), (c) and (d) and the results of the decisions taken under 12IJ(2)(e).	Green	During pre-tool run training, managers are advised that all staff should have the opportunity to participate in staffing tool runs, raise real-time risks, and receive feedback on decisions. To foster open, honest, and transparent discussions, managers are encouraged to share tool run outcomes with their teams and actively gather staff feedback. The reporting template requires documented evidence demonstrating how decisions were discussed within the team and made with their input in mind, ensuring a collaborative and inclusive approach to workforce planning.
	There is a clearly defined mechanism for monitoring compliance with this duty and escalation of non-compliance (when this cannot be adequately met)	Yellow	During 2024/25, NHS Lothian conducted two compliance and assurance audits to monitor adherence to this Health Duty and other legislative requirements. The Q1 Audit, with 62 questions, involved professional leads and produced extensive feedback. This audit identified robust processes and highlighted challenges in meeting this Duty's requirements. The audit results were used to rate compliance by Board and profession in the Board Quarterly Compliance Reports, using a Red, Amber, Yellow, and Green (RAYG) system. The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum, and the Board, with escalation as needed. In addition, each profession has governance arrangements to ensure the leadership team is aware of gaps and compliance. SafeCare compliance is monitored weekly and is mandatory for Nursing inpatient areas. This system supports self-monitoring and has improved compliance. Efforts are underway to expand the audit and compliance report to include roles like Registered Chaplains and Public Health. The aim is to achieve consistency across the Board and improve compliance with staffing duties, ensuring all services align with the requirements of the Act.

Areas of success, achievement or learning

Please provide details of areas of success, achievement or learning associated with carrying out the requirements.

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	This should describe the situation: what is the success, achievement or learning? For example, key personnel who were very experienced in using the common staffing method were engaged to train and mentor other personnel involved in the process.	This should describe how the success, achievement or learning could be used in the future. For example, those key personnel have now decided to meet regularly in a forum to discuss shared learning and to ensure the common staffing method is used consistently across all relevant areas in the organisation.
Nursing, Midwifery & Medical Professions	Respondents to NHS Lothian's 2024/25 Compliance and Assurance Audits noted positive engagement of staff across NHS Lothian with tool runs and the available training for staff and support from the NHS Lothian Health & Care Staffing Team as areas of success with complying with this duty. Additionally, they highlighted the importance of continuous feedback and the proactive approach taken by the Health & Care Staffing Team to address any challenges. This collaborative effort has fostered a culture of learning and improvement, ensuring that staff feel supported and well-prepared to meet their responsibilities effectively.	The Health and Care Staffing Professional Leads will continue to collaborate, sharing successes and good practices. This includes successful tool runs and valuable insights gained from positive staff engagement and the availability of comprehensive training and support. These insights can be used to increase compliance with other staffing duties and achieve consistency across the Board. For example, the successful engagement with the staffing level tools across NHS Lothian and the success with training availability will be especially useful learning for replication when rolling out SafeCare across non-nursing services in the future. By nurturing a culture of continuous improvement and support, the Health & Care Staffing Professional Leads aim to create an environment where best practices are not only shared but also effectively implemented, ensuring all staff members are well-equipped to meet their obligations under the Act.
Nursing, Midwifery & Medical Professions	Successful work is ongoing across Nursing to develop a "Health Check" template that consolidates staffing level tools results and other metrics, as required by the Duty to follow common staffing method. The template therefore helps areas understand how to follow the Common Staffing Method by providing an operational framework which considers the different elements of the triangulated approach. This template is part of a triangulated approach to staffing decisions, integrating various metrics to help staff identify trends and areas for improvement, ultimately aiming to enhance the quality of care provided.	The Health and Care Staffing Professional Leads will analyse compliance audit results by profession and area. They will report key findings and identify profession-specific gaps through local governance groups, along with the actions needed to address these gaps. Such gaps may include areas that lack the means to make data-driven and evidence-based staffing decisions, which could benefit from adopting the "Health Check" aggregative model where appropriate. Although most non-nursing areas are not required to follow the Common Staffing Method, a consistent, transparent, and evidence-based approach to staffing decisions should be incorporated into professional action plans.
Nursing, Midwifery & Medical Professions	Service leads receive the results of staffing level tool runs a Health Check CSM template, and are encouraged by the Health and Care Staffing Team to discuss the staffing level tool results with their teams. This provides an opportunity to inform the team about the ongoing processes within their area and the tool results for their area. Associate Nurse Directors can work with Clinical Nurse Managers to review the completed health check templates. At this stage, the Clinical Nurse Manager also can gather staff feedback. This approach was implemented at an acute site in NHS Lothian as part as part of a ward skill mix review.	The successes will continue be used to inform Board wide policy and guidance, defining the requirements to comply with the Act. For example, the successful collaborative review and feedback process used as part of the duty to follow common staffing method will inform best practices captured in the guidance for this duty and others. This will support all staff with understanding their roles and responsibilities regarding the Act.

Areas of escalation, challenges or risks

Please provide details of areas of escalation where the relevant organisation has been unable to achieve or maintain compliance or any challenges or risks associated with carrying out the requirements, and the actions in place to address these.

Area of escalation / Challenge /	Details	Action
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	This should describe the situation: what is the challenge or risk identified? For example, issues were identified with the lack of training and adequate time for personnel in emergency care provision.	This should describe what actions have been / are being / will be taken to address the situation. For example, arranging and delivering training, provision of mentoring from experienced personnel, job planning to ensure adequate time is available for designated personnel to follow the common staffing method.
Nursing & Midwifery Professions	Some nursing and midwifery specialties, such as Community Mental Health Nursing, do not have nationally validated staffing level tools. There is a drive to utilise such tools if they become available. This gap affects the systems and processes used for training employees on how to use the common staffing method. Not all elements of the triangulation approach are available, making it challenging for areas to fully learn the common staffing method through practical application	The Health & Care Staffing Team and Health & Care Staffing Professional Leads will continue to work collaboratively with Healthcare Improvement Scotland in the development and improvement of validated staffing level tools. This will include supporting HIS with their efforts to engage local services in testing tools where required. For those nursing areas that do not have specialty-specific staffing level tools available, the Health & Care Staffing Team will continue to make professional judgment tools available to support those areas with ensuring appropriate staffing levels.
Nursing, Midwifery & Medical Professions	Audit responses highlighted that existing tools can be challenging and time-consuming to use, particularly on SSTS, requiring manual data entry. This complexity exacerbates training challenges on how to use the common staffing method. For example, the adult in-patient tool, which covers the largest staff group of any staffing level tool, requires filling out 11 fields per patient manually, consulting 27 patient acuity levels. This process is repeated every shift for two weeks, with manual average calculations every day. This complexity also affects the effectiveness of the systems and processes that ensure employees who use the common staffing method receive adequate time to use it.	The positive engagement of staff across NHS Lothian with tool runs and the available training for staff and support from the NHS Lothian Health & Care Staffing Team places NHS Lothian in a positive position to support key stakeholders with meeting the requirements of this duty. The Health & Care Staffing Team and Health & Care Staffing Professional Leads will continue to work collaboratively with Healthcare Improvement Scotland in the development and improvement of validated staffing level tools. This will include supporting HIS with their efforts to engage local services in testing tools where required. For those nursing areas that do not have specialty-specific staffing level tools available, the Health & Care Staffing Team will continue to make professional judgment tools available to support services with ensuring appropriate staffing levels.

Declaration: The relevant organisation has systems and processes in place to meet the requirements of this duty, and has carried out this duty through the presence and use of appropriate systems and processes as detailed above.

Level of Assurance: Please indicate level of assurance provided

Reasonable Assurance

1 Guiding principles for health and care staffing
2 Guiding principles etc. in health and care staffing and planning

Section	Item	Status	Comment
2(2)	Clearly defined systems and processes are in place, and utilised, in all NHS functions and professional groups to ensure that when the relevant organisation is planning or securing the provision of health care from a third party, it has regard to the guiding principles for health and care staffing and the need for that third party from whom the provision is being secured to have appropriate staffing arrangements in place.	Yellow	Work to ensure that guiding principles and appropriate staffing arrangements are fully integrated into service planning and procurement processes has been temporarily paused. This delay is due to the need for further guidance and instruction regarding the lack of authority under the NHS General Dental Services (Scotland) Regulations 2010 for Health Boards to require staffing information (see Risks section below). Collaboration with procurement colleagues will resume once clarity on this issue is provided, ensuring these factors are properly incorporated and evidenced for annual reporting

Please provide information on the steps taken to comply with section 2(2)

These are steps taken to comply with 2(2) in general. Examples could include information about procurement and commissioning processes, how the guiding principles are taking into account and what procedures are in place for obtaining information about staffing arrangements.

NHS Lothian recognises the need to review legislative requirements to ensure compliance with the Guiding Principles and appropriate staffing arrangements when planning or securing healthcare services from external providers. A comprehensive review of current contracting and agreement procedures is required to assess compliance and establish clear evidence of adherence to these statutory obligations and work will continue with procurement colleagues once clarity on the identified issue is received as highlighted above.

Please provide information on how these systems and processes, and their application, have improved outcomes for service users

This should include, but not be limited to data in relation to patient safety and quality of care measures and outcomes, patient feedback and adverse event reporting; what this data has shown and any trends; and any actions taken as a result.

As mentioned above, NHS Lothian recognises the need to review legislative requirements to ensure compliance with the Guiding Principles and appropriate staffing arrangements when planning or securing healthcare services from external providers.

Professions across NHS Lothian carry out their own inspections of services which they commission. Regular inspections and evaluations ensure that services meet required standards, ensuring transparency and accountability, leading to high-quality care. This proactive approach helps identify areas for improvement and implement necessary changes, which also enhances patient safety and outcomes. By fostering a culture of continuous improvement, these processes support the implementation of best practices and fair competition.

Areas of success, achievement or learning

Please provide details of areas of success, achievement or learning associated with carrying out the requirements.

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	This should describe the situation: what is the success, achievement or learning? For example, when procuring from private hospitals, the organisation has incorporated the requirements of the Act into the tender process.	This should describe how the success, achievement or learning could be used in the future. For example, the learning from tendering with private hospitals is now being used to implement arrangements in other types of procurement.
Multiple professions and services	Professions across NHS Lothian carry out their own inspections of services which they commission. These inspections ensure that the services meet the required standards and provide high-quality care to patients. By conducting regular evaluations, they can identify areas for improvement, implement necessary changes and maintain accountability. This proactive approach helps to enhance patient safety and outcomes, while also promoting continuous development and excellence in care.	The successes will be used to inform board-wide policy and guidance, defining the requirements to comply with the Act. For example, regular inspections can lead to significant improvements in patient care and safety, ensuring services consistently meet high standards and mitigate potential risks. Additionally, feedback from inspections can drive ongoing improvements in service delivery and inform staff training, ensuring staff are equipped with the latest knowledge and best practices. Finally, recognising where safe, high-quality care is being provided and sharing best practices across the organisation promotes a culture of excellence.
Multiple professions and services	Across NHS Lothian and professions, pre-Act systems and processes are in place to ensure compliance with commissioning and procurement rules, and governance. These mechanisms are designed to uphold transparency, accountability and efficiency. This ensures that resources are allocated effectively, conflicts of interest are avoided and high standards of care are maintained. Additionally, these processes support fair competition and the implementation of best practices.	The successes will be used to inform board-wide policy and guidance, defining the requirements to comply with the Act. With the knowledge that pre-Act systems and processes are in place, guidance and policy can support services with identifying and utilising existing processes and systems that meet the requirements of this Duty. For example, the implementation of these systems has led to improved resource allocation and high standards of care, demonstrating the effectiveness of the governance mechanisms that have regard to the guiding principles and provides assurance that appropriate staffing arrangements are in place.

Areas of escalation, challenges or risks

Please provide details of areas of escalation where the relevant organisation has been unable to achieve or maintain compliance or any challenges or risks associated with carrying out the requirements, and the actions in place to address these.

Area of escalation / Challenge /	Details	Action
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	This should describe the situation: what is the challenge or risk identified? For example, there may have been difficulties in planning or securing services from a particular speciality in relation to having regard to the need for that service to have appropriate staffing arrangements in place.	This should describe what actions have been / are being / will be taken to address the situation. For example, engaging with service providers to ensure that they understand what information is required, seeking alternative service providers etc.
General Dental Services	The NHS General Dental Services (Scotland) Regulations 2010 do not grant Health Boards the authority to require dental practitioners to provide staffing information when applying to be listed. Due to this regulatory limitation, Health Boards cannot provide the necessary evidence or assurance for planning and securing services as outlined in the Act's Guiding Principles for independent contractors/practitioners. NHSGGC has sought counsel from the CLO regarding three points: (i) whether the NHS (General Dental Services) (Scotland) Regulations 2010 ('the 2010 Regulations') give a Health Board the power to require dental practitioners to provide staffing information when they apply to be listed; (ii) whether there are any other powers available to a Board to impose such a requirement; and (iii) whether it is practical to engage with applicants to dental lists about staffing matters given the nature of dental practices. In response, the CLO's view is that the Act and its associated guidance cannot readily be implemented for independent dental practitioners. They have referred this concern to the Scottish Government for further guidance, which has been done. NHSGGC is awaiting a response from the Scottish Government.	The board-wide communication and education planning group will support services and work towards consistency across the Board, improving overall compliance with this duty. Once a response has been received by the Scottish Government, current processes will be reviewed relating to the securing of healthcare from other providers to ensure this has regard to the guiding principles and provides assurance that appropriate staffing arrangements are in place. This information will also be used inform board-wide policy and guidance and to provide targeted support.
Multiple professions and services	Further work is required to identify gaps and opportunities to strengthen existing recording arrangements with regards to planning and securing services to enable annual reporting of compliance with the legislation.	The board-wide communication and education planning group will support services and work towards consistency across the Board, improving overall compliance with this duty. This group will continue to review current recording arrangements relating to the securing of healthcare from other providers to enable annual reporting of compliance with the legislation. This information will also be used inform board-wide policy and guidance and to provide targeted support.

Declaration: The relevant organisation has systems and processes in place to meet the requirements of this duty, and has carried out this duty through the presence and use of appropriate systems and processes as detailed above.

Level of Assurance: Please indicate level of assurance provided

Reasonable Assurance

HEALTH AND CARE (STAFFING) (SCOTLAND) ACT 2019 – NHS Lothian ANNUAL REPORT 2026

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Report approval

1. The box below should be completed by the person signing off the report. An electronic signature is acceptable.
2. The Act requires the annual reports to be published by relevant organisations. Please enter a hyperlink to the webpage where the report can be found in the boxes below.

Name of organisation:	NHS Lothian
Report authorised by:	Name Alison Macdonald
	Designation Executive Nurse Director
	Date: 28/04/2026
Location where report is published:	NHS Lothian Board Papers 22 April 2026

GUIDANCE ON USING THIS TEMPLATE

Purpose

This guidance has been developed to support relevant organisations in the completion of the below template which will form their annual report detailing compliance with the requirements of the Health and Care (Staffing) (Scotland) Act 2019 (the Act). Completed reports must be returned to hcsa@gov.scot by 30 April 2026.

Additional resources can be accessed here: Health and Care (Staffing) (Scotland) Act 2019: statutory guidance - gov.scot

If you require further assistance or have any queries, please contact hcsa@gov.scot.

Summary Section

3. The summary asks for an overview of how the relevant organisation has carried out all of the duties and requirements of the Act. This should include all NHS functions provided by all professional disciplines covered under the Act. You will be asked to provide an assurance level in respect of your overall compliance with the Act. Definitions for these assurance levels can be found at point seven.

4. Following receipt, the Scottish Ministers must collate reports from relevant organisations and lay a combined report before Parliament, along with an accompanying statement setting out how the information will be taken into account in policies for staffing of the health service. To enable this process, the information provided by relevant organisations should be comprehensive and pertinent to the staffing of the health service. To enable this, please complete the questions contained in the reporting template in sufficient detail, setting out the key achievements, outcomes, learning and risks and how this information has been used to inform workforce planning at the local level.

   Individual duties / requirements

5. Following the summary section, the template seeks detail on individual duties/requirements of the Act in turn, asking relevant organisations to provide an assessment of compliance, and to provide details. Again, this should include all NHS functions, provided by all professional disciplines covered under the Act. Relevant organisations should provide detail to explain the assurance level in respect of the Duty, detailing evidence of compliance where appropriate, or gaps and areas of ongoing focus.

   Evidence could, for example, include details of the organisational structures, systems and/or processes being used.

6. The duty description contains the legislative wording of the Act, outlining the duty requirements.

7. As outlined at paragraph 3, the template requests an overall level of assurance with regard to the relevant organisation's compliance with the Act/Duties, using the assurance categories as detailed below:

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.

8. The relevant organisation is asked to provide details of areas of success, achievement and learning associated with the particular duty or requirement, along with indicating how this could be used in the future. Again, in order to provide meaningful information that can inform healthcare staffing policy, relevant organisations are asked to complete this with an appropriate level of detail.

9. The relevant organisation is then asked to provide details of any areas of risk where they have been unable to achieve or maintain compliance with the particular duty or requirement, or where they have faced any challenges or risks in carrying out their duties or requirements. In this section, relevant organisations are also asked what actions have been or are being taken to address this. Again, in order to provide meaningful information that can inform healthcare staffing policy, relevant organisations are asked to provide an appropriate level of detail.

ANNUAL REPORTING TEMPLATE

Summary

Please answer the following questions, to provide an overall assessment of how the organisation has carried out its duties under sections 12IA, 12IC, 12ID, 12IE, 12IF, 12IH, 12II, 12IJ and 12IL of the National Health Service (Scotland) Act 1978 (inserted by section 4 of the Act), and in line with Sections 1 and 2 of the Act : Guiding principles for health and care staffing and Guiding principles etc. in health and care staffing and planning.

Beyond the audit findings, these compliance outputs are considered within NHS Lothian's wider workforce planning framework. The Board Workforce Plan and associated workforce action plans use intelligence from Health and Care Staffing governance reporting to inform discussions on workforce priorities, service pressures and workforce supply. Workforce supply and pipeline initiatives, including apprenticeship development and targeted entry route pathways for clinical and non-clinical staff, support succession planning in areas of known workforce vulnerability.

Workforce dashboards, including Tableau dashboards for professional groups and other workforce datasets, enhance visibility of workforce trends and support informed discussion through workforce governance structures.
Collectively, these arrangements ensure that information arising from implementation of the Health and Care Staffing Scotland Act is considered within workforce planning discussions and is used to support decisions about workforce priorities, service pressures and future workforce supply.

Please advise how the information provided in this report has been used or will be used to inform workforce plans.
Summary on how the information within this report has/or will inform future workforce plans/planning. Method. *Examples include - but not limited to:* • *Impacts and outcomes of real -time staffing assessment on workforce/workload planning* • *How the outputs of the Staffing Level Tools and the application of the CSM have informed you workforce planning activity.* • *Impact of the Health and Care Staffing Act has led to safe and efficient staffing.* Information contained within this report is presented to and considered within service, profession and Board-level workforce planning discussions. Real-time staffing assessment information, including escalation, mitigation actions and use of clinical advice, provides insight into workload pressures and variation in demand. This supports workforce planning discussions relating to staffing levels, skill mix, and service configuration where recurrent pressures are identified. Outputs from staffing level tools and application of the Common Staffing Method provide evidence to inform establishment reviews, workforce requirements discussions and prioritisation activity to reduce establishment gaps, including review of staffing levels in line with the requirements of the Health and Care Staffing (Scotland) Act. For example, application of the Common Staffing Method has informed workforce establishment changes in Maternity and CAMHS services, where reviews identified increasing complexity in patient need and workforce pressures, resulting in additional permanent posts being identified. Workforce planning is further supported by targeted nursing workforce initiatives, including focused recruitment programmes, expansion of alternative training pathways and investment in clinical education roles. These actions have contributed to a reduction in the registered nursing establishment gap to 0.03% and a significant reduction in agency expenditure, supporting workforce sustainability, continuity of care and delivery of safe staffing levels in line with the Act. Professional leads can report compliance audit findings through profession-specific workforce groups, providing a route for this information to be considered alongside workforce planning discussions. Senior professional leadership represented within these groups also contributed to the development of NHS Lothian's Workforce Plan (2022–2025) and associated 12-month action plans, and participate in wider workforce planning discussions, supporting alignment between compliance audit information and workforce planning considerations. There is also a

local agreement to include compliance information in a Health and Care Staffing section within NHS Lothian's Board Workforce Plan and annual updates to the Scottish Government.

Workforce planning is also informed by workforce supply and pipeline activity reported through programme updates, including apprenticeship activity and partnership-based development initiatives across professions. A locally developed workforce dashboard also supports workforce planning discussions.

Collectively, the information provided supports workforce planning discussions and informs consideration of workforce priorities, service pressures and future workforce supply.

Please provide information on how your compliance to the Health and Care Staffing Act has led to improved outcomes for service users and workforce

As set out in the legislation, compliance with the Act should support the outcomes from the Health and Care Standards. Therefore, you should demonstrate/consider how implementation of the Act contributes to achieving these Standards

This should include - but not be limited to - information in relation to patient safety and quality of care measures and outcomes, patient feedback, staff wellbeing measures, and adverse event reporting; what this information has shown and any trends; and any actions taken as a result.

Compliance with the Health and Care Staffing (Scotland) Act has contributed to improved outcomes for service users and workforce through the application of robust staffing processes, professional oversight and governance arrangements.

Audit evidence indicates that services are able to maintain delivery of urgent, emergency and essential care during periods of staffing pressure, with actions such as staff redeployment and prioritisation of high-risk activity reducing delays and supporting continuity of care. Qualitative feedback highlights that these arrangements enable patients to be seen promptly, support safe delivery of clinical activity and improve coordination of care across teams and sites, consistent with the Health and Care Standards for safe and responsive care.

Patient experience measures demonstrate positive outcomes, with NHS Lothian Care Opinion service recommendation rates increasing from 80% (March 2025) to 83% (March 2026), supported by over 1789 patient ratings across domains including respect, communication, involvement and timeliness. This is further supported by high levels of engagement, with over 4,000 stories shared for NHS Lothian and a 92% response rate from staff (based on the last 100 responses), demonstrating active organisational responsiveness. Feedback themes highlight positive experiences of staff, care, professionalism and friendliness, with areas for improvement including communication, information and explanation. Care Opinion data also shows that patient feedback has directly led to service improvement, with 64 patient stories "leading to changes", supporting person-centred care and continuous improvement in line with the Health and Care Standards and the Act's guiding principles.

This approach is supported by NHS Lothian's Patient Experience Strategic Plan (2023–2028), which embeds a structured 'listen, hear and respond' approach to using patient feedback to drive continuous improvement, reflecting the Act's guiding principles of person-centred care and improving standards and outcomes for service users.

Workforce outcomes have improved through strengthened workforce planning and recruitment activity, with targeted initiatives including recruitment events, university engagement, ongoing advertising and streamlined onboarding processes contributing to a reduction in the registered nursing establishment gap to 0.03% (January 2026) and reduced reliance on agency staffing. This supports improved continuity and safety of care delivery, consistent with the Health and Care Standards for safe and effective care and aligned with the guiding principles to ensure the best health care or (as the case may be) care outcomes for service users.

Staff wellbeing indicators show a sustained positive experience through NHS Lothian iMatter results, with the Employee Engagement Index increasing from 76 (2021) to 78 (2025), both figures are within the *"Strive and Celebrate"* category. Staff recommendation of their team and confidence in services remain high, alongside strong safety culture measures, including confidence in raising concerns and that concerns are acted upon. Data indicates that 77% of NHS Lothian teams who completed the iMatter survey are in the "Strive and Celebrate" category, with none in the lowest. These findings demonstrate a supported workforce and positive safety culture, enabling the delivery of person-centred care and positive patient experience in line with the Health and Care Standards and the Act's guiding principles.

These outcomes are reinforced by investment in staff wellbeing through the Work Well Strategy, including engagement with over 1,500 staff, a staff network of over 1,000 members, and training delivered to over 200 managers, alongside improvements to staff environments. This is associated with increased staff perception that managers and the organisation care about wellbeing, supporting a sustainable workforce and enabling the delivery of safe, effective and person-centred care, and positive patient experience, in line with the Health and Care Standards and the Act's guiding principles.

Overall, compliance with the Act has contributed to improvements in patient safety and continuity of care, supported sustained delivery of safe and effective services, and enhanced patient experience with increasing positive feedback. Workforce sustainability has strengthened, alongside improvements in staff wellbeing, confidence and safety culture. Collectively, this supports delivery of the Health and Care Standards through safe, effective, person-centred and responsive care, supported by a sustainable workforce, in line with the Act's requirements for appropriate staffing, staff wellbeing and continuous improvement.

Health and Care Staffing Act Health Board Duty Compliance Assurance Levels

Please complete the table below with your Health Boards compliance assurance level for each duty.

Duty 12IA: Duty to ensure appropriate staffing

Duty Description

2 Guiding principles etc. in health care staffing and planning

(1) In carrying out the duty relating to staffing imposed by section 12IA of the National Health Service (Scotland) Act 1978, every Health Board and the Common Services Agency for the Scottish Health Service must have regard to the guiding principles for health and care staffing.

Duty 12IA: Duty to ensure appropriate staffing.

(1) It is the duty of every Health Board and the Agency to ensure that at all times suitably qualified and competent individuals, from such a range of professional disciplines as necessary, are working in such numbers as are appropriate for—

(a) the health, wellbeing, and safety of patients,

(b) the provision of safe and high-quality health care, and

(c) in so far as it affects either of those matters, the wellbeing of staff.

(2) In determining what, in a particular kind of health care provision, constitutes appropriate numbers for the purposes of subsection (1), regard is to be had to—

(a) the nature of the particular kind of health care provision,

(b) the local context in which it is being provided,

(c) the manner in which it is being provided it,

(d) the needs of patients being provided it, and

(e) appropriate clinical advice.

Please provide information on the steps taken to comply with Duty 12IA.

Please provide information to demonstrate compliance.

*Information submitted here should outline how systems & processes take account **of all of the points** detailed in the duty description above by providing detail for each consideration.*

NHS Lothian has established a range of systems and processes to support compliance with Duty 12IA.

PLEASE INDICATE THE OVERALL LEVEL OF ASSURANCE OF THE ORGANISATION'S COMPLIANCE

Reasonable Assurance

Across audited services, real-time staffing risk identification is embedded in operational practice. This includes the use of SafeCare (where implemented), daily team and site huddles, rota monitoring and locally used tools across a range of service settings. Processes described include escalation through senior clinical staff, on-call teams, safety huddles, Datix reporting and SafeCare red flags when risks cannot be mitigated locally, although consistency of 24-hour application varies across services.

Staffing is reviewed using patient numbers and acuity, workload information and service activity through arrangements such as caseload weighting, workload scheduling and adjustment of activity. Patient needs are considered through RAG ratings, skill-mix decisions and prioritisation of urgent pathways.

DUTY	COMPLIANCE ASSURANCE LEVEL
Ensure Appropriate Staffing	Reasonable Assurance
To Have Real Time Staffing Assessment In	Reasonable Assurance
To Have Risk Escalation Process In Place.	Reasonable Assurance
To Have Arrangements To Address Severe And	Limited Assurance
To Seek Clinical Advice On Staffing.	Reasonable Assurance
Ensure Appropriate Staffing. Training Of Staff	Reasonable Assurance
Leaders	
Duty 12IJ: Duty To Follow The Common Staffing Method (CSM)	Reasonable Assurance
Duty 12IL: Training And Consultation Of Staff	Reasonable Assurance
Planning And Securing Services	Limited Assurance

Mechanisms are in place to ensure appropriate clinical advice informs staffing decisions, including Multi Disciplinary Team (MDT) huddles, consultation with senior clinicians, professional leads and on-call escalation arrangements. However, audit findings identify inconsistent recording where staffing decisions are made that go against clinical advice.

Staff competence is supported through mandatory training, TURAS Personal Development plans (PDPs), competency frameworks, skills passports, supervision and specialist training. While these arrangements are widely in place, services report that protected time for training and oversight is sometimes limited during periods of operational pressure or sickness absence.

Arrangements to record, monitor and escalate staffing risks are well established including Datix, SafeCare, risk registers, huddles and governance review processes. Recurring risks can be monitored through SafeCare red flags, RAG reports and Datix trends.

External scrutiny during the reporting period has provided additional assurance and learning from identified themes relevant to duties under the Health and Care (Staffing) (Scotland) Act 2019. Learning from external scrutiny has informed overall assessments of compliance.

These findings and themes are considered alongside audit returns, professional input arrangements and governance processes to inform the Board's assessments of compliance with the Act. Collectively, these arrangements demonstrate that systems are established and routinely applied to support appropriate staffing decisions. However, variability in documentation and training capacity continues to present areas for improvement.

Please provide Information on your methods of monitoring compliance with Duty 12IA

This should include details of the local arrangements in place to monitor compliance with the duty, including mechanisms for escalating and addressing areas of non-compliance.

Compliance with Duty 12IA is monitored through a structured programme of audit, reporting and governance oversight.

During 2024/25 and 2025/26, NHS Lothian used Board quarterly compliance reporting and formal compliance audits to monitor adherence to the duties within the Act. A Board-wide Compliance and Assurance Audit, issued in Q1 2025/26 and completed by operational managers across professional groups, consisted of 70 multiple-choice and free-text questions. Responses were analysed to assess compliance, identify gaps, and inform recommendations for improvement. Audit findings were used to generate Board, duty and profession-level assurance ratings within quarterly Board Compliance Reports using a Red, Amber, Yellow and Green (RAYG) framework, allowing comparison by duty, profession and reporting period, including year-on-year movement in assurance levels.

The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum and the Board, with reports submitted under the responsibility of the Executive Nurse Director. Quarterly reports also track progress against gaps identified through audit and against Board-approved recommendations, providing updates on actions, subgroup activity and next steps linked to compliance priorities.

Professional Leads also contribute through review of audit findings, interpretation of profession-level variation, and reporting through governance structures. Quarterly reports provide assurance that is supported by narrative from audit findings together with oversight provided by Health & Care Staffing Professional Leads. A Professional Leads Group, reviews progress against recommendations, considers profession-specific gaps, and receives updates from subgroups established to address identified priorities.

Areas of success, achievement, or learning

Area of success / achievement / learning	**Details**	**Further action**
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	*This should describe the situation: what is the success, achievement, or learning?* *For example, application of eRostering has allowed senior personnel to be able to see staffing in real-time across all areas, allowing staff to be reallocated as required to reduce level of risk.*	*This should describe how the success, achievement or learning could be used in the future.* *For example, continue the roll out of eRostering across the organisation, using learning from areas that have already implemented.*
Nursing Acute and Community Settings	Nursing services consistently review staffing levels and skill mix using patient acuity, caseload weighting and benchmarking. Real-time safety huddles and SafeCare support proactive redeployment and risk mitigation, while structured supervision and wellbeing initiatives support staff resilience. These approaches can strengthen confidence that appropriately qualified and competent staff are available in sufficient numbers, aligned with the Act's guiding principles on safety, quality and staff wellbeing.	Continue delivery of the Board-approved Communications and Education workstream, progress Board-wide policy and guidance to strengthen consistency in documentation and escalation, and optimise use of HealthRoster and SafeCare to sustain real-time oversight
Nursing and Midwifery	Targeted recruitment and workforce pipeline initiatives have contributed to a significant reduction in registered nursing establishment gaps, improving the availability of appropriately qualified staff and reducing reliance on supplementary staffing.	Learning from these initiatives will inform workforce planning and Common Staffing Method reviews, supporting alignment between staffing establishments, workforce supply and service demand, and sustaining improvements in staffing levels.

Pharmacy	A skill mix review has enabled the introduction of a pharmacy support worker role in acute services enabling clinical staff to focus on advanced practice, Clinical Professional Development (CPD) frameworks, mentorship and protected learning time to support workforce capability. A SafeCare pilot has improved visibility of staffing risk and redeployment options across settings, strengthening appropriate staffing decisions. Recruitment of a workforce planning lead has strengthened coordinated implementation of the legislation within the profession.	Progress the SafeCare implementation plan and align local practice with Board-wide policy, guidance and communications to standardise recording of clinical advice, decisions and escalation pathways.

Areas of escalation, challenges, or risks

Area of escalation / Challenge / Risk	**Details**	**Further action**
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	*This should describe the situation: what is the challenge or risk identified? For example, there may be difficulty with recruiting a particular staff speciality or recruitment in a remote / rural location.*	*This should describe what actions have been / are being / will be taken to address the situation. For example, if there is difficulty in recruiting in a particular speciality or remote / rural location, the relevant organisation may have investigated retire and return schemes or upskilling and career development for existing staff. It may also have looked at how the service could be redesigned.*
Multiple Professions	There is no consistent Board-wide definition or approach to identifying and managing severe and recurrent staffing risks. As a result, ongoing workforce pressures are not always clearly distinguished from short-term operational issues, limiting early organisational intervention.	Work will continue to establish a Board-wide definition and understanding of what constitutes “severe” and “recurrent” staffing risks and how these should be recognised and addressed. This work includes engagement and feedback across services on any definitions and recommendations and aligned with governance processes.
Healthcare Science	Small specialist teams, limited training pipelines and extended on-the-job training requirements reduce flexibility during unplanned absence, increasing vulnerability to service disruption. These pressures limit confidence in addressing severe or recurrent	The developing Board-wide guidance will support more consistent escalation and recording of these risks. Workforce planning forums will consider identified pressures to inform longer-term

	risks and maintaining appropriate staffing at all times.	recruitment, training and service planning decisions.

COMPLIANCE ASSURANCE LEVEL
Reasonable Assurance

Duty 12IC: Duty to have real-time staffing assessment in place.

Duty Summary	**(1) It is the duty of every Health Board and the Agency to put and keep in place arrangements for the real-time assessment of its compliance with the duty imposed by section 12IA.** **(2) The arrangements under subsection (1) must, in particular, include—** (a) a procedure for the identification, by any member of staff, of any risks caused by staffing levels to— (i) the health, wellbeing, and safety of patients, (ii) the provision of safe and high-quality health care, or (iii) in so far as it affects either of those matters, the wellbeing of staff, (b) a procedure for the notification of any such risk to an individual with lead professional responsibility (whether clinical or non-clinical) in the area where the risk was identified, (c) a procedure for the mitigation of any such risks, so far as possible, by such an individual, and a requirement for that individual to seek and have regard to appropriate clinical advice, as necessary, in carrying out such mitigation, (d) raising awareness among staff about the procedures described in paragraphs (a) (b) and (c), (e) encouraging and enabling staff to use the procedures described in paragraphs (a) and (b), (f) training individuals with lead professional responsibility (whether clinical or non-clinical) for particular types of health care in how to implement the arrangements put in place under paragraphs (a) to (e), and (g) ensuring that such individuals receive adequate time and resources to implement those arrangements.

Please provide information on the steps taken to comply with Duty 12IC.

Please provide information to demonstrate compliance.

*Information submitted here should outline how systems & processes take account **of all of the points** detailed in the duty description above by providing detail for each consideration.*

Across professions and services, NHS Lothian has established and embedded systems for real-time staffing assessment through daily team and site huddles, Safety Pauses, SafeCare (where implemented), and local professional tools such as AHP huddle spreadsheets and caseload weighting systems to identify staffing risks as they arise. All staff are able to report staffing level risks or concerns to their team leader or line manager. Staffing risks can also be reported through the NHS Lothian adverse event reporting system (Datix), allowing concerns to be escalated to senior leadership for action where required. These arrangements support the requirement that any member of staff can identify and report staffing risks in real time.

Audit returns from responding professions and services indicate that staff escalate concerns through local escalation routes, most of which are documented and supported by identified individuals with lead clinical professional responsibility. Reported mitigating actions include staff redeployment, adjustment of caseloads, cancellation of non-urgent activity and seeking clinical advice where required.

Audit evidence indicates that awareness and use of escalation processes are supported through induction, team meetings, SOPs and role-specific training. SOPs for the use of SafeCare are available centrally to support real-time staffing assessment. However, audit findings identify inconsistency in the application and documentation of real-time staffing assessment processes across services, particularly where structured tools and digital systems are not routinely used. This variability limits consistency in assurance and auditability of real-time staffing processes across services.

Further work is required to enable wider adoption of SafeCare across professions, particularly within non-nursing and midwifery services. This will require the onboarding of additional professional groups onto HealthRoster to support consistent use of digital staffing and risk assessment systems.

Changes to the HealthRoster operating model, including the allocation of dedicated team members to support individual professions, have significantly strengthened engagement and implementation. This approach has been transformational in improving multidisciplinary support and provides a strong foundation for expanding SafeCare use across services.

This work is essential to strengthening compliance with multiple duties under the Act, including real-time staffing assessment and escalation.

Please provide Information on your methods of monitoring compliance with Duty 12IC

This should include details of the local arrangements in place to monitor compliance with the duty, including mechanisms for escalating and addressing areas of non-compliance.

Compliance with Duty 12IC is monitored through a structured programme of audit, reporting and governance oversight.

During 2024/25 and 2025/26, NHS Lothian used Board quarterly compliance reporting and formal compliance audits to monitor adherence to the duties within the Act. A Board-wide Compliance and Assurance Audit, issued in Q1 2025/26 and completed by operational managers across professional groups, consisted of 70 multiple-choice and free-text questions. Responses were analysed to assess compliance, identify gaps, and inform recommendations for improvement. Audit findings were used to generate Board, duty and profession-level assurance ratings within quarterly Board Compliance Reports using a Red, Amber, Yellow and Green (RAYG) framework, allowing comparison by duty, profession and reporting period, including year-on-year movement in assurance levels.

The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum and the Board, with reports submitted under the responsibility of the Executive Nurse Director. Quarterly reports also track progress against gaps identified through audit and against Board-approved recommendations, providing updates on actions, subgroup activity and next steps linked to compliance priorities.

Professional Leads also contribute through review of audit findings, interpretation of profession-level variation, and reporting through governance structures. Quarterly reports provide assurance that is supported by narrative from audit findings together with oversight provided by Health & Care Staffing Professional Leads. A Professional Leads Group, reviews progress against recommendations, considers profession-specific gaps, and receives updates from subgroups established to address identified priorities.

Areas of success, achievement, or learning

Area of success / achievement / learning	**Details**	**Further action**
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	*This should describe the situation: what is the success, achievement, or learning?* *For example, areas that have implemented and are using SafeCare are able to accurately record risks that are identified and the mitigation measures implemented, and clinical advice received. Reports extracted from the system are demonstrating an auditable trail of decision-making.*	*This should describe how the success, achievement or learning could be used in the future.* *For example, this success is being used to demonstrate to other areas the benefits of using SafeCare and supporting its implementation.*

Dental Services Community and Acute Settings	Dental services operate documented local rotas and escalation arrangements to support real-time staffing assessment. Short-notice absences are recorded and escalated to the designated clinical lead, with mitigation actions agreed and recorded, with records reviewed through routine service management. This provides a workable approach to real-time staffing assessment for smaller services.	Learning from Dental services will inform guidance development and professional discussions to support smaller or specialist services to adopt proportionate real-time staffing assessment arrangements where workforce models are similar.
Nursing Acute Settings	Services using SafeCare consistently identify, record and escalate staffing risks, including mitigation actions and clinical advice sought. System reporting provides a clear auditable record of decision-making and supports real-time oversight. Combined with safety huddles, this has strengthened transparency, escalation and shared learning.	Learning from areas with mature SafeCare use, including Nursing, will continue to inform targeted communications, education and system optimisation. This will support wider adoption, improve consistency of use across services, and further strengthen audit trails, reporting and Board assurance.
Pharmacy	Digitisation work is progressing to optimise HealthRoster and expand use of SafeCare, improving accuracy of staffing information and supporting real-time assessment of staffing risk. To support this work, NHS Lothian's HealthRoster team has made service changes to allocated staff to each profession, providing multidisciplinary support.	The service will use reporting from these systems to monitor uptake and target support to areas where real-time staffing assessment arrangements are less consistently applied.

Areas of escalation, challenges, or risks

Area of escalation / Challenge / Risk	**Details**	**Further action**
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	*This should describe the situation: what is the challenge or risk identified?* *For example, there may be difficulty with encouraging and enabling certain professional groups to use the systems and processes.*	*This should describe what actions have been / are being / will be taken to address the situation. For example, if there is difficulty in engaging certain professional groups, what measures have been put in place with regard to increasing this such as using professional networks, staff representatives etc.?*

Medical Services Acute Hospital Settings	Some acute medical services experience sustained rota gaps and short-notice absence creating recurring real-time staffing pressures. Although escalation routes exist, audit feedback and professional review indicate variation in how staffing risks are recorded and evidenced, particularly where structured tools and safety huddles are not routinely used. This results in variability in the consistency of recording, escalation and audit trail, limiting the ability to demonstrate full assurance against the real-time staffing duty.	Targeted communication and education will reinforce expectations around real-time staffing assessment and escalation. Learning from services with established digital systems and safety huddles will be shared, and Board-wide guidance will support more consistent recording of risk, mitigation and clinical advice.
Registered Chaplains Smaller Specialist Services	In smaller specialist services, escalation happens relatively infrequently, which can affect the consistency with which real-time staffing assessment processes are applied and evidenced. When concerns do arise, they are escalated and recorded, but small team sizes and service structure mean staff have fewer opportunities to use the processes routinely.	Ongoing engagement with smaller and specialist services will clarify expectations and support proportionate use of real-time staffing assessment and escalation arrangements within smaller workforce models.

COMPLIANCE ASSURANCE LEVEL
Reasonable Assurance

Duty 12ID: Duty to Have Risk Escalation Process in Place.

Duty Summary	**(1) It is the duty of every Health Board and the Agency to put and keep in place arrangements for the escalation of any risk.** (a) identified during the real-time assessment of its staffing levels in accordance with arrangements put in place under section 12IC, and (b)which it has not been possible to mitigate in accordance with the arrangements put in place under that section. **(2) The arrangements under subsection (1) of this duty must include:** a) A procedure for the initial reporting of a risk as described in subsection (1), by an individual with lead professional responsibility (whether clinical or non-clinical) in the area where the risk was identified, to a more senior decision-maker, b) A requirement for any such decision-maker to seek and have regard to appropriate clinical advice, as necessary, in reaching a decision on the risk, including on how to mitigate it, c) A procedure for the onward reporting of the risk, as necessary, to a more senior decision-maker in turn, and a requirement for that decision-maker in turn to seek and have regard to appropriate clinical advice, as necessary, in reaching a decision on the risk, including on how to mitigate it, d) A requirement for the arrangements put in place under paragraph (c) to escalate further in order to reach a final decision on the risk, including in appropriate cases by the reporting of the risk to the members of the Health Board. e) A procedure for the notification of every decision made following the initial report, and the reasons for it, to: (i)any individual who was involved in identifying the risk in accordance with the arrangements put in place under section 12IC(2)(a), (ii)any individual who was involved in attempting to mitigate the risk in accordance with the arrangements put in place under section 12IC(2)(c), (iii)any individual who was involved in reporting the risk in accordance with the arrangements put in place under paragraph (a), (c) or (d) of this subsection, and (iv)any individual who gave clinical advice in accordance with the arrangements put in place under section 12IC(2)(c), or under paragraph (b), (c) or (d) of this subsection, f) A procedure for those individuals to record any disagreement with any decision made following the initial report, g) A procedure for those individuals to be able to request a review of the final decision on a risk (other than a final decision made by the members of the Health Board or the Agency) made in accordance with the arrangements put in place under section 12IC(2)(c) or, as the case may be, paragraphs (b), (c) or (d) of this subsection, h) Raising awareness among staff about the procedures described in paragraphs (a) to (f), i) Training individuals with lead professional responsibility (whether clinical or non-clinical) for particular types of healthcare, and other senior decision-makers, in how to implement the arrangements put in place under paragraphs (a) to (h), and j) Ensuring that such individuals receive adequate time and resources to implement those arrangements.
Please provide information on the steps taken to comply with Duty 12ID.	

Please provide information to demonstrate compliance.
*Information submitted here should outline how systems & processes take account **of all of the points** detailed in the duty description above by providing detail for each consideration.*

NHS Lothian has established and implemented escalation arrangements to ensure that staffing risks identified through real-time staffing assessment are escalated where they cannot be mitigated locally. These arrangements include defined escalation routes from the individual with lead professional responsibility for a service area to more senior clinical and operational decision-makers, in line with local governance structures.

Audit responses indicate that when staffing risks cannot be mitigated locally they are escalated from the individual with lead professional responsibility to a more senior decision-maker, following defined and structured escalation routes appropriate to the service context.

Audit responses indicate that senior staff review identified risks and seek appropriate clinical advice where required to inform decision-making and mitigation. Where risks remain unresolved, issues may escalate through additional levels of management in line with local escalation arrangements.

Governance processes are also described through which staffing risks and associated mitigation actions are discussed. In some services, individuals providing clinical advice are informed where decisions differ from that advice, however, this is not consistently evidenced across all services.

Multiple services describe mechanisms for recording disagreement with staffing decisions, including the use of documented systems (including Datix, SBAR documentation, email correspondence and locally developed recording templates). Arrangements are also described for communicating escalation decisions and their rationale to relevant staff involved in identifying, mitigating or advising on risks, although this is not consistently evidenced across all services.

Audit responses also identify awareness-raising and training activities linked to escalation arrangements, including induction, TURAS learning, SafeCare training, SOP-based guidance, shadowing and reinforcement through team meetings and safety huddles. In several services, protected time, supervisory arrangements and leadership sessions support the implementation of escalation processes.

Collectively, these audit responses indicate that escalation arrangements are in place and aligned to the requirements of this duty. However, there is variability in the consistency of application, documentation and communication of escalation decisions across services. This variation affects the consistency with which escalation processes can be evidenced across all services.

Please provide Information on your methods of monitoring compliance with Duty 12ID

This should include details of the local arrangements in place to monitor compliance with the duty, including mechanisms for escalating and addressing areas of non-compliance.

Compliance with Duty 12ID is monitored through a structured programme of audit, reporting and governance oversight.

During 2024/25 and 2025/26, NHS Lothian used Board quarterly compliance reporting and formal compliance audits to monitor adherence to the duties within the Act. A Board-wide Compliance and Assurance Audit, issued in Q1 2025/26 and completed by operational managers across professional groups, consisted of 70 multiple-choice and free-text questions. Responses were analysed to assess compliance, identify gaps, and inform recommendations for improvement. Audit findings were used to generate Board, duty and profession-level assurance ratings within quarterly Board Compliance Reports using a Red, Amber, Yellow and Green (RAYG) framework, allowing comparison by duty, profession and reporting period, including year-on-year movement in assurance levels.

The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum and the Board, with reports submitted under the responsibility of the Executive Nurse Director. Quarterly reports also track progress against gaps identified through audit and against Board-approved recommendations, providing updates on actions, subgroup activity and next steps linked to compliance priorities.

Professional Leads also contribute through review of audit findings, interpretation of profession-level variation, and reporting through governance structures. Quarterly reports provide assurance that is supported by narrative from audit findings together with oversight provided by Health & Care Staffing Professional Leads. A Professional Leads Group, reviews progress against recommendations, considers profession-specific gaps, and receives updates from subgroups established to address identified priorities.

Areas of success, achievement, or learning

Area of success / achievement / learning	**Details**	**Further action**
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	*This should describe the situation: what is the success, achievement, or learning?* *For example, senior decision-makers in paediatric nursing were identified and a chain of escalation communicated to all personnel. Individuals are now much better aware of who to contact during any particular shift in the event that a risk needs to be escalated.*	*This should describe how the success, achievement or learning could be used in the future.* *For example, the procedures for identifying the chain of escalation that were used in paediatric nursing are now being trialled and rolled out across other areas.*

Multiple Services	Multiple services report using documented routes to record escalation activity and any disagreements with clinical advice, including Datix, SBAR, email correspondence and locally developed recording templates. These mechanisms support the creation of an auditable record of escalation decisions and associated mitigation actions. Directorate and service governance meetings provide forums where staffing risks, escalation decisions and follow-up actions are reviewed. This enables services to review escalation activity, assess the effectiveness of mitigation actions and identify learning to inform improvements in local procedures Collectively, these arrangements support improved transparency in escalation decision-making and provide information to inform local review and improvement of escalation practice.	Learning from services with established documentation processes will inform ongoing work to strengthen consistency in how escalation activity and associated clinical advice are recorded across services.
Pharmacy	A process has been developed and trialled to allow staff to record disagreement with staffing decisions following identification of a risk. This process is supported by local guidance and includes a feedback mechanism to ensure that staff raising concerns receive acknowledgement and visibility of how the issue has been considered.	Following review by senior leadership, the approach will be considered for wider implementation across Pharmacy services and may inform the development of consistent arrangements for recording disagreement with staffing decisions across other professional groups.

Areas of escalation, challenges, or risks

Area of escalation / Challenge / Risk	**Details**	**Further action**
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	*This should describe the situation: what is the challenge or risk identified?* *For example, there may be difficulty with ensuring relevant individuals involved in reporting, mitigating, escalating, or giving clinical advice on a risk are*	*This should describe what actions have been / are being / will be taken to address the situation.* *For example, if there is difficulty in notifying relevant individuals about decisions made and the reasons for them, what measures have been put*

	notified of decisions made and the reasons for them.	*in place to ensure this happens, such as providing training, increasing awareness and auditing to identify root causes?*
Acute and Community services	Audit responses from acute and community services indicate that escalation routes are established; however, several teams report challenges maintaining these arrangements consistently during out-of-hours periods. Services note that escalation may be more difficult to address overnight, at weekends or during public holidays, when the senior person available may not always have immediate access to senior clinical cover. Respondents also report that reduced staffing levels and reliance on on-call arrangements can limit timely access to senior decision-makers and clinical advice. This presents a challenge in maintaining consistent escalation through all stages of decision-making during periods of reduced cover.	Board-wide policy and guidance work is in progress to support consistent understanding of roles, responsibilities and escalation expectations under the Act. Draft Board-wide documentation is being prepared, with related work underway to align terminology and escalation processes across services.
Multiple Services	Across services, audit responses indicate that documented routes such as Datix, email correspondence, locally used recording templates and SafeCare are used to capture escalation activity. However, respondents also report variability in the completeness of documentation, indicating that escalation decisions and associated rationales are not always recorded consistently. This creates a challenge in demonstrating that escalation decisions and the reasons for them are consistently documented across all services.	Board-wide documentation and guidance are being developed to support greater consistency in how escalation decisions and associated recording are documented across services. Related work is also underway to align terminology and reporting expectations.

COMPLIANCE ASSURANCE LEVEL
Reasonable Assurance

Duty 12IE: Duty to have arrangements to address severe and recurrent risks.

Duty Summary	**Duty to have arrangements to address severe and recurrent risks.** **(1) It is the duty of every Health Board and the Agency to put and keep in place arrangements to—** (a) collate information relating to every risk escalated to such level as the Health Board or the Agency (as the case may be) consider appropriate in accordance with the arrangements put in place under section 12ID (2), and (b) identify and address those risks which are considered to be either or both— (i) severe, (ii) liable to materialise frequently. **(2) The arrangements under subsection (1) must, in particular, include a procedure for—** (a) the recording of a risk as described in subsection (1)(b), (b) the reporting of any such risk, as necessary, to a more senior decision-maker, including in appropriate cases to the members of the Health Board or the Agency (as the case may be), (c) the mitigation of the risk, so far as possible, and a requirement for appropriate clinical advice to be sought and had regard to in carrying out such mitigation, and (d) the identification of actions to prevent the future materialisation of the risk, so far as possible.

Please provide information on the steps taken to comply with Duty 12IE.

Please provide information to demonstrate compliance.
Information submitted here should outline how systems & processes take account ***of all of the points*** *detailed in the duty description above by providing detail for each consideration.*

Board-level and local governance systems are described in audit returns for identifying, recording and managing severe and recurrent staffing risks. However, arrangements for identifying and managing severe and recurrent staffing risks are not yet consistently defined or applied across services.

Escalated staffing risks are recorded through established governance mechanisms including Datix, directorate risk registers and profession-specific assurance arrangements where these processes are in use. Audit responses indicate that a range of locally defined thresholds are used to determine severity, recurrence and service impact, including RAG triggers, minimum staffing ratios, loss-of-capacity criteria and risk register definitions. In the absence of a single consistent Board-wide definition of severe and recurrent staffing risk, services rely on these locally established thresholds and professional judgement to identify risks requiring escalation, resulting in variation in how severe and recurrent staffing risks are identified, escalated and managed.

Where risks are identified as severe or recurrent, services report escalation through service and area leadership structures, directorate management arrangements and onward to senior governance groups and Board committees where required, in line with the escalation arrangements described under Duty 12ID. Clinical advice informs mitigation and decision-making at appropriate stages of the escalation process, with decisions documented through Datix, SafeCare and local escalation or safety huddle records where formal processes operate.

Audit findings identify variation in how consistently these arrangements are applied and documented across services, limiting the ability to demonstrate a clear and consistent organisational approach. Some services describe work underway to strengthen recording and escalation processes and development of board-wide guidance to support consistent identification and escalation of severe and recurrent staffing risks is ongoing. As a result, the Board cannot yet demonstrate a consistent, organisation-wide approach to identifying, escalating and mitigating severe and recurrent staffing risks.

Please provide Information on your methods of monitoring compliance with Duty 12IE

This should include details of the local arrangements in place to monitor compliance with the duty, including mechanisms for escalating and addressing areas of non-compliance.

Compliance with Duty 12IE is monitored through a structured programme of audit, reporting and governance oversight.

During 2024/25 and 2025/26, NHS Lothian used Board quarterly compliance reporting and formal compliance audits to monitor adherence to the duties within the Act. A Board-wide Compliance and Assurance Audit, issued in Q1 2025/26 and completed by operational managers across professional groups, consisted of 70 multiple-choice and free-text questions. Responses were analysed to assess compliance, identify gaps, and inform recommendations for improvement. Audit findings were used to generate Board, duty and profession-level assurance ratings within quarterly Board Compliance Reports using a Red, Amber, Yellow and Green (RAYG) framework, allowing comparison by duty, profession and reporting period, including year-on-year movement in assurance levels.

The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum and the Board, with reports submitted under the responsibility of the Executive Nurse Director. Quarterly reports also track progress against gaps identified through audit and against Board-approved recommendations, providing updates on actions, subgroup activity and next steps linked to compliance priorities.

Professional Leads also contribute through review of audit findings, interpretation of profession-level variation, and reporting through governance structures. Quarterly reports provide assurance that is supported by narrative from audit findings together with oversight provided by Health & Care Staffing Professional Leads. A Professional Leads Group, reviews progress against recommendations, considers profession-specific gaps, and receives updates from subgroups established to address identified priorities.

Areas of success, achievement, or learning

Area of success / achievement / learning	Details	Further action

This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	*This should describe the situation: what is the success, achievement, or learning?* *For example, a recurrent risk was identified in the capacity of one laboratory, leading to a delay in testing samples and communicating sample results. Following investigation, the process for booking in samples was streamlined and an admin coordinator was appointed. This has improved performance, and the lab is now meeting its targets.*	*This should describe how the success, achievement or learning could be used in the future.* *For example, the organisation is now looking at whether the changes implemented in one lab could be applied to other labs, to improve wider performance.*
AHP, Dental services and Healthcare Science	Allied Health Professional teams introduced structured RAG thresholds and workforce-capacity criteria to support recognition of severe and recurrent staffing risks and provide a defined basis for escalation and workforce planning discussions. Healthcare Science services demonstrated that introducing an on-call rota reduced recurrent high-risk gaps in specialist cover and improved service continuity where specialist input is required. Dental services implemented a clinic-prioritisation approach during periods of staffing pressure, enabling continuity of critical clinics and urgent patient pathways.	These examples demonstrate emerging practice at service level, which will inform ongoing Board-wide work to strengthen recognition and escalation of severe or recurrent staffing risks across services. Relevant governance groups will consider whether similar approaches could support other services experiencing sustained staffing pressures.
Pharmacy	Within Radiopharmacy, recurrent risks were identified where daily workload could exceed available staffing capacity. The team implemented a capacity-planning tool that calculates safe workload based on the staffing available each day. This enables earlier identification of pressure points and allows mitigation actions such as rota adjustments or reprioritisation of tasks before risks escalate.	Following local evaluation, the approach is being adopted more widely within Pharmacy services and is being considered to inform similar workload planning approaches in other specialist areas where service demand and staffing capacity require close monitoring.

Areas of escalation, challenges, or risks

Area of escalation / Challenge / Risk	Details	Further action

This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	*This should describe the situation: what is the challenge or risk identified?* *For example, collation of information in a particular NHS function has identified a risk that materialises frequently, however identification of actions to prevent future materialisation has not improved the situation.*	*This should describe what actions have been / are being / will be taken to address the situation. For example, if identification of initial actions to prevent a recurring risk has not improved the situation, further steps may include establishing a working group to investigate and make recommendations, observing practice in the area, interviewing staff, addressing the staff skills mix, allocating additional assistance, redesigning the service etc.*
Healthcare Science (HCS) small specialist teams	Audit returns identify recurrent staffing risks associated with small specialist Healthcare Science teams working across multiple sites, where workforce capacity is limited and there are no nationally defined benchmark staffing levels to support identification of severe or recurrent risk. When key specialists are unavailable, clinical activity may be cancelled or diverted, and risks arising later in the week may not be fully addressed until the following working week. Although the introduction of an on-call rota and directorate risk-register oversight has reduced recurrence of some risks, services remain vulnerable during periods of peak demand or unexpected absence with limited options to mitigate recurring risks.	Board-wide work is underway to develop standardised definitions of severe and recurrent staffing risk and to align escalation thresholds across services. This includes review of definitions and risk criteria used by other Boards, with draft definitions and pathway recommendations being prepared for wider consideration.
Allied Health Professions	Audit responses from AHP services highlight variation in how severe and recurrent staffing risks are defined and escalated beyond local risk register processes. Several teams report limited options to mitigate risks once thresholds are breached, particularly where additional staffing capacity is not available. In some cases, this has resulted in repeated periods of high operational risk and reduced staff confidence about the value of recording risks where mitigation options are limited.	A programme of work is being implemented to embed agreed RAG thresholds and workforce capacity criteria across AHP services, strengthening recognition and escalation of severe and recurrent staffing risks through established governance structures.

Duty 12IF: Duty to Seek Clinical Advice on Staffing.

Duty Summary	**Duty to Seek Clinical Advice on Staffing.** **(1) It is the duty of every Health Board and the Agency to put and keep in place arrangements for—** (a) seeking and having regard to appropriate clinical advice in making decisions and putting in place arrangements in relation to staffing under sections 12IA to 12IE and 12IH to 12IL, (b) recording and explaining decisions which conflict with that advice. **(2) The arrangements under subsection (1) must, in particular, include—** (a) where a Health Board or the Agency (as the case may be) reaches a decision on a matter which conflicts with the clinical advice it has received— (i) a procedure for the identification of any risks caused by that decision, (ii) a procedure for the mitigation of any such risks, so far as possible, (iii) a procedure for the notification of any such decision, and the reasons for it, to any individual who gave clinical advice on the matter, (iv) a procedure for any such individual to record any disagreement with the decision made on the matter, (b)a procedure for individuals with lead clinical professional responsibility for a particular type of health care to report to the members of the Health Board or the Agency (as the case may be), on at least a quarterly basis, about the extent to which that individual considers that it is complying with the duties imposed by— (i) this section, and (ii) sections 12IA to 12IE and 12IH to 12IL, (c) a procedure for such individuals to— (i) enable and encourage other employees to give views on the operation of this section, and (ii) record such views in reports made in accordance with the arrangements put in place under paragraph (b), (d) raising awareness among individuals with lead clinical professional responsibility for particular types of health care in how to implement the arrangements put in place under paragraphs (a) to (c), and (e) ensuring that such individuals receive adequate time and resources to implement those arrangements. **(3) Every Health Board and the Agency must have regard to the reports received in accordance with the arrangements put in place under subsection (2)(b).**

Please provide information on the steps taken to comply with Duty 12IF.

Please provide information to demonstrate compliance.
Information submitted here should outline how systems & processes take account ***of all of the points*** *detailed in the duty description above by providing detail for each consideration.*

NHS Lothian has established arrangements to ensure that appropriate clinical advice is sought and considered when making staffing decisions under the Health and Care Staffing (Scotland) Act.

Audit responses indicate that staffing decisions draw on appropriate clinical advice, with practice varying according to service context. Clinical advice is accessed through established arrangements including on-call clinical review, input from senior clinical leaders, safety huddles and consultation with professional or service leads.

Where staffing risks are identified through real-time assessment and escalation arrangements, clinical advice informs mitigation and decision-making at appropriate stages. Decisions relating to staffing risks and mitigation actions are documented through systems such as Datix, SafeCare and locally developed recording templates, however, the consistency and formality of documentation varies across services.

Some services report that where decisions differ from clinical advice, both the advice provided and the rationale for the decision are recorded through local governance processes. Staff feedback mechanisms, including team meetings, one-to-one supervision, safety huddles and line management discussions, also support identification of issues requiring clinical input and provide opportunities for staff to contribute views on staffing pressures and escalation processes. Individuals with lead clinical professional responsibility also contribute to Health & Care Staffing compliance reporting through professional governance structures and Board compliance reporting arrangements.

Audit findings demonstrate that mechanisms for seeking and considering clinical advice are in place across responding services. While arrangements to seek and consider clinical advice are in place, inconsistency in how this is recorded and evidenced limits consistency in demonstrating full compliance across all services.

Please provide Information on your methods of monitoring compliance with Duty 12IF

This should include details of the local arrangements in place to monitor compliance with the duty, including mechanisms for escalating and addressing areas of non-compliance.

Compliance with Duty 12IF is monitored through a structured programme of audit, reporting and governance oversight.

During 2024/25 and 2025/26, NHS Lothian used Board quarterly compliance reporting and formal compliance audits to monitor adherence to the duties within the Act. A Board-wide Compliance and Assurance Audit, issued in Q1 2025/26 and completed by operational managers across professional groups, consisted of 70 multiple-choice and free-text questions. Responses were analysed to assess compliance, identify gaps, and inform recommendations for improvement. Audit findings were used to generate Board, duty and profession-level assurance ratings within quarterly Board Compliance Reports using a Red, Amber, Yellow and Green (RAYG) framework, allowing comparison by duty, profession and reporting period, including year-on-year movement in assurance levels.

The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum and the Board, with reports submitted under the responsibility of the Executive Nurse Director. Quarterly reports also track progress against gaps identified through audit and against Board-approved recommendations, providing updates on actions, subgroup activity and next steps linked to compliance priorities.

Professional Leads also contribute through review of audit findings, interpretation of profession-level variation, and reporting through governance structures. Quarterly reports provide assurance that is supported by narrative from audit findings together with oversight provided by Health & Care Staffing Professional Leads. A Professional Leads Group, reviews progress against recommendations, considers profession-specific gaps, and receives updates from subgroups established to address identified priorities.

Areas of success, achievement, or learning

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	*This should describe the situation: what is the success, achievement, or learning?* *For example, the views of employees included in the reports prepared by individuals with lead clinical professional responsibility for a particular type of healthcare identified a potential improvement in working practices in one area.*	*This should describe how the success, achievement or learning could be used in the future.* *For example, the potential improvement is being trialled in the one area and if successful will be rolled out across other areas in the organisation.*
Multiple Professions and Services	Audit returns highlight positive learning in how clinical advice is accessed and applied to staffing decisions. Across professions, there is a linkage between clinical oversight and real-time staffing risk management. Services report that on-call arrangements, safety huddles and senior professional involvement support timely access to clinical advice, clearer decision-making, earlier escalation of risks and more coordinated mitigation across teams. Overall, services describe consistency and timeliness in seeking and applying appropriate clinical advice when staffing pressures arise.	Communications and education work will continue to build on this learning, including sharing best practice across services. This will involve improving visibility of information and learning resources, alongside profession-specific engagement to support continued understanding of staffing requirements, access to clinical advice and timely escalation.
Multiple Professions and Services	Audit feedback indicates that services are applying staffing risk processes with confidence, supported by access to clinical advice during periods of operational pressure. Safety huddles, established procedures and senior clinical input are described as informing staff understanding of when clinical	Board-wide policy, guidance and communications work will continue to support shared understanding of staffing processes, roles and responsibilities. This will build on established approaches to seeking clinical advice and applying clinical advice within escalation arrangements during staffing pressures.

	advice is required, how it is sought and how it informs escalation decisions. Services describe identification of staffing pressures, escalation to senior clinical decision-makers and mitigation actions as part of managing workload pressures and continuity of clinical activity.	

Areas of escalation, challenges, or risks

Area of escalation / Challenge / Risk	**Details**	**Further action**
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	*This should describe the situation: what is the challenge or risk identified?* *For example, in compiling reports made to the members of the Health Board, there are good mechanisms in place for the Medical Director to enable and encourage medical employees to give their views, but the mechanisms for seeking the views of other professional groups for which they are responsible, such as pharmacy employees, are not well established. Hence, the views of these*	*This should describe what actions have been / are being / will be taken to address the situation. For example, if the views of all professional groups are not being sought, what measures have been put in place to engage these groups and proactively seek out their opinions.*

	employees are not being sought or incorporated into the reports.	
Multiple Professions	Audit feedback indicates variation in how consistently clinical advice is sought, recorded and applied during periods of staffing pressure. Pharmacy and Healthcare Science teams report that escalation may rely on a small number of senior staff or on-call specialists, which can limit timely access to clinical advice particularly during out of hours periods. Dental and Healthcare Science services also highlight that small specialist teams may have limited capacity to escalate or maintain activity when key clinical staff are unavailable. These factors can affect the consistency and timeliness with which clinical advice informs staffing decisions particularly where staffing risks are identified through real-time staffing assessment and escalation processes.	Services will continue to review escalation and on-call arrangements to support timely access to appropriate clinical advice, particularly in smaller or specialist teams where reliance on limited staff can affect service resilience.
Multiple Services	Across some responding services, mechanisms for capturing, recording and evidencing clinical advice within staffing decisions are not standardised across services. Some teams report reliance on manual spreadsheets, email updates or frequently revised huddle templates, which can create uncertainty about how clinical advice should be recorded and escalated. Documentation of the clinical rationale also varies between teams, particularly where informal communication routes are used, limiting the ability to demonstrate how clinical advice has informed staffing decisions during periods of operational pressure.	Board-wide work is in progress to strengthen guidance on documenting clinical advice and associated decision-making when staffing risks are escalated.

COMPLIANCE ASSURANCE LEVEL
Reasonable Assurance

Duty 12IH: Duty to ensure adequate time given to clinical leaders.

Duty Summary	**In complying with the duty imposed by section 12IA, every Health Board and the Agency must ensure that all individuals with lead clinical professional responsibility for a team of staff receive sufficient time and resources to discharge that responsibility and their other professional duties, including, in particular, time—** (a) to supervise the meeting of the clinical needs of the patients in their care, (b) to manage, and support the development of, the staff for whom they are responsible, and (c) to lead the delivery of safe, high-quality, and person-centred health care.

Please provide information on the steps taken to comply with Duty 12IH.

Please provide information to demonstrate compliance.
Information submitted here should outline how systems & processes take account ***of all of the points*** *detailed in the duty description above by providing detail for each consideration.*

Audit responses indicate that clinical leaders are supported through established arrangements including job-planned non-clinical time, dedicated leadership sessions within rotas and participation in supervision and governance processes. These arrangements support clinical leaders to oversee patient care, support staff development and contribute to service planning and workforce discussions.

Clinical leaders contribute to staffing oversight through participation in safety huddles, escalation discussions and workforce planning processes, supporting real-time awareness of staffing pressures and service risks.

Audit findings indicate that these arrangements support clinical leaders to undertake responsibilities relating to supervision, staff development and delivery of safe and effective care. However, audit feedback indicates that during periods of sustained operational pressure, protected leadership time may be reduced with clinical leaders often required to provide direct clinical cover. This reduces the consistency with which clinical leaders can fulfil their leadership, supervisory and service improvement responsibilities.

Please provide Information on your methods of monitoring compliance with Duty 12IH

This should include details of the local arrangements in place to monitor compliance with the duty, including mechanisms for escalating and addressing areas of non-compliance.

Compliance with Duty 12IH is monitored through a structured programme of audit, reporting and governance oversight.

During 2024/25 and 2025/26, NHS Lothian used Board quarterly compliance reporting and formal compliance audits to monitor adherence to the duties within the Act. A Board-wide Compliance and Assurance Audit, issued in Q1 2025/26 and completed by operational managers across professional groups, consisted of 70 multiple-choice and free-text questions. Responses were analysed to assess compliance, identify gaps, and inform recommendations for improvement. Audit findings were used to generate Board, duty and profession-level assurance ratings within quarterly Board Compliance Reports using a Red, Amber, Yellow and Green (RAYG) framework, allowing comparison by duty, profession and reporting period, including year-on-year movement in assurance levels.

The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum and the Board, with reports submitted under the responsibility of the Executive Nurse Director. Quarterly reports also track progress against gaps identified through audit and against Board-approved recommendations, providing updates on actions, subgroup activity and next steps linked to compliance priorities.

Professional Leads also contribute through review of audit findings, interpretation of profession-level variation, and reporting through governance structures. Quarterly reports provide assurance that is supported by narrative from audit findings together with oversight provided by Health & Care Staffing Professional Leads. A Professional Leads Group, reviews progress against recommendations, considers profession-specific gaps, and receives updates from subgroups established to address identified priorities.

Areas of success, achievement, or learning

Area of success / achievement / learning	**Details**	**Further action**
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	*This should describe the situation: what is the success, achievement, or learning?* *For example, senior physiotherapists and team leaders convened a working group to determine what sufficient time and resources would look like for individuals with lead clinical professional responsibility for a team of staff. The outcome of the project was a determination of time and resources for different team leaders, and feedback so far has been positive.*	*This should describe how the success, achievement or learning could be used in the future.* *For example, the positive outcome experienced as a result of the working group has led to this model being extended to other AHP areas and trialled to see applicability.*
Multiple Professions	Several services have arrangements in place to protect and make leadership time visible through scheduling dedicated non-clinical and supervisory sessions in HealthRoster and job planning. This provides clearer allocation and visibility of leadership time to supervise care, support staff and lead quality improvement activity. Audit feedback indicates that this time is routinely incorporated within rotas or job plans and locally validated, supporting effective oversight of clinical activity and enabling clinical leaders to fulfil their responsibilities	Communications and education work is underway to support shared understanding of roles and responsibilities under the Act. This will support consistency and build on best practice in how leadership time is recognised within local staffing processes.

	for supervising care, supporting staff development and leading safe service delivery.	
Multiple Professions	Daily and twice-daily safety and staffing huddles are embedded across multiple services, providing regular real-time oversight of staffing capacity and operational pressures. These enable clinical leaders to prioritise workload, coordinate staff deployment and escalate issues in a timely way.	Ongoing communications and guidance work will build on this established practice by supporting shared understanding of how regular staffing forums such as huddles contribute to clinical leadership time. This includes how these forums enable oversight, prioritisation and escalation during staffing pressures.

Areas of escalation, challenges, or risks

Area of escalation / Challenge / Risk	Details	Further action

This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	*This should describe the situation: what is the challenge or risk identified?* *For example, the process in place to identify the roles, and therefore individuals, with lead clinical professional responsibility for a team of staff does not consistently identify who these individuals are, and therefore sufficient time and resources for these individuals to discharge their responsibilities has not been considered.*	*This should describe what actions have been / are being / will be taken to address the situation.* *For example, if the process in place to identify the roles, and therefore individuals, does not consistently identify who those individuals are, what measures have been taken to address this? This could involve working with all staff groups, clinical areas, and teams to identify job titles / roles, utilising HR processes, and information and or utilising eRostering to identify team leaders etc.*
Multiple Healthcare Science Services	Feedback from several Healthcare Science services indicates that, while leadership time is formally incorporated within job-planned or fixed rota arrangements, sustained operational and staffing pressures affect the consistency with which protected leadership time is realised in practice. During periods of increased service demand, staff with leadership responsibilities may be required to provide additional clinical cover, which can reduce the time available for supervision, staff support and leadership oversight. This reduces the consistency of supervisory and leadership capacity, particularly within smaller or specialist teams.	Communications and education work is underway to support understanding of responsibilities under the Act across clinical staff. This can help reinforce awareness of leadership responsibilities during periods of operational pressure.
Multiple Nursing services	Responses from Nursing services indicate that although leadership time is planned and recorded within HealthRoster, charge nurses are often required to provide direct clinical cover during periods of staffing pressure. This reduces the consistency with which supervisory and leadership time is protected and limits opportunities to undertake routine oversight, staff support, supervision and service improvement activity.	Nursing leadership teams will continue to review workforce capacity and roster arrangements to support greater consistency in protecting leadership time, particularly during periods of sustained operational pressure.

COMPLIANCE ASSURANCE LEVEL
Reasonable Assurance

Duty 12II: Duty to ensure appropriate staffing: training of staff.

Duty Summary	**In complying with the duty imposed by section 12IA, every Health Board and the Agency must ensure that its employees receive—** (a) such training as it considers appropriate and relevant for the purposes set out in section 12IA(1)(a) and (b), and (b) such time and resources as it considers adequate to undertake such training.

Please provide information on the steps taken to comply with Duty 12II.

Please provide information to demonstrate compliance.

*Information submitted here should outline how systems & processes take account **of all of the points** detailed in the duty description above by providing detail for each consideration.*

Services demonstrate compliance with Duty 12II through established training and development systems. Audit findings indicate that 93% of services audited in 2025 report processes in place to ensure staff receive training that is appropriate and relevant to their role. These arrangements include induction programmes, competency frameworks, skills passports, educator oversight, PDP/ TURAS monitoring, and mandatory-training governance processes to support alignment between training requirements and role responsibilities.

Wider workforce development initiatives, including partnership working through the Lothian Care Academy, support access to structured education pathways across health and social care roles. These arrangements strengthen staff development, support career progression and contribute to workforce sustainability across integrated services.

Services report access to protected learning time, job-planned non-clinical time and support from education teams to enable staff to undertake required training. Where required, operational activity may be adjusted to release staff for training while maintaining safe service delivery.

However, escalation-specific training is less consistently reported (35%, NHS Lothian Audit 2025), including variation in systems for identifying training needs, monitoring completion and providing protected time for learning. Collectively, this evidence indicates that core Duty 12II arrangements are in place across most services, however, inconsistency remains in the provision of escalation-specific training and its application across all service areas. This gap results in variation in staff preparedness to identify, record and escalate staffing risks in line with the requirements of the Act.

Please provide Information on your methods of monitoring compliance with Duty 12II

This should include details of the local arrangements in place to monitor compliance with the duty, including mechanisms for escalating and addressing areas of non-compliance.

Compliance with Duty 12II is monitored through a structured programme of audit, reporting and governance oversight.

During 2024/25 and 2025/26, NHS Lothian used Board quarterly compliance reporting and formal compliance audits to monitor adherence to the duties within the Act. A Board-wide Compliance and Assurance Audit, issued in Q1 2025/26 and completed by operational managers across professional groups, consisted of 70 multiple-choice and free-text questions. Responses were analysed to assess compliance, identify gaps, and inform recommendations for improvement. Audit findings were used to generate Board, duty and profession-level assurance ratings

within quarterly Board Compliance Reports using a Red, Amber, Yellow and Green (RAYG) framework, allowing comparison by duty, profession and reporting period, including year-on-year movement in assurance levels.

The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum and the Board, with reports submitted under the responsibility of the Executive Nurse Director. Quarterly reports also track progress against gaps identified through audit and against Board-approved recommendations, providing updates on actions, subgroup activity and next steps linked to compliance priorities.

Professional Leads also contribute through review of audit findings, interpretation of profession-level variation, and reporting through governance structures. Quarterly reports provide assurance that is supported by narrative from audit findings together with oversight provided by Health & Care Staffing Professional Leads. A Professional Leads Group, reviews progress against recommendations, considers profession-specific gaps, and receives updates from subgroups established to address identified priorities.

Areas of success, achievement, or learning

Area of success / achievement / learning	**Details**	**Further action**
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	*This should describe the situation: what is the success, achievement, or learning?* *For example, the psychology department in conjunction with HR, has just completed a project to promote more accurate capturing of information*	*This should describe how the success, achievement or learning could be used in the future.* *For example, AHP colleagues have now expressed interest in the new system and are*

	relating to continued professional development for psychology colleagues. Feedback from employees is that they have found the new system much easier to use and are now recording relevant CPD.	*undertaking a project to establish whether they could implement something similar.*
Nursing CAMHS Services	Increasing demand for physical health reviews for young people with eating disorders, alongside national HST psychiatry training fill-rate gaps, led CAMHS to introduce a programme supporting nursing staff to train as Advanced Nurse Practitioners (ANPs). Staff were provided with protected time for university study and work-based learning, alongside additional placement opportunities to develop clinical experience. The service also developed local work-based competencies and worked closely with psychiatry colleagues to support the training process as staff established themselves in this new role. The service reports that two ANPs are now qualified, with a further two trainees in their final year. These roles support the delivery of physical health reviews for young people with eating disorders. The programme also contributes to the development of clinical career pathways for nursing staff.	Communications and education work is underway to support understanding of responsibilities under the Act across clinical staff. This work can help share learning from local training approaches and advanced role development, supporting compliance with Duty 12II.
Multiple professions	Audit returns highlight learning from the way training governance arrangements are being implemented across services. Where protected learning time, competency frameworks and educator oversight are in place, services report better visibility of staff competence and greater confidence in deploying staff safely. Services also describe the development of advanced roles and on-call training to build skills within teams and support service continuity. These arrangements are helping services develop workforce capability and respond to operational pressures while maintaining safe care delivery.	This learning can inform sharing of local training approaches across services, supporting wider understanding of how protected learning time, competency frameworks and role development contribute to workforce capability and safe care delivery.

Areas of escalation, challenges, or risks

Area of escalation / Challenge / Risk	Details	Further action
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	*This should describe the situation: what is the challenge or risk identified?* *For example, clearly defined processes and procedures exist for some groups of staff, e.g. nursing and midwifery, but do not exist for other groups of staff, e.g. healthcare scientists.*	*This should describe what actions have been / are being / will be taken to address the situation. For example, if procedures and processes are not in place for healthcare scientists, please list the measures which need to be put in place to address this, such as working with HR and healthcare scientist representatives to define an appropriate training programme, assess training needs of employees and plan for required training to be undertaken.*
Dental Services	Audit returns from Dental Services indicate variation in training arrangements and role clarity, including gaps in planned training provision and consistent job planning, particularly within Public Dental Service clinicians. While local SOPs, defined staffing ratios and escalation processes are in place, training approaches are not yet uniformly embedded across all services. This creates a challenge in ensuring all Dental staff have equitable access to appropriate and relevant training in line with Duty 12II.	Ongoing Board-wide work to support understanding of responsibilities under the Act will help inform local consideration of consistent training arrangements, role expectations and access to relevant training across services.
Multiple Professions	A key challenge is the inconsistent provision of Act-specific training on risk escalation across professions and service settings, resulting in variation in staff preparedness to identify, record and escalate staffing risks. While general training systems are widely established, escalation-specific training is not consistently in place, particularly within Healthcare Science, AHPs and community or outpatient services. In some areas, escalation documentation and supporting tools are absent or not routinely used. This variation limits consistency in staff preparedness and confidence to escalate	Policy and guidance being developed at Board level to clarify responsibilities under the Act, including escalation arrangements, can help reinforce consistent understanding of when and how staffing risks should be escalated across professions and service settings.

	staffing risks in line with the requirements of Duty 12II.	

COMPLIANCE ASSURANCE LEVEL
Reasonable Assurance

Duty 12IJ: Duty to follow the common staffing method.

Duty Summary	**(1)In relation to health care of a type mentioned in section 12IK, a Health Board or the Agency (as the case may be) must, no less often than at the frequency specified in regulations by the Scottish Ministers, use the common staffing method set out in subsection (2).** **(2) The common staffing method means that a Health Board or the Agency (as the case may be)—** (a) uses the staffing level tool and the professional judgement tool as prescribed in regulations under subsection (3) and takes into account the results from those tools, (b) takes into account, in so far as relevant, any measures for monitoring and improving the quality of health care which are published as standards and outcomes under section 10H (1) by the Scottish Ministers (including any measures developed as part of a national care assurance framework), (c) takes into account— (i) its current staffing levels and any vacancies, (ii) the different skills and levels of experience of its employees, (iii) the role and professional duties, in particular, of any individual with lead clinical professional responsibility for the particular type of health care, (iv) the effect that decisions about staffing and the use of resources taken for the particular type of health care may have on the provision of other types of health care including, in particular, those to which this section does not apply, (v) the local context in which it provides health care, (vi) patient needs, (vii) appropriate clinical advice, (viii) any assessment by HIS, and any relevant assessment by any other person, of the quality of health care which it provides, (ix) experience gained from using the real-time assessment arrangements under section 12IC (1) and the risk escalation processes under sections 12ID and 12IE, (x) comments by patients, and by individuals who have a personal interest in their health care (for example family members and carers within the meaning of section 1 of the Carers (Scotland) Act 2016), which relate to the duty imposed by section 12IA, and (xi) comments by its employees which relate to the duty imposed by section 12IA, (d) identifies and takes all reasonable steps to mitigate any risks, and (e) having followed the steps described in paragraphs (a) to (d), decides what changes (if any) are needed as a result to its staffing establishment, and to the way in which it provides health care.
Please provide information on the steps taken to comply with Duty 12IJ.	

Please provide information to demonstrate compliance.

*Information submitted here should outline how systems & processes take account **of all of the points** detailed in the duty description above by providing detail for each consideration.*

NHS Lothian has established systems and processes to apply the Common Staffing Method across relevant services, including the routine use of speciality-specific staffing level tools and professional judgement tools. An annual programme of staffing tool runs is supported by a standardised Common Staffing Method reporting template and results guidance, enabling managers to review workforce data alongside quality and service information. Outputs from staffing tools are shared with service leads and reviewed through Workforce Governance Groups, with escalation to Programme Boards where required, ensuring oversight and alignment with workforce planning decisions.

A revised Common Staffing Method Standard Operating Procedure (SOP) and reporting template have been developed to support greater consistency in application and documentation. The reporting template supports consideration of all required factors under the legislation, including current staffing levels and vacancies, skill mix, the role of clinical leaders, local service context, patient needs, clinical advice, quality indicators and feedback from staff and patients. The template also captures learning from real-time staffing assessment and escalation processes (Duties 12IC, 12ID and 12IE), ensuring that staffing decisions are informed by operational experience and risk management. This includes the use of systems such as SafeCare and safety huddles to identify recurring risks, escalation patterns and operational pressures, which are incorporated into staffing establishment decisions. Implementation of the SOP and template is in progress and will be prioritised during 2026/27 to support standardisation of processes and strengthen auditability across services.

Quality and assurance data are incorporated through established frameworks, including NHS Lothian's Accreditation and Care Assurance Standards framework, incorporating Excellence in Care measures, alongside local indicators such as adverse events, patient experience, and staff experience data. These data sources are reviewed as part of staffing establishment discussions to support safe, effective and person-centred care. Staff are supported to contribute to staffing discussions through engagement in tool runs and review of outcomes, and arrangements to strengthen the consistent capture and use of patient and service user feedback are being progressed to support full alignment with statutory requirements.

Where a validated speciality-specific tool is not available, the Professional Judgement Tool is used to support establishment reviews in line with the principles of the Act. Collectively, these arrangements ensure that establishment decisions within scope of Duty 12IJ are evidence-based, transparent and aligned to statutory requirements.

Please provide Information on your methods of monitoring compliance with Duty 12IJ

This should include details of the local arrangements in place to monitor compliance with the duty, including mechanisms for escalating and addressing areas of non-compliance.

Compliance with Duty 12IJ is monitored through a structured programme of audit, reporting and governance oversight.

During 2024/25 and 2025/26, NHS Lothian used Board quarterly compliance reporting and formal compliance audits to monitor adherence to the duties within the Act. A Board-wide Compliance and Assurance Audit, issued in Q1 2025/26 and completed by operational managers

across professional groups, consisted of 70 multiple-choice and free-text questions. Responses were analysed to assess compliance, identify gaps, and inform recommendations for improvement. Audit findings were used to generate Board, duty and profession-level assurance ratings within quarterly Board Compliance Reports using a Red, Amber, Yellow and Green (RAYG) framework, allowing comparison by duty, profession and reporting period, including year-on-year movement in assurance levels.

The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum and the Board, with reports submitted under the responsibility of the Executive Nurse Director. Quarterly reports also track progress against gaps identified through audit and against Board-approved recommendations, providing updates on actions, subgroup activity and next steps linked to compliance priorities.

Professional Leads also contribute through review of audit findings, interpretation of profession-level variation, and reporting through governance structures. Quarterly reports provide assurance that is supported by narrative from audit findings together with oversight provided by Health & Care Staffing Professional Leads. A Professional Leads Group, reviews progress against recommendations, considers profession-specific gaps, and receives updates from subgroups established to address identified priorities.

Areas of success, achievement, or learning

Area of success / achievement / learning	**Details**	**Further action**
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	*This should describe the situation: what is the success, achievement, or learning?* *For example, application of the common staffing method in adult inpatient provision identified some*	*This should describe how the success, achievement or learning could be used in the future.* *For example, following completion of the trials regarding changes in staffing establishment and*

	areas where the staffing establishment needed to be changed, and some areas with potential for service redesign. These changes are now in progress and will be trialled to monitor the outcomes.	*service redesign, decisions will be taken about their formal adoption. A summary of this exercise could then be used as case studies to inform training for staff about the use of the common staffing method.*
Types of health care described in section 12IK	Where a validated speciality-specific staffing level tool is not available, services have applied the nationally validated Professional Judgement Tool. This supports specialties with following the Common Staffing Method and enabling a consistent and transparent approach to staffing decisions in areas such as theatres and outpatients.	Shared learning from services that have applied the Professional Judgement Tool as a standalone method can support more consistent staffing decision-making across services, with multidisciplinary use now enabled through the tool's internal functionality.
Types of health care described in section 12IK	A key area of success has been strong staff engagement with staffing tool runs, supported by training, proactive input from the Health & Care Staffing Team and established governance through the Nursing & Midwifery Workforce Programme Board, which provide oversight and strategic alignment of the application of the common staffing method within Nursing and Midwifery.	Learning from positive staff engagement with staffing tool activity will inform communications and guidance to support continued understanding and consistent application of the Common Staffing Method across services.

Areas of escalation, challenges, or risks

Area of escalation / Challenge / Risk	**Details**	**Further action**
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	*This should describe the situation: what is the challenge or risk identified?* *For example, the common staffing method was followed at the required frequency in all areas except emergency care provision with an explanation of why this was not completed, e.g. lack of knowledge / training of personnel.*	*This should describe what actions have been / are being / will be taken to address the situation. For example, if the common staffing method was not followed in emergency care provision and this was due to lack of knowledge / training, what measures were put in place to address this, e.g. identifying key personnel, provision of training,*

		assistance from experienced personnel in other areas etc.
Types of health care described in section 12IK	Use of staffing level tools can be time-consuming and administratively demanding, particularly where manual data entry, data checking and user calculations are required. Staff report that some tool functions do not fully reflect modern roles or current service activity, which can make outputs difficult to interpret and, in some cases, lead to results being viewed as not fully representative of the service or speciality concerned.	NHS Lothian will continue to work collaboratively with Healthcare Improvement Scotland in the development and improvement of validated staffing level tools. This will include supporting engagement with local services where testing or feedback is required, alongside ongoing consideration of areas where manual processes, local calculations or interpretation issues create practical difficulty in applying staffing tools across services.
Types of health care described in section 12IK	Staffing level tools can become a focus of compliance and monitoring activity. This can divert resources from other equally important aspects of the Common Staffing Method. In addition, reporting data used to inform external compliance monitoring may not always provide the most accurate basis for calculating staffing level tool compliance, which can make compliance more difficult to assess, particularly where local data provides a more accurate position.	NHS Lothian will continue to work collaboratively with Healthcare Improvement Scotland to support improvement in the quality and interpretation of staffing level tool compliance information. This will include sharing learning on reporting limitations, data interpretation and areas where locally held information provides additional context for external reporting.

COMPLIANCE ASSURANCE LEVEL
Reasonable Assurance

Duty 12IL: Training and consultation of staff

Duty Summary	**In complying with the duty imposed by section 12IJ, every Health Board and the Agency must—** (a) encourage and support its employees to give views on its staffing arrangements for the types of health care described in section 12IK, (b) take into account and use any such views it receives to identify best practice, and areas for improvement, in relation to such staffing arrangements, (c) train employees (including, in particular, employees of a type mentioned in the third column of the table in section 12IK (1)) using the common staffing method on how to use it (d) ensure that those employees receive adequate time to use the common staffing method, and (e) provide information to employees engaged in the types of health care described in section 12IK about its use of the common staffing method, including about— (i) the results from using the staffing level tool and the professional judgement tool under paragraph (a) of section 12IJ (2), (ii) the steps taken under paragraphs (b), (c) and (d)] of that subsection, and (iii)the results of its decision under paragraph (e) of that subsection.

Please provide information on the steps taken to comply with Duty 12IL.

Please provide information to demonstrate compliance.
Information submitted here should outline how systems & processes take account ***of all of the points*** *detailed in the duty description above by providing detail for each consideration.*

Systems are in place to support staff training and consultation in relation to the Common Staffing Method (CSM). Staff views are encouraged through engagement with managers and staff involved in Common Staffing Method processes and through discussion of CSM systems and processes at nursing workforce groups and governance forums. Feedback received through these routes is considered as part of the ongoing development and refinement of local processes, including a revised Common Staffing Method Standard Operating Procedure (SOP) and reporting template. This supports implementation of Common Staffing Method systems and processes described under Duty 12IJ.

Training in the Common Staffing Method is recognised as a priority, with ongoing work to ensure consistent understanding and application across services. This includes training and support provided in advance of staffing level tool runs during a four-week preparatory period. Training is delivered through a combination of face-to-face sessions and MS Teams workshops, supported by HIS resource packs available in advance and hosted on the intranet. These materials provide guidance on the use of staffing level tools and the Professional Judgement Tool. Ongoing support is available through Health and Care Staffing leads, including one-to-one guidance, real-time support during tool runs and post-run review sessions to support interpretation and application of results.

Employees are informed in advance of the time required to complete staffing level and professional judgement tools so that appropriate time can be allocated within rosters. Managers are advised that staff involved in relevant services should have the opportunity to participate in tool runs, raise risks and receive feedback on outcomes and decisions arising from the process. The CSM reporting template provides documented evidence of how staff views were sought, how teams were informed of outcomes, and how decisions were made in relation to staffing establishments.

Local nursing and midwifery workforce governance arrangements oversee application of the Common Staffing Method and provide opportunities for sharing learning and identifying areas for improvement. While these arrangements support local learning, further work is required to strengthen consistency in how learning, best practice and compliance are shared across the organisation.

A revised Common Staffing Method Standard Operating Procedure (SOP) and reporting template are being implemented to support greater consistency in application and documentation. Targeted training and communication will support rollout during 2026/27, strengthening staff understanding and consistent use across services.

Collectively, these arrangements support staff involvement in staffing decisions and the development of a culture of continuous improvement. However, as elements of the training programme and approaches to sharing learning continue to be developed and embedded, some variation remains across services.

Please provide Information on your methods of monitoring compliance with Duty 12IL

This should include details of the local arrangements in place to monitor compliance with the duty, including mechanisms for escalating and addressing areas of non-compliance.

Compliance with Duty 12IL is monitored through a structured programme of audit, reporting and governance oversight.

During 2024/25 and 2025/26, NHS Lothian used Board quarterly compliance reporting and formal compliance audits to monitor adherence to the duties within the Act. A Board-wide Compliance and Assurance Audit, issued in Q1 2025/26 and completed by operational managers across professional groups, consisted of 70 multiple-choice and free-text questions. Responses were analysed to assess compliance, identify gaps, and inform recommendations for improvement. Audit findings were used to generate Board, duty and profession-level assurance ratings within quarterly Board Compliance Reports using a Red, Amber, Yellow and Green (RAYG) framework, allowing comparison by duty, profession and reporting period, including year-on-year movement in assurance levels.

The governance route for these reports includes the Health & Care Staffing Programme Board, Staff Governance Committee, Lothian Partnership Forum and the Board, with reports submitted under the responsibility of the Executive Nurse Director. Quarterly reports also track progress against gaps identified through audit and against Board-approved recommendations, providing updates on actions, subgroup activity and next steps linked to compliance priorities.

Professional Leads also contribute through review of audit findings, interpretation of profession-level variation, and reporting through governance structures. Quarterly reports provide assurance that is supported by narrative from audit findings together with oversight provided by Health & Care Staffing Professional Leads. A Professional Leads Group, reviews progress against recommendations, considers profession-specific gaps, and receives updates from subgroups established to address identified priorities.

Areas of success, achievement, or learning

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	*This should describe the situation: what is the success, achievement, or learning?* *For example, key personnel who were very experienced in using the common staffing method were engaged to train and mentor other personnel involved in the process.*	*This should describe how the success, achievement or learning could be used in the future.* *For example, those key personnel have now decided to meet regularly in a forum to discuss shared learning and to ensure the common staffing method is used consistently across all relevant areas in the organisation.*
Types of health care described in section 12IK	During 2025/26 to date, 769 staffing level tool runs have been completed across 20 specialties, demonstrating continued application across relevant services. This reflects sustained use of validated staffing level tools as part of the Common Staffing Method and provides an established source of evidence to support establishment reviews.	NHS Lothian will continue to support consistent use of validated staffing level tools across relevant services and use learning from current application to inform ongoing engagement with Healthcare Improvement Scotland on the development, refinement and practical use of staffing level tools.
Nursing and Midwifery	Templates have been created and made available for use, providing a structured format for recording staffing tool outputs alongside staffing and quality information, local context and staff feedback within Common Staffing Method reporting. This provides a common reporting format for services undertaking Common Staffing Method processes.	Continuing efforts to strengthen guidance around following the Common Staffing Method can build on this success by reinforcing expectations across services.

Areas of escalation, challenges, or risks

Area of escalation / Challenge / Risk	Details	Further action
This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	*This should describe the situation: what is the challenge or risk identified?* *For example, issues were identified with a lack of training on the CSM for personnel in emergency care provision due to time constraints.*	*This should describe what actions have been / are being / will be taken to address the situation.* *For example, arranging and delivering training; the provision of mentoring from experienced personnel; or the adoption of job planning which ensures adequate time is available for designated*

		personnel to undertake training on the common staffing method.
Types of health care described in section 12IK	User feedback identifies a range of practical issues in using staffing level tools and professional judgement tools across services. Reported concerns include aspects of guidance that are unclear or do not fully support local calculation requirements, limitations in how some workload activity can be recorded within available tool functions, and difficulty capturing roles where activity is undertaken across multiple tasks or advisory responsibilities. Users also report that checking and preparing data for submission can be time-consuming, while some tool functions require manual adjustments to enable calculations, creating additional challenge in routine use.	NHS Lothian will continue to work collaboratively with Healthcare Improvement Scotland in the development and improvement of validated staffing level tools. This will include supporting HIS with their efforts to engage local services in testing tools where required.
Types of health care described in section 12IK	Some staff report difficulty interpreting staffing tool outputs or determining appropriate actions following tool runs, particularly where automated reports provide limited contextual analysis. This highlights the need for continued development of guidance, training and analytical support to support staff understanding and consultation processes	Collaborative work with Healthcare Improvement Scotland will continue to support development and refinement of automated reports, while local learning from tool use will inform ongoing improvement in guidance, training and support for interpretation of outputs and application of results within the Common Staffing Method.

COMPLIANCE ASSURANCE LEVEL
Reasonable Assurance

Duty Summary	**Guiding principles etc. in health care staffing and planning** (1) In carrying out the duty relating to staffing imposed by section 12IA of the National Health Service (Scotland) Act 1978, every Health Board and the Common Services Agency for the Scottish Health Service must have regard to the guiding principles for health and care staffing. (2) In planning or securing the provision of health care from another person under a contract, agreement or arrangements made under or by virtue of the National Health Service (Scotland) Act 1978, every Health Board and the Common Services Agency for the Scottish Health Service must have regard to— (a)the guiding principles for health and care staffing, and (b)the need for the person from whom the provision of health care is to be secured to have appropriate staffing arrangements in place.

Please provide information on the steps taken to comply with section 2(2) of this Duty.

Please provide information to demonstrate compliance.

*Information submitted here should outline how systems & processes take account **of all of the points** detailed in the duty description above by providing detail for each consideration.*

Systems and processes relating to commissioning, procurement and contracting operate within NHS Lothian where services are commissioned or secured. These provide a framework through which the requirements of the Act, including the guiding principles for health and care staffing and the need for appropriate staffing arrangements, can be considered.

However, these arrangements are at an early stage of development in relation to the Act. While consideration of staffing requirements takes place, this is not yet consistently documented or standardised across services, which limits consistency in demonstrating a consistent approach to compliance.

Reference to the Act is included when new GP practice contracts are advertised. For other primary care contractor services, including community pharmacy, optometry and dental practices, where contracts are not subject to advertisement, contractors are informed of their responsibility to comply with the legislation.

Work is underway to review and strengthen commissioning, procurement and contracting arrangements to ensure that the requirements of the Act are consistently and explicitly reflected within contracting and agreement processes. This includes strengthening how consideration of the guiding principles and appropriate staffing arrangements is documented and evidenced when services are planned or secured.

Please provide Information on your methods of monitoring compliance when planning and securing services

This should include details of the local arrangements in place to monitor compliance with the duty, including mechanisms for escalating and addressing areas of non-compliance.

Existing contracting arrangements and associated review activity provide some information relevant to monitoring compliance where services are commissioned or secured. This includes consideration of contractual requirements alongside inspection, review and evaluation activity where applicable.

These processes support transparency and accountability, enabling services to assess whether commissioned services meet required standards and identify areas for improvement. Where issues are identified, this informs follow-up action and the ongoing review and development of commissioning, procurement and contracting processes.

However, NHS Lothian recognises that further work is required to strengthen documentation and recording arrangements so that consideration of the Guiding Principles for Health and Care Staffing and appropriate staffing arrangements can be consistently demonstrated when services are planned or secured.

Areas of success, achievement, or learning

Area of success / achievement / learning	Details	Further action
This should include details of the NHS function / professional group etc. that the area of success, achievement or learning relates to.	*This should describe the situation: what is the success, achievement, or learning?* *For example, when procuring from private hospitals, the organisation has incorporated the requirements of the Act into the tender process.*	*This should describe how the success, achievement or learning could be used in the future.* *For example, the learning from tendering with private hospitals is now being used to implement arrangements in other types of procurement.*
Multiple Professions	Existing commissioning, procurement and contracting processes within NHS Lothian provide an established framework for planning and securing healthcare services from external providers. These processes provide a mechanism for considering the requirements of the Act when services are secured through contractual arrangements. This provides an initial foundation for integrating appropriate staffing considerations into service planning and procurement activity, although further work is required to demonstrate consistent application.	This established framework will be used inform board-wide communication and education efforts and the continued review of how the requirements of the Act are reflected within commissioning, procurement and contracting arrangements when services are planned or secured.
Multiple Professions and Services	Work to implement the Planning and Securing obligations within the Act has strengthened collaboration between health and care staffing professionals and procurement colleagues. This has supported consideration of the Guiding Principles for Health and Care Staffing and the need for appropriate staffing arrangements when planning or procuring services from external providers.	This collaborative approach will continue to support engagement with procurement colleagues and relevant stakeholders, informing how the requirements of the Act are integrated into commissioning, procurement and contracting processes and strengthening documentation and assurance.

Areas of escalation, challenges, or risks

Area of escalation / Challenge / Risk	Details	Further action

This should include details of the NHS function / professional group etc. that the area of escalation, challenge or risk relates to.	*This should describe the situation: what is the challenge or risk identified?* *For example, there may have been difficulties in planning or securing services in a speciality area due to a lack of assurance around the appropriateness of staffing arrangements.*	*This should describe what actions have been / are being / will be taken to address the situation.* *For example, engaging with service providers to ensure that they understand what information and assurance is required, seeking alternative service providers etc.*
Multiple Professions and Services	A challenge has been identified in demonstrating consistent and auditable evidence of how the Guiding Principles for Health and Care Staffing and the requirement for appropriate staffing arrangements are considered when services are planned or secured from external providers. While commissioning, procurement and contracting processes are in place, further work is required to strengthen documentation and recording arrangements to support monitoring and annual reporting of compliance with the legislation.	Reviewing existing contracting and agreement processes will inform efforts to strengthen documentation and recording arrangements so that consideration of the Guiding Principles for Health and Care Staffing and appropriate staffing arrangements can be demonstrated more consistently.
Multiple Professions and Services	Further work is required to ensure consistent integration of the requirements of the Act within procurement and contracting processes across services. Initial engagement with procurement colleagues has identified opportunities to strengthen how the Guiding Principles for Health and Care Staffing and appropriate staffing arrangements are reflected when securing services from external providers, and this work will continue to support a more consistent and standardised approach across services.	Current engagement with key stakeholders will continue to inform how the requirements of the Act are reflected within procurement and contracting processes, supporting a more consistent approach across services.

COMPLIANCE ASSURANCE LEVEL
Limited Assurance

Health and Care (Staffing) (Scotland) Act 2019

Quarterly Board Compliance Report

Quarter 2

01 July - 31 August 2025

Date: 8th September 2025

Report Authors:
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Kevin Dickson, Health and Care Staffing Lead

Executive Lead: Alison Macdonald, Executive Nurse Director

Situation

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

2.1 The Act aims to enable high quality care and improved outcomes for people using services in both health and care by helping to ensure appropriate staffing. The Act places duties on health boards, care service providers, Healthcare Improvement Scotland, the Care Inspectorate and Scottish Ministers.

2.2 All clinical staff, including staff who provide clinical advice, are subject to the duties within the Act. Leaders/ Managers of clinical teams also have specific duties under the Act to comply with. The Act does not apply to non-clinical staff e.g. administrative staff.

2.3 Section 12IF of the Act sets out that quarterly reports, as a minimum, on compliance with the Act, are to be provided to the Board of the relevant organisation(s) by the Executive-level clinician on the board with responsibility for the legislation, in this case, the Executive Nurse Director. These reports must include staff's views on compliance. A board-wide Compliance and Assurance Audit was distributed to managers during quarter 1 (Q1) to gather staff views.

2.4 This quarterly report provides NHS Lothian's Board with an overview of compliance with all health duties under the Act and updates on progress made against the board approved recommendations from the Q1 Health & Care Staffing Board Compliance Report. This supports board-level assessment and decision-making on the duties within the Act since accountability for compliance with the health duties rests at Board level and not with individuals who may be charged with carrying out certain actions. This paper does not include reporting on any workforce data as this is not a requirement of the Act.

2.5 Applying the Scottish Government rating system, the overall (across all professions) level of assurance across all duties is "Reasonable". That is, systems and processes that are aligned with the duties in the Health & Care (Staffing) (Scotland) Act 2019 are in place for, and used by, 50% or above of all services/ professional groups managed by respondents to the Q1 Compliance and Assurance Audit. Utilising the Corporate Governance and Assurance system employed within NHS Lothian's Board, the assurance level for Q2 is **Moderate** on how effectively NHS Lothian is meeting its legal duties within the Health & Care (Staffing) (Scotland) Act 2019.

Background

3.0 The duties under the provisions of the Act set in statute the 12IA Duty to ensure appropriate staffing; “that at all times suitably qualified and competent individuals from such a range of professional disciplines as necessary are working in such numbers as are appropriate for the health, wellbeing and safety of patients or service users and the provision of high-quality health care.”

3.1 There are further duties within the Act:

- **12IB Duty to ensure appropriate staffing: agency worker** (reporting instances of high-cost agency staff, when agency costs have been higher than 150% of the equivalent NHS staff cost for the equivalent post for the same period).

- **12IC Duty to have real time staffing assessment in place and 12ID; Duty to have a risk escalation processes in place** (having procedures in place for identifying risks relating to staffing and then mitigating these or escalating as required).

- **12IE Duty to have arrangements to address severe and recurrent risks** (Having arrangements set out on how information on staffing risks will be collated, analysed and recorded, including reporting to The Board when required). The Act does not define what a severe or recurrent risk is – organisations are expected to determine a locally accepted definition.

- **12IF Duty to seek clinical advice on staffing** (to have in place arrangements for seeking and having regard to appropriate clinical advice in making staffing decisions and having arrangements for recording and explaining decisions that conflict with that clinical advice).

- **12IH Duty to ensure adequate time given to clinical leaders** (giving sufficient time and resources to clinical leaders to carry out their leadership role).

- **12II Duty to ensure appropriate staffing: training of staff** (to ensure that staff are provided with information and training to implement the duties in The Act effectively **and** ensure that staff are suitably qualified and able to maintain competence in their role).

- **12IJ Duty to follow the Common Staffing Method, including 12IL training and consultation of staff.** The Common Staffing Method is a consistent triangulated assessment with 9 components including reviewing the results of Staffing Level tools which should be run once per year. This Duty requires organisations to use the Common Staffing Method as a framework for gathering and analysing relevant staffing and quality data. This helps clinical leaders understand and evidence staffing requirements and quality of care for their clinical areas.

3.2 The Act also lists ‘**guiding principles’** to be met when organisations are arranging staffing:

(a) that the main purposes of staffing for health care are:
(i) to provide safe and high-quality services, and

(ii) to ensure the best health care or care outcomes for service users

(b) in so far as consistent with these main purposes, staffing is to be arranged while:

(i) improving standards and outcomes for service users;
(ii) taking account of the particular needs, abilities, characteristics and circumstances of different service users;
(iii) respecting the dignity and rights of service users;
(iv) taking account of the views of staff and service users;
(v) ensuring the wellbeing of staff;
(vi) being open with staff and service users about decisions on staffing;
(vii) allocating staff efficiently and effectively, and
(viii) promoting multi-disciplinary services as appropriate.

3.3 All guiding principles must be considered collectively when determining staffing levels. Organisations are also expected to report on the actions taken to apply these principles in the Board's annual report to Scottish Ministers. In addition, Section 2 of the Act requires that these principles be applied when Boards are planning or securing the provision of healthcare services from third parties.

3.4 NHS Lothian's Health and Care Staffing Programme Board, chaired by the Executive Nurse Director sets direction and provides oversight on multi-professional efforts pan-Lothian to ensure compliance with the Act. A core implementation team and network of lead professionals have been established to support this work.

3.5 A Q1 2025/26 Compliance and Assurance Audit used to inform this report was made available online from the 04 April to 3 May 2025 and consisted of 70 multiple choice and free text questions covering health duties within the legislation. A full list of audit questions can be seen in Appendix 1. Responses were analysed to assess NHS Lothian's compliance with the Act, identify gaps, and informed the development of Q1 recommendations. These findings also shaped the subsequent objectives and actions outlined in this report.

3.6 The Annual Reporting Plan was formally approved by the Staff Governance Committee in March 2025. As part of this plan, certain Board quarterly reports are scheduled to be prepared and submitted prior to the end of each quarter. This approach ensures timely approval through the agreed governance route and supports adherence to statutory reporting deadlines. The reporting timelines have been approved as bespoke to meet strict legislative requirements, which necessitates aligning report submissions with Board meeting dates. This proactive scheduling helps avoid delays in subsequent reporting cycles and ensures compliance with all relevant statutory obligations.

Assurance Level Rating

3.7 Responses from the April 2025 audit were used to rate compliance at NHS Lothian level and by Health & Care (Staffing) (Scotland) Act Duty. A Red, Amber, Yellow and Green (RAYG) system (Table 2) of categorising the assurance level is employed throughout this report. This aligns with the rating system employed within the Health and Care (Staffing) (Scotland) Act 2019 Annual Reporting Template on compliance, provided by the Scottish Government (SG). Aligning the rating system in the Board's quarterly reports will enable the accurate formulation of the annual report submitted to the Scottish Government. Boards are free to develop their own format/ template for quarterly reporting as none has been provided by the Scottish Government.

3.8 **Table 2.** Red, Amber, Yellow and Green (RAYG) Compliance Ratings

Green (substantial assurance)	Systems and processes are in place for and used by all services and professional groups managed by respondents.
Yellow (reasonable assurance)	Systems and processes are in place for, and used by, 50% or above of all services/ professional groups managed by respondents.
Amber (limited assurance)	Systems and processes are in place for, and used by, under 50% of all services and professional groups managed by respondents.
Red (No assurance)	No systems are in place.

3.9 RAYG ratings are based on average responses from the April 2025 audit. Further detail on how the RAYG Ratings were calculated can be found in Appendix 2.

3.10 The RAYG reporting scale is broad, which may result in incremental improvements within an assurance level being under-reported. However, assurance of progress is supported through a combination of narrative insights from the audit and the oversight provided by HCSA Professional Leads, highlighting variation and advancement within each RAYG category.

3.11 Increases in assurance levels reported may, in whole or in part, reflect improved understanding of the Act resulting from ongoing education efforts within and across professions.

3.12 The Scottish Government has indicated that Boards will be expected to demonstrate robust processes are in place to meet legislative requirements. A common thread throughout the Statutory Guidance is that the legislation is not prescriptive in nature, therefore with the exception of the Staffing Level Tools, the processes, practices and procedures Boards choose to use is often at their discretion.

3.13 Since enactment on 1 April 2024, Healthcare Improvement Scotland's (HIS) role and function has changed to monitoring health boards compliance with the duties as cited within the legislation.

3.14 Each quarter, HIS will request a copy of the Board's Internal Quarterly Report and the Use of High-Cost Agency Staff Report at the end of the financial year, HIS will also request the Board's Annual Report to Scottish Government. To support this function, NHS Lothian's Executive Leads for the Act participate in bi-annual Board Engagement Calls that include HIS, providing an opportunity to discuss the quarterly reports content and review progress against the duties set out in the Act.

Assessment

Overall level of assurance

4.0 The overall (across all professional groups) Q2 2025/26 level of assurance for each duty, remains unchanged from Q1 2025/26. A detailed comparison of these ratings with Q1 2024/25 is available in the Q1 Board Compliance Report (Appendix 3), which provides narrative where there have been changes in assurance by duty and at professional group level.

4.1 **Table 1.** Overall Level of Assurance by Individual Duty and Across All Duties Under the Health and Care (Staffing) (Scotland) Act: 2024/25 and 2025/26 to Date

Quarter

Duty	Q1, 2024/25	Q2, 2024/25	Q3, 2024/25	Q4, 2024/25	Q1, 2025/26	Q2, 2025/26
12IA Appropriate staffing	Limited	Limited	Limited	Limited	Reasonable	Reasonable
12IC Real-time staffing assessment	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12ID Risk escalation process	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12IE Address severe & recurrent risk	Reasonable	Limited	Limited	Reasonable	Limited	Limited
12IF Seek clinical advice on staffing	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12IH Adequate time for clinical leaders	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12II Training of staff	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12IJ Follow the common staffing method	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
Across all duties	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable

4.2 The **overall level of assurance across all duties** remains unchanged at Reasonably Assured.

4.3 **This reflects the organisation's performance in discharging its responsibilities under section 2 of the 2019 Act, and sections 12IA, 12IC, 12ID, 12IE, 12IF, 12IH, 12II, 12IJ and 12IL, as of June 2025:**

Reasonably Assured

12IB Duty to ensure appropriate staffing: agency workers

4.4 The Act stipulates that, the board must report on the number of occasions that it has paid an agency worker more than 150% of the amount that would be paid to a full-time equivalent employee to fill the equivalent post for the same period. The report must include the number of occasions on which it is paid more than 150%, the amount paid on

each occasion and the circumstances that have required the higher amount to be paid. The Scottish Government provide a template for this report which includes the figures to be used for a full-time equivalent employee for each band / grade so that all Boards are using the same.

4.5 The duty does not prohibit the use of workers above the 150% figure, rather it states that the amount to be paid to secure the services of an agency worker should not exceed 150%, but if it does then all instances of this have to be reported quarterly to the Scottish Ministers.

4.6 Compliance with the Duty to ensure appropriate staffing: agency workers is not surveyed within the Compliance & Assurance Audit. The reporting obligations for Registered Nurses, Midwives, Health Care Support Workers, Medical Locums, Allied Health Professionals, Health Care Sciences Staff and Pharmacy are managed through supplementary staffing services within Corporate Nursing rather that the wider workforce. It should be noted that Agency spend will be managed through appropriate operational lines and appropriate professional leads.

4.7 Reports should cover the following periods and be sent by the corresponding deadlines:

4.8 NHS Lothian: Agency Reporting timeline and Update

Period	Deadline	Status
01 April to 30 June	31 July 2025	Submitted
01 July to 30 September	31 October 2025	Not Yet Started
01 October to 31 December	31 January 2025	Not Yet Started
01 January to 31 March	30 March 2025	Not Yet Started

4.9 All four submission deadlines for 2024/25 were met.

Agency Submission Narrative | 01 April to 30 June

4.10 During Q1 of 2025/26, NHS Lothian recorded a total of 54 agency shifts that exceeded the 150% cost threshold, representing a 52% reduction from the previous quarter (113 shifts). This significant decrease reflects a positive trend in managing agency expenditure and aligns with the Health and Care Staffing Act's emphasis on sustainable staffing models.

4.11 Of the high-cost shifts:

- 83% (45 shifts) were attributed to medical staffing, particularly among Junior Doctors (FY2, ST3) and Consultants.
- 9.26% (5 shifts) were within Healthcare Science Services (HSS), specifically Cardiac Physiologists and Vascular Scientists.
- 7.4% (4 shifts) were in Pharmacy, involving Band 5 Pharmacy Technicians.
- Notably, no Nursing or Allied Health Professional (AHP) shifts exceeded the threshold, indicating effective cost control in these staff groups.

4.12 The predominant driver for high-cost shifts was vacancy cover, particularly in rotational training posts (e.g., Neuroscience, Paediatrics, Urology) and in the Hospital to Home service. A smaller number of shifts were due to maternity leave backfill and increased activity due to high acuity, especially in Consultant roles.

4.13 From a compliance perspective, NHS Lothian demonstrates strong assurance in both the completeness and accuracy of the data. The reduction in high-cost agency usage, combined with transparent reporting and data assurance, supports the organisation's efforts to deliver safe and effective high-quality care while managing resources responsibly.

Progress Update

4.14 This section provides an update on progress made against the Board-approved recommendations outlined in the 2025/26 Q1 Health & Care Staffing Board Compliance Report. These recommendations were designed to strengthen NHS Lothian's compliance with the Health & Care (Staffing) (Scotland) Act 2019, with a particular focus on improving governance, standardisation, and operational alignment across professional groups.

Overview of Q1 Recommendations

4.15 The Q1 report identified four key areas for action:

1. Board-wide Communication and Education Planning
2. Development of Board-wide Policy and Guidance
3. Profession-specific Audit Analysis and Gap Identification
4. System Optimisation for Staffing Tools

4.16 Each recommendation was aimed at enhancing understanding and implementation of the Act's duties, particularly around severe and recurrent staffing risks, escalation protocols, and clinical advice governance.

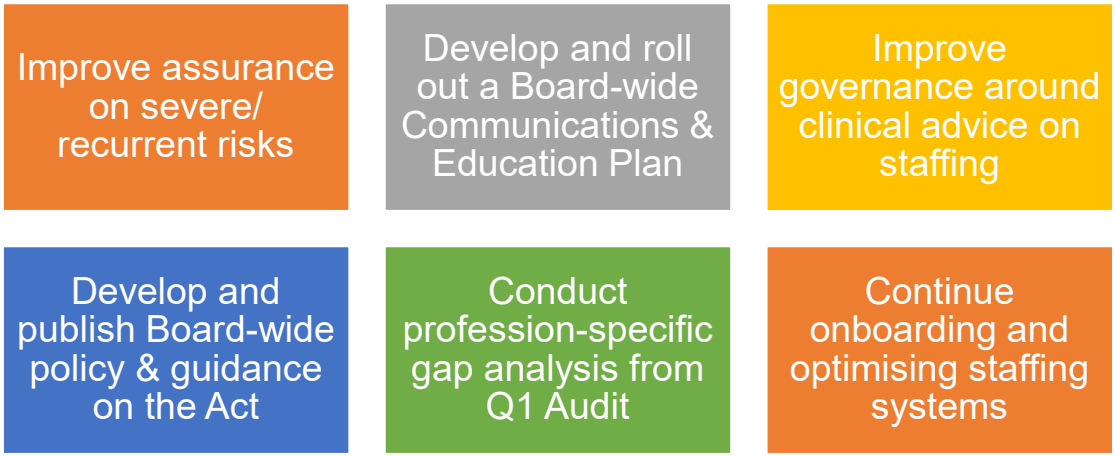
Establishment of the Professional Leads Group (PLG)

4.17 A significant milestone this quarter was the formal establishment of the Health & Care Staffing Professional Leads Group (PLG). The PLG serves as the operational arm of the Health & Care Staffing Programme Board, tasked with delivering strategic objectives and ensuring multi-professional alignment across NHS Lothian. This includes recommendations from the Q1 2025/26 Board Compliance Report.

4.18 The PLG comprises senior professional leaders from allied health professions, healthcare science, registered chaplains (Spiritual Care), dentistry, medicine, midwifery, nursing, pharmacy, psychology and public health. The group meets every six weeks and reports quarterly to the Health & Care Staffing Programme Board, ensuring consistent oversight and accountability.

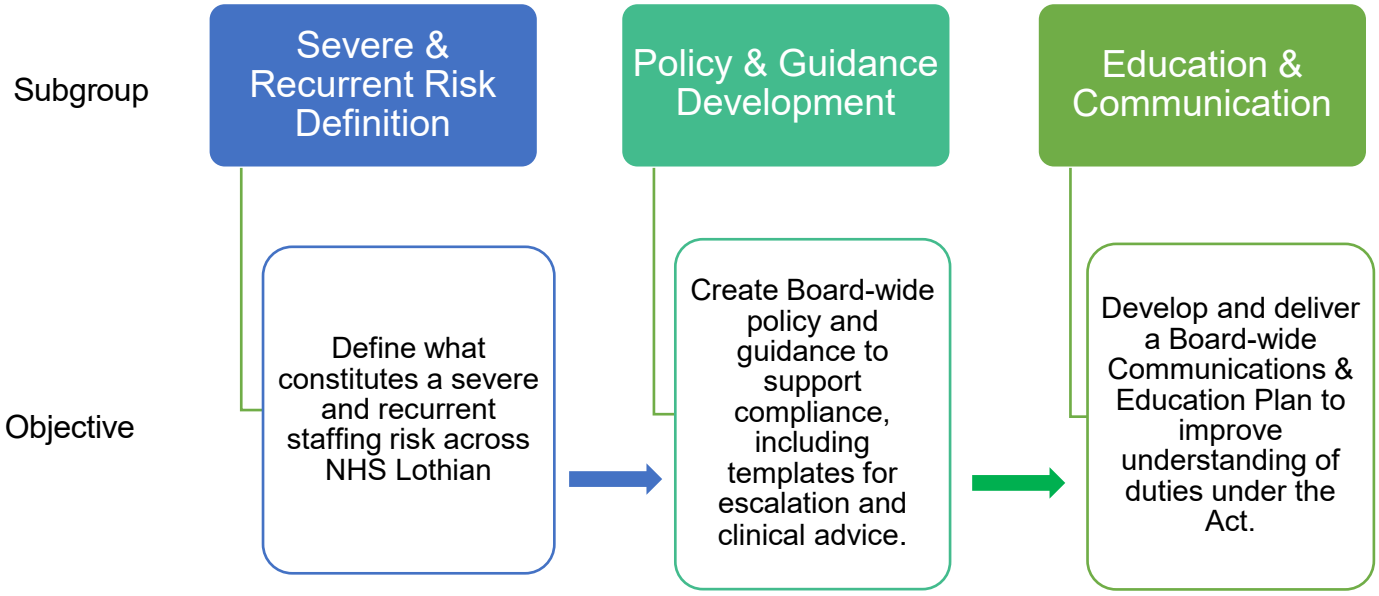
Agreed Annual Workplan Objectives

4.19 The PLG has agreed on the following annual objectives to guide subgroup activities and ensure strategic alignment. These are based on the recommendations form the Q1 Board Compliance report, multi-professional judgment and Q1 compliance audit findings.



Formation of Subgroups

4.20 To meet these objectives and address the compliance gaps identified in Q1 2025/26, the PLG agreed to establish three dedicated subgroups:



4.21 Each subgroup is tasked with developing its own detailed workplan, aligned with overarching objectives and key deliverables set by the PLG. Operational representation from across professions is being sought, with the aim of convening initial meetings before the next PLG meet.

Recommendations and Initial Actions

Q1 Recommendation | Profession-Specific Audit Analysis

4.22 Professional Leads will review the Q1 audit results across both profession and area, leading to several key actions aimed at strengthening clinical governance. Some professions have already begun this process. These actions include conducting profession-specific gap analyses to identify areas for improvement, sharing findings through local governance structures and Professional Leads Group (PLG) meetings to ensure transparency and collaboration, and addressing gaps in risk reporting and mitigation strategies unique to each profession. This targeted approach embeds

escalation processes at the local level and fosters consistent clinical engagement in staffing decisions.

Q1 Recommendation | Communication and Education Planning

4.23 The Education and Communication Subgroup will draft a Board-wide Communications & Education Plan. Early identified actions include:

Developing	Planning	Ensuring
Developing targeted communication materials tailored to clinical staff.	Planning delivery through staff meetings, intranet updates, and newsletters.	Ensuring all clinical staff understand their responsibilities under the Act.

4.24 This work supports the standardisation of definitions and reporting for severe and recurrent risks, enhances risk escalation processes, and strengthens clinical advice governance.

Q1 Recommendation | System Optimisation

4.25 Efforts are actively underway to onboard and optimise critical workforce systems, including HealthRoster, SafeCare, and eJobPlan. As more areas are onboarded onto the HealthRoster, in line with a national rollout, more professions will be able to benefit from these systems. These systems play a vital role in integrating staffing data into service and workforce planning, while also enabling automated tracking and reporting of severe or recurrent risks. By supporting real-time escalation and documentation, they enhance responsiveness and accountability across clinical operations. Furthermore, they provide transparent decision-making processes and comprehensive audit trails that underpin clinical advice and governance. To ensure these systems meet compliance requirements and drive continuous improvement, system leads are working in close partnership with operational teams to align functionality with evolving service needs.

Q1 Recommendation | Policy and Guidance Development

4.26 The Policy & Guidance Development Subgroup will progress toward the creation of Board-wide documentation that:

Clarifies	Defines	Aligns
Clarifies roles and responsibilities for giving and recording clinical advice on staffing	Defines consistent escalation protocols	Aligns with Statutory Guidance to support a shared understanding of “severe” and “recurrent” risks

4.27 Templates for escalation and clinical advice documentation will receive input from the Severe & Recurrent Risk Definition Subgroup and feed into the Education and Communication Subgroup

Next Steps

4.28 Each subgroup will finalise its membership and convene initial meetings before the next PLG session. Subgroups will generate detailed workplans with specific actions to achieve their objectives. Progress will be monitored through regular PLG updates to NHS Lothian's Health & Care Staffing Programme Board. With quarterly reports to NHS Lothian's Board, as required in the Health & Care (Staffing) (Scotland) Act 2019.

List of appendices

The following appendices are included with this report:

Appendix 1

April 2025 Compliance and Assurance Audit Questions



April 2025 Compliance and Ass

Appendix 2

Red, Amber, Yellow and Green (RAYG) Calculations



Red, Amber, Yellow and Green (RAYG) Ca

Appendix 3

Appendix 3 - Q1 Health and Care (Staffing) (Scotland) Act 2019 - Quarterly Board Compliance Report



Appendix 3_Q1 Health and Care (Sta

Health and Care (Staffing) (Scotland) Act 2019

Quarterly Board Compliance Report

Quarter 1

01 April – 30 June 2025

Date: 13 August 2025

Report Authors:
Fiona Tynan, Associate Nurse Director, Corporate Nursing
Kevin Dickson, Health and Care Staffing Lead

Executive Lead: Alison Macdonald, Executive Nurse Director

Situation

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

2.1 The Act aims to enable high quality care and improved outcomes for people using services in both health and care by helping to ensure appropriate staffing. The Act places duties on health boards, care service providers, Healthcare Improvement Scotland, the Care Inspectorate and Scottish Ministers.

2.2 All clinical staff, including staff who provide clinical advice, are subject to the duties within the Act. Leaders/ Managers of clinical teams also have specific duties under the Act to comply with. The Act does not apply to non-clinical staff e.g. administrative staff.

2.3 Section 12IF of the Act sets out that quarterly reports, as a minimum, on compliance with the Act, are to be provided to the Board of the relevant organisation(s) by the Executive-level clinician on the board with responsibility for the legislation, in this case, the Executive Nurse Director. These reports must include staff's views on compliance. A board-wide Compliance and Assurance Audit was distributed to managers during quarter 1 (Q1) to gather staff views.

2.4 This quarterly report provides NHS Lothian's Board with a summary of compliance across all of the duties of the Act, broken down al group, including evidence of areas of success and challenges identified by staff in meeting compliance. This supports board-level assessment and decision-making on the duties within the Act since accountability for compliance with the health duties rests at Board level and not with individuals who may be charged with carrying out certain actions.

2.5 The report outlines how existing systems and processes support compliance with the Act's requirements and help ensure appropriate staffing levels. It does not include reporting on any workforce data as this is not a requirement of the Act.

2.6 Applying the Scottish Government rating system, the overall (across all professions) level of assurance across all duties is "Reasonable". That is, systems and processes that are aligned with the duties in the Health & Care (Staffing) (Scotland) Act 2019 are in place for, and used by, 50% or above of all services/ professional groups managed by respondents to the Q1 Compliance and Assurance Audit. Utilising the Corporate Governance and Assurance system employed within NHS Lothian's Board, the assurance level for Q1 is **Moderate** on how effectively NHS Lothian is meeting its legal duties within the Health & Care (Staffing) (Scotland) Act 2019.

Background

3.0 The duties under the provisions of the Act set in statute the 12IA Duty to ensure appropriate staffing; "that at all times suitably qualified and competent individuals from such a range of professional disciplines as necessary are working in such numbers as are appropriate for the health, wellbeing and safety of patients or service users and the provision of high-quality health care."

3.1 There are further duties within the Act:

- **12IB Duty to ensure appropriate staffing: agency worker** (reporting instances of high-cost agency staff, when agency costs have been higher than 150% of the equivalent NHS staff cost for the equivalent post for the same period).

- **12IC Duty to have real time staffing assessment in place and 12ID; Duty to have a risk escalation processes in place** (having procedures in place for identifying risks relating to staffing and then mitigating these or escalating as required).

- **12IE Duty to have arrangements to address severe and recurrent risks** (Having arrangements set out on how information on staffing risks will be collated, analysed and recorded, including reporting to The Board when required). The Act does not define what a severe or recurrent risk is – organisations are expected to determine a locally accepted definition.

- **12IF Duty to seek clinical advice on staffing** (to have in place arrangements for seeking and having regard to appropriate clinical advice in making staffing decisions and having arrangements for recording and explaining decisions that conflict with that clinical advice).

- **12IH Duty to ensure adequate time given to clinical leaders** (giving sufficient time and resources to clinical leaders to carry out their leadership role).

- **12II Duty to ensure appropriate staffing: training of staff** (to ensure that staff are provided with information and training to implement the duties in The Act effectively **and** ensure that staff are suitably qualified and able to maintain competence in their role).

- **12IJ Duty to follow the Common Staffing Method, including 12IL training and consultation of staff.** The Common Staffing Method is a consistent triangulated assessment with 9 components including reviewing the results of Staffing Level tools which should be run once per year. This Duty requires organisations to use the Common Staffing Method as a framework for gathering and analysing relevant staffing and quality data. This helps clinical leaders understand and evidence staffing requirements and quality of care for their clinical areas.

3.2 The Act also lists '**guiding principles'** to be met when organisations are arranging staffing:

(a) that the main purposes of staffing for health care are:
  (i) to provide safe and high-quality services, and
  (ii) to ensure the best health care or care outcomes for service users

(b) in so far as consistent with these main purposes, staffing is to be arranged while:

(i) improving standards and outcomes for service users;
(ii) taking account of the particular needs, abilities, characteristics and circumstances of different service users;
(iii) respecting the dignity and rights of service users;
(iv) taking account of the views of staff and service users;
(v) ensuring the wellbeing of staff;
(vi) being open with staff and service users about decisions on staffing;
(vii) allocating staff efficiently and effectively, and
(viii) promoting multi-disciplinary services as appropriate.

3.3 All guiding principles must be considered collectively when determining staffing levels. Organisations are also expected to report on the actions taken to apply these principles in the Board's annual report to Scottish Ministers. In addition, Section 2 of the Act requires that these principles be applied when Boards are planning or securing the provision of healthcare services from third parties.

3.4 NHS Lothian's Health and Care Staffing Programme Board, chaired by the Executive Nurse Director sets direction and provides oversight on multi-professional efforts pan-Lothian to ensure compliance with the Act. A core implementation team and network of lead professionals have been established to support this work.

3.5 All Board Quarterly Compliance Reports during 2024/25 were approved by the Board. All reports utilised the Corporate Governance and Assurance system employed within the Board. The level of Moderate Assurance of how effectively the organisation had carried out its duties was provided and accepted for all reports. This Moderate Assurance was based on an overall "Reasonable Assurance" rating generated by the Scottish Government's compliance scoring.

3.6 A Q1 2025/26 Compliance and Assurance Audit used to inform this report was made available online from the 04 April to 3 May 2025 and consisted of 70 multiple choice and free text questions covering Health Duties within the legislation. A full list of audit questions can be seen in Appendix 1. Respondent answers were used to understand compliance with the legislation across NHS Lothian, to identify any gaps and develop recommendations as required by the legislation.

Completion Rate

3.7 The Q1 2025/26 Compliance and Assurance Audit was completed by NHS Lothian operational managers across all professional groups as identified by the Health and Care Staffing Professional Leads. Two professional groups appear to have over-reported while others under-reported. Further analysis will be undertaken to understand these discrepancies and to improve accuracy in future audits. A total of 184 responses were received, against an expected return of 227 (81% return rate). Table 1 provides a breakdown of responses by professional group. For comparison 181 responses were received in the Q1 2024/25 compliance and assurance audit and 204 were expected (88% return rate).

3.8 **Table 1.** April 2025 Compliance and Assurance Audit Responses by Professional Group

Professional Group	Actual Responses	Expected Responses
Allied Health Professions (AHP)	29	26
Dental	3	6
Healthcare Scientists	16	18
Medical	7	18
Nursing & Midwifery	93	115
Pharmacy	31	39
Psychology	1	1
Public Health	3	3
Registered Chaplains	1	1
Grand Total	**184**	**227**

3.9 It was agreed that a single response for the Psychology service is appropriate and has proven effective for reporting purposes. Similarly, a consolidated response for the Registered Chaplains profession was deemed suitable; however, this approach may be revised in future audits to allow for devolved responses if required.

3.10 It is important to note that some professions and areas have comparatively lower response rates. It is expected that progressive improvements will be made over time, leading to a broader base of staff views being captured in subsequent audits. Notably, this is the first year that Registered Chaplains and Public Health roles have been included in the reporting process and they are now reflected in Table 1 and throughout this report. Further work is ongoing to fully clarify how the legislative duties apply to these professions.

Assurance Level Rating

3.11 Responses from the April 2025 audit were used to rate compliance at NHS Lothian level and by professional group. A Red, Amber, Yellow and Green (RAYG) system (Table 2) of categorising the assurance level is employed throughout this report. This aligns with the rating system employed within the Health and Care (Staffing) (Scotland) Act 2019 Annual Reporting Template on compliance, provided by the Scottish Government (SG). Aligning the rating system in the Board's quarterly reports will enable the accurate formulation of the annual report submitted to the Scottish Government. Boards are free to develop their own format/ template for quarterly reporting as none has been provided by the Scottish Government.

3.12 **Table 2.** Red, Amber, Yellow and Green (RAYG) Compliance Ratings

Green (substantial assurance)	Systems and processes are in place for and used by all services and professional groups managed by respondents.
Yellow (reasonable assurance)	Systems and processes are in place for, and used by, 50% or above of all services/ professional groups managed by respondents.
Amber (limited assurance)	Systems and processes are in place for, and used by, under 50% of all services and professional groups managed by respondents.
Red (No assurance)	No systems are in place.

3.13 RAYG ratings are based on average responses from the April 2025 audit. Further detail on how the RAYG Ratings were calculated can be found in Appendix 2.

3.14 The RAYG reporting scale is broad, which may result in incremental improvements within an assurance level being under-reported. However, assurance of progress is supported through a combination of narrative insights from the audit and the oversight provided by HCSA Professional Leads, highlighting variation and advancement within each RAYG category.

3.15 Increases in assurance levels reported may, in whole or in part, reflect improved understanding of the Act resulting from ongoing education efforts within and across professions.

3.16 The Scottish Government has indicated that Boards will be expected to demonstrate robust processes are in place to meet legislative requirements. A common thread throughout the Statutory Guidance is that the legislation is not prescriptive in nature, therefore with the exception of the Staffing Level Tools, the processes, practices and procedures Boards choose to use is often at their discretion.

3.17 Since enactment on 1 April 2024, Healthcare Improvement Scotland's (HIS) role and function has changed to monitoring health boards compliance with the duties as cited within the legislation.

3.18 Each quarter, HIS will request a copy of the Board's Internal Quarterly Report and the Use of High-Cost Agency Staff Report at the end of the financial year, HIS will also request the Board's Annual Report to Scottish Government. To support this function, NHS Lothian's Executive Leads for the Act participate in quarterly Board Engagement Calls that include HIS, providing an opportunity to discuss the quarterly reports content and review progress against the duties set out in the Act.

3.19 A combined Q4 Board/ Annual Compliance report was approved 16 April 2025 by the Board and sent to the Scottish Government 29 April 2025.

Assessment

Overall level of assurance

4.0 The overall (across all professions) level of assurance for each duty has remained largely consistent with the Q1 2024/25 Board Report. However, the 12IE Duty to have arrangements in place to address severe and recurrent staffing risks has now been rated as 'Limited Assurance' based on responses to the 2025/26 audit. Respondents highlighted a range of challenges that help explain this rating. These include inconsistent definitions of 'severe' and 'recurrent' risk, limited availability of real-time staffing tools for some professional groups, ongoing financial and recruitment constraints, and unclear escalation routes, particularly in smaller services or areas under significant demand. These issues are discussed further in the individual duty sections below. A 'Reasonable' rating was assigned to Duty 12IE in Q4 of 2024/25. This overall assurance level was based on a distinct methodology that differs from previous quarters and this report, which explains the variation. The Q4 report was integrated with the Scottish Government's Annual Compliance Report template, where each subsection within the duties received an individual RAYG rating, and these were then used to determine the overall RAYG rating for the duty.

4.1 The Duty to ensure appropriate staffing is the overarching duty of the Act. In Q1 2025/26, the assurance rating for this duty improved from 'Limited' to 'Reasonable' compared to Q1 2024/25. Respondents provided examples of successes and areas of learning that may explain this improvement. These included increased engagement with leadership development, protected time for clinical leaders, and robust job planning. Collectively, these efforts have contributed to greater confidence, increased governance, and improved service quality across NHS Lothian.

4.2 **Table 1.** Overall Level of Assurance by Individual Duty and Across All Duties Under the Health and Care (Staffing) (Scotland) Act: 2024/25 and 2025/26 to Date

Quarter

Duty	Q1, 2024/25	Q2, 2024/25	Q3, 2024/25	Q4, 2024/25	Q1, 2025/26
12IA - Appropriate staffing	Limited	Limited	Limited	Limited	Reasonable
12IC - Real-time staffing assessment	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12ID - Risk escalation process	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12IE - Address severe & recurrent risk	Reasonable	Limited	Limited	Reasonable	Limited
12IF - Seek clinical advice on staffing	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12IH - Adequate time for clinical leaders	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12II - Training of staff	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12IJ - Follow the common staffing method	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
Across all duties	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable

4.3 The **overall level of assurance** across all duties remains unchanged at Reasonably Assured.

4.4 **This reflects the organisation's performance in discharging its responsibilities under section 2 of the 2019 Act, and sections 12IA, 12IC, 12ID, 12IE, 12IF, 12IH, 12II, 12IJ and 12IL, as of June 2025:**

Reasonably Assured

12IA Duty to ensure appropriate staffing

4.5 The Duty to ensure appropriate staffing is the overarching aim of the Act, set out in Section 12IA. It complements existing staff governance, clinical governance and financial governance obligations already in place for Health Boards. The legislation defines appropriate staffing as follows:

"It is the duty of every Health Board to ensure that at all times suitably qualified and competent individuals, from such a range of professional disciplines as necessary, are working in such numbers as are appropriate for:

(a) the health, wellbeing and safety of patients,

(b) the provision of safe and high-quality health care, and

(c) in so far as it affects either of those matters, the wellbeing of staff."

4.6 To comply with this overarching duty, Health Boards must comply with all other duties set out in the Act and give due regard to the guiding principles when determining staffing levels.

4.7 To assess staff perspectives on whether this duty was being met, respondents were asked:

"Does your service(s) at all times have suitably qualified and competent individuals, working in such numbers as are appropriate for-

(a) the health, wellbeing and safety of patients;
(b) the provision of safe and high-quality health care, and;
(c) in so far as it affects either of those matters, the wellbeing of staff?".

Answers to this question are presented below:

4.8 Please note, compliance data by professional group and financial year is presented in the tables below. For Q1 2023/24, Public Health and Registered Chaplains are greyed out as compliance data for these professions was not collected in that reporting period.

4.9 **12IA Duty to ensure appropriate staffing: Compliance by Professional Group and Financial Year, Quarter 1:**

	Q1 Compliance Assurance	
Professional Group	**2024/25**	**2025/26**
AHP	Reasonable	Reasonable
Dental	Reasonable	⇧ Substantial
Healthcare Scientists	Limited	Limited
Medical	Substantial	Substantial
Midwifery	Limited	⇧ Reasonable
Nursing	Limited	⇧ Reasonable
Pharmacy	Limited	⇧ Reasonable
Psychology	Limited	Limited
Public Health		Substantial
Registered Chaplains		No Assurance
All Professions	**Limited**	⇧ Reasonable

⇧ = Q1 2025/26 Assurance Level has increased compared with Q1 2024/25

Assurance Level: All Professions

4.10 Across all professions, the assurance level has improved from Limited to Reasonable. This reflects that systems and processes are now in place and actively used by 50% or more of all services and professional groups included in the Q1 2025/26 audit. This is up from under 50% in the Q1 2024/25 audit, representing a 17% increase in compliance.

Profession specific changes in Assurance Level

4.11 This section provides context for the professions where there has been a change in assurance level for the Duty to ensure appropriate staffing, compared with Q1 2024/25. 4 out of 8 professions showed an increase in assurance level. Please note that these findings are based on services that responded to the audit and the views of professional leads; they may not apply to all services within a profession.

Dental

Reasonable to Substantial ⇧

4.12 100% of responses for the Dental were “yes” to meeting obligations around the Duty to ensure appropriate staffing in Q1 2025/26 a 50% increase from Q1 2024/25. This resulted in the profession changing from Reasonable to Substantial Assurance. Audit respondents highlighted successes contributing to this progress. Services consistently maintain appropriate staffing through robust rotas, supplemented by bank staff to cover absences, ensuring continuity of care and increasing staff wellbeing. Additionally, systems, documentation, and standard operating procedures (SOPs) are in place and actively used, that support consistent and safe clinical practice. These actions are important because appropriate staffing is not solely about headcount, robust systems in place support a consistent, transparent evidence-based approach to decisions around staffing. This enables oversight, mentorship, and service improvement, ultimately improving patient care outcomes and staff wellbeing.

Midwifery

Limited to Reasonable ⇧

4.13 67% of responses for Midwifery were “yes” to meeting obligations around the Duty to ensure appropriate staffing in Q1 2025/26 a 50% increase from Q1 2024/25. This resulted in the profession changing from Limited to Reasonable Assurance. This reflects progress in meeting the Duty to ensure appropriate staffing under the Health and Care (Staffing) (Scotland) Act 2019. Audit respondents gave examples of processes and systems in place within their services, in line with the Act, that may explain this change. Key developments include the introduction of Clinical Education Midwives, who work clinically to support staff in developing skills and confidence, enhancing autonomy. Staff report this as highly beneficial. Additionally, the Foetal Wellbeing Midwife role supports training and audits practice, providing feedback that improves care quality. These roles demonstrate a commitment to the Act’s principles, ensuring staff have the time, support, and leadership needed to deliver safe care. They also promote a culture of continuous improvement, transparency, and responsiveness to staff and service user needs.

Nursing

Limited → Reasonable ⇧

4.14 66% of responses for Nursing were “yes” to meeting obligations around the Duty to ensure appropriate staffing in Q1 2025/26 a 23% increase from Q1 2024/25. This resulted in the profession changing from Limited to Reasonable Assurance. Audit respondents gave examples of processes and systems in place within their services, in line with the Act, that may explain this change. For example, Services have embedded regular reviews of staffing levels and skill mix, using tools such as caseload weighting and national benchmarking to ensure the right number and type of staff are in place to meet patient needs safely. Alongside this, there is a strong focus on staff wellbeing and development through robust supervision, reflective practice, and targeted support for newly qualified staff, supported by wellbeing leads. These efforts align with the Health and Care (Staffing) (Scotland) Act 2019, which emphasises the importance of matching staffing to workload and acuity, whilst also recognising that staff wellbeing is essential to delivering safe, person-centred care and maintaining high standards.

Pharmacy

Limited → Reasonable ⇧

4.15 82% of responses for Pharmacy were “yes” to meeting obligations around the Duty to ensure appropriate staffing in Q1 2025/26 a 49% increase from Q1 2024/25. This resulted in the profession changing from Limited to Reasonable Assurance. Audit respondents gave examples of processes and systems in place within their services, in line with the Act, that may explain this change. For example, a recent skill mix review in the acute Pharmacy service led to the introduction of a new Pharmacy Support Worker role, enabling more effective delegation of tasks and allowing clinical staff to focus on advanced duties. In parallel, a small non-patient-facing team addressed staff shortages by redistributing tasks, prioritising delivery, and introducing flexible working patterns to support wellbeing. These actions demonstrate responsive workforce planning and align with the Health and Care (Staffing) (Scotland) Act 2019, which emphasises matching staff roles to service needs and promoting staff wellbeing to ensure safe, sustainable, and high-quality care.

12IB Duty to ensure appropriate staffing: agency workers

4.16 The Act stipulates that, the board must report on the number of occasions that it has paid an agency worker more than 150% of the amount that would be paid to a full-time equivalent employee to fill the equivalent post for the same period. The report must include the number of occasions on which it is paid more than 150%, the amount paid on each occasion and the circumstances that have required the higher amount to be paid. The Scottish Government provide a template for this report which includes the figures to be used for a full-time equivalent employee for each band / grade so that all Boards are using the same. NHS Lothian's Quarter 1 Agency Report will be submitted to Scottish Government on 31 July 2025 and a narrative based on this submission will be included in the Quarter 2 Board Compliance Report.

4.17 The duty does not prohibit the use of workers above the 150% figure, rather it states that the amount to be paid to secure the services of an agency worker should not exceed 150%, but if it does then all instances of this have to be reported quarterly to the Scottish Ministers.

4.18 Compliance with the Duty to ensure appropriate staffing: agency workers is not surveyed within the Compliance & Assurance Audit. The reporting obligations for Registered Nurses, Midwives, Health Care Support Workers, Medical Locums, Allied Health Professionals & Health Care Sciences Staff are managed through supplementary staffing services within Corporate Nursing rather that the wider workforce. It should be noted that Agency spend will be managed through appropriate operational lines and appropriate professional leads.

4.19 Reports should cover the following periods and be sent by the corresponding deadlines:

4.20 NHS Lothian: Agency Reporting Timeline and Update

Period	Deadline	Status
01 April to 30 June	31 July 2025	On track for submission
01 July to 30 September	31 October 2025	Not Yet Started
01 October to 31 December	31 January 2025	Not Yet Started
01 January to 31 March	30 March 2025	Not Yet Started

4.21 All four submission deadlines for 2024/25 were met.

12IC Duty to have real-time staffing assessment in place

4.22 Real-time staffing assessment aims to ensure appropriate staffing through identification and mitigation of risks relating to staffing in real time. This is not a requirement to solely assess numbers of staff on shift, and no staffing tools or calculators are required to comply with the duty. Real-time staffing assessment may consider:

- patient acuity / workload / activity for non-bed-holding areas
- number and skill mix of available staff
- professional judgement of the staff required

4.23 **12IC Duty to have real-time staffing assessment in place: Compliance by Professional Group and Financial Year, Quarter 1:**

	Q1 Compliance Assurance	
Professional Group	**2024/25**	**2025/26**
AHP	Reasonable	Reasonable
Dental	Substantial	Substantial
Healthcare Scientists	Reasonable	Reasonable
Medical	Substantial	⇩ Reasonable
Midwifery	Limited	⇧ Reasonable
Nursing	Reasonable	Reasonable
Pharmacy	Reasonable	Reasonable
Psychology	Substantial	Substantial
Public Health		Substantial
Registered Chaplains		Limited
All Professions	**Reasonable**	**Reasonable**

⇩ = Q1 2025/26 Assurance Level has decreased compared with Q1 2024/25
⇧ = Q1 2025/26 Assurance Level has increased compared with Q1 2024/25

Assurance Level: All Professions

4.24 In the Q1 2025/26 audit, 83% of respondents answered “Yes” and 13% “Partially” when asked whether they met their obligations under the Duty to have real-time staffing assessment in place. Across all professions, this corresponds to a *Yellow* RAYG rating, indicating Reasonable Assurance, meaning systems and processes are in place and used by 50% or more of services/professional groups.

4.25 As a result, the overall RAYG rating remains unchanged from Q1 2024/25. However, there has been a 10% increase in “Yes” responses compared to the previous year. This improvement is not reflected in the overall “All Professions” RAYG rating in the table above, as the rating is based on fixed percentage thresholds

Profession specific changes in Assurance Level

4.26 1 out of a potential 8 professions decreased their assurance level based on audit responses and one profession, Midwifery, increased. This section provides context for the changes in assurance level relating to the Duty to have real-time staffing assessment

in place, compared with Q1 2024/25. It should be noted that these findings are based on responses from participating services and the views of professional leads, and may not reflect the position across all services within each profession.

Medical

Substantial to Reasonable ⇩

4.27 86% of responses for Medical were "yes" to meeting obligations around the Duty to have real-time staffing assessment in place in Q1 2025/26, a 14% decrease from Q1 2024/25. This led to a change in assurance from Substantial to Reasonable. The change from Substantial to Reasonable Assurance reflects developing challenges in consistently meeting the Duty to have real-time staffing assessment. Whilst services generally function well, issues such as last-minute sickness, disconnected rota systems across staff groups, and limited availability of cover staff have impacted the ability to respond dynamically to staffing pressures. For example, in medical areas, sudden absences often lead to reduced activities due to a lack of immediate replacements. Although escalation plans, such as reducing appointments during public holidays are in place, these are reactive rather than preventative. The need for clearer deputy arrangements and improved use of demand and capacity tools in real-time scenarios has been identified. The Act requires services to assess staffing in real-time and respond effectively to staffing level risks. In some services, strengthening real-time systems and learning from operational pressures is essential to restoring higher assurance levels with this duty.

Midwifery

Limited to Reasonable ⇧

4.28 67% of responses for Midwifery were "yes" to meeting obligations around the Duty to have real-time staffing assessment in place in Q1 2025/26 a 34% increase from Q1 2024/25. This resulted in the profession changing from Limited to Reasonable Assurance. Midwifery services that responded to the audit highlighted successes from within their profession that may help understand this increase in confidence and that align with the Duty to have real-time staffing assessment in place. A key example is the improvement of twice-daily Directorate Safety Huddles, now Pan-Lothian, which include real-time staffing data and participation from Staff Bank colleagues. This enables immediate escalation and mitigation of staffing issues. Additionally, staff are increasingly aware of the importance of proactive annual leave planning, which supports consistent staffing levels. These practices demonstrate a shift toward more responsive and transparent staffing decisions. From a legislative perspective, the Act mandates that organisations not only assess staffing in real time but also to escalate concerns and ensure safe, person-centred care is maintained.

12ID Duty to have risk escalation process in place

4.29 The purpose of this duty is to ensure that relevant organisations have robust risk escalation processes in place for identifying, recording, and mitigating staffing risks. Any member of staff who identifies a risk must report it to the designated lead professional responsible for that area, such as a team leader. If the lead professional is unable to mitigate the risk, it must be escalated to a more senior decision-maker for appropriate action.

4.30 **12ID Duty to have risk escalation process in place: Compliance by Professional Group and Financial Year, Quarter 1:**

	Q1 Compliance Assurance	
Professional Group	**2024/25**	**2025/26**
AHP	Reasonable	Reasonable
Dental	Reasonable	Reasonable
Healthcare Scientists	Limited	⇧ Reasonable
Medical	Limited	⇧ Reasonable
Midwifery	Limited	⇧ Reasonable
Nursing	Reasonable	Reasonable
Pharmacy	Limited	⇧ Reasonable
Psychology	Reasonable	Reasonable
Public Health		Reasonable
Registered Chaplains		Reasonable
All Professions	**Reasonable**	**Reasonable**

⇧ = Q1 2025/26 Assurance Level has increased compared with Q1 2024/25

Assurance Level: All Professions

4.31 In the Q1 2025/26 Audit, on average 63% of responses were “Yes” and 21% were “Partially” to questions regarding compliance with the Duty to have a risk escalation process in place. Based on responses across all professions, this resulted in a Yellow RAYG rating, indicating reasonable assurance.

Assurance Level: Profession specific changes

4.32 4 out of a potential 8 professions increased their assurance level based on audit responses. This section gives context around these professions where there has been a change in assurance level for the Duty to have risk escalation process in place when compared with Q1 2024/25. Please note, these findings are based on services that responded to the audit and the views of professional leads and does not necessarily apply to all services within a profession.

Healthcare Scientists

Limited → Reasonable ⇧

4.33 On average 66% of responses for Healthcare Scientists were “yes” to meeting obligations around the duty to have risk escalation process in place in Q1 2025/26, a 19% increase from Q1 2024/25. This led to a change in assurance from Limited to Reasonable. Through meeting Health Care Science colleagues, the Health & Care Staffing Professional Lead for Healthcare Science explained that the increase in

assurance is likely due to improved awareness and education. Audit respondents gave examples of successes with meeting this duty. For example, staff know who to contact and escalation procedures are reinforced through regular meetings. Duty managers and clinical leads actively support workforce planning and escalation. An on-call rota has been implemented to provide backfill during unexpected absences. Whilst some services still face challenges, particularly in specialist areas, the ability to escalate risks promptly is critical. It enables services to prevent unsafe care, protect staff from unnecessary pressure and maintains continuity of service. These processes are operationally effective, required within the Act, and supporting the delivery of safe, person-centred care.

Medical

Limited to Reasonable ⇧

4.34 On average 83% of responses for Medical were "yes" to meeting obligations around the Duty to have risk escalation process in place in Q1 2025/26, a 50% increase from Q1 2024/25. This led to a change in assurance from Limited to Reasonable. Audit respondents gave examples of processes and systems in place within their services, in line with the Act, that may explain this change. This includes an increased confidence with risk escalation processes, a key duty under the Health and Care Staffing (Scotland) Act 2019. Escalation policies are reviewed regularly, particularly after public holidays, to reflect changing service demands. A 24/7 clinical on-call system provides a single point of contact for staffing issues. These practices are essential to fulfilling the Act's legal requirement to identify, escalate, and mitigate staffing level risks in real time, ensuring safe, person-centred care.

Midwifery

Limited to Reasonable ⇧

4.35 On average 76% of responses for Midwifery were "yes" to meeting obligations around the Duty to have risk escalation process in place in Q1 2025/26 a 51% increase from Q1 2024/25. This resulted in the profession changing from Limited to Reasonable Assurance. Audit respondents gave examples of processes and systems in place within their services, in line with the Act, that may explain this change. Respondents report increased confidence in their real-time staffing assessment and escalation processes, in line with duties 12IC and 12ID of the Health and Care Staffing (Scotland) Act 2019. One service highlighted the use of a colour-coded 'Prep Stat' tool to assess and escalate staffing risk, with regular reviews to ensure it remains effective. These systems are vital for identifying and responding to staffing risks in real time, as required by the Act.

Pharmacy

Limited to Reasonable ⇧

4.36 On average 70% of responses for Pharmacy were "yes" to meeting obligations around the Duty to have risk escalation process in place in Q1 2025/26, a 23% increase from Q1 2024/25. This led to a change in assurance from Limited to Reasonable. Audit respondents gave examples of processes and systems in place within their services, in line with the Act, that may explain this change. For example, clear escalation plans, supported by team huddles, line managers, and a designated point of contact for unresolved staffing gaps. On-call cover and a robust rota for resilience leads ensure 24/7 support. Whilst remaining gaps for new on-call staff at RHCYP were identified, interim mitigation measures are in place. These systems are essential to meeting the Act's legal duty to identify and mitigate staffing risks in real time, ensuring safe, effective and high-quality care.

12IE Duty to have arrangements to address severe and recurrent risks

4.37 This duty requires Boards to have arrangements set out how information on staffing risks will be collated, analysed and recorded, (including reporting to The Board when required). The Act does not define what a severe or recurring risk is – organisations are expected to determine a locally accepted definition.

4.38 **12IE Duty to have arrangements to address severe and recurrent risks: Compliance by Professional Group and Financial Year, Quarter 1:**

	Q1 Compliance Assurance	
Professional Group	**2024/25**	**2025/26**
AHP	Reasonable	Reasonable
Dental	Substantial	⇩ Reasonable
Healthcare Scientists	Reasonable	⇩ Limited
Medical	Substantial	⇩ Reasonable
Midwifery	Limited	⇧ Reasonable
Nursing	Reasonable	Reasonable
Pharmacy	Reasonable	⇩ Limited
Psychology	Limited	Limited
Public Health		Reasonable
Registered Chaplains		No Assurance
All Professions	**Reasonable**	**Limited**

⇩ = Q1 2025/26 Assurance Level has decreased compared with Q1 2024/25
⇧ = Q1 2025/26 Assurance Level has increased compared with Q1 2024/25

Assurance Level: All Professions

4.39 In the Q1 2025/26 Audit, on average 52% of responses were “Yes” and 15% were “Partially” to questions about compliance with the Duty to have arrangements to address severe and recurrent risks. This resulted in an amber RAYG rating, indicating limited assurance, lower than the assurance level reported in Q1 2024/25. The decrease is largely due to the introduction of two new audit questions aimed at reducing uncertainty. Specifically, 58% of all respondents answered “No” to regularly producing or receiving reports on severe and/or recurrent staffing risks, and 57% answered “No” to having an agreed definition of such risks. These responses lowered the overall (“All Professions” average and contributed to drop in assurance levels by professional group.

Assurance Level: Profession Specific Changes

4.40 4 out of a potential 8 professions decreased their assurance level based on audit responses and one profession, Midwifery, increased. This section gives context around these professions where there has been a change in assurance level for the Duty to have arrangements to address severe and recurrent risks when compared with Q1 2024/25. Please note, these findings are based on services that responded to the audit and the views of professional leads and does not necessarily apply to all services within a profession.

Dental

Substantial to Reasonable ⇩

4.41 On average 60% of responses for Dental were “yes” to meeting obligations around the Duty to have arrangements to address severe and recurrent risks in Q1 2025/26, a 40% decrease from Q1 2024/25. This led to a change in assurance from Substantial to Reasonable. Whilst day-to-day staffing is well managed, there is reduced confidence in addressing severe and recurrent risks, as required by the Act. Although most vacancies are filled and staff redeployment systems are effective, reliance on reactive staffing redeployments between sites may not be sustainable during prolonged or repeated pressures. In Dental services, 1:1 staffing is clearly defined and managed, but there is limited evidence of long-term risk mitigation planning. Without robust escalation and review systems in place, services can struggle to respond to recurrent staffing challenges, potentially impacting continuity of care and compliance with the Act.

Healthcare Scientists

Reasonable to Limited ⇩

4.42 On average 49% of responses for Healthcare Scientists were “yes” to meeting obligations around the Duty to have arrangements to address severe and recurrent risks in Q1 2025/26, a 9% decrease from Q1 2024/25. This led to a change in assurance from Reasonable to Limited. Of those Healthcare Science services audited, confidence in addressing severe and recurrent staffing risks is reduced due to persistent challenges. A small workforce can lead to cancelled clinical activity when staff are unavailable. Recruitment is hindered by a lack of qualified professionals, with limited academic training pathways in Scotland and UK wide banding disparities. Under Duty 12IG of the Health and Care (Staffing) (Scotland) Act 2019, Scottish Ministers are required to take reasonable steps to ensure there are sufficient registered nurses, midwives, and medical practitioners available to enable health service bodies to meet their staffing duties. This duty does not extend to Healthcare Scientists. However, the Scottish Government actively supports the training and workforce planning of Healthcare Scientists through policy development, strategic leadership, and collaboration with NHS Education for Scotland.

4.43 Many new recruits require extensive on-the-job training. Additionally, funding constraints and reactive compliance further weaken compliance with this duty. These issues highlight the need for long-term workforce planning and investment to meet the Act’s duty.

Medical

Substantial to Reasonable ⇩

4.44 On average 69% of responses for Medical were “yes” to meeting obligations around the Duty to have arrangements to address severe and recurrent risks in Q1 2025/26, a 31% decrease from Q1 2024/25. This led to a change in assurance from Substantial to Reasonable. Medical services that responded to the audit explained that rota fill rates within their area are consistently close to 100%, yet there is limited evidence of planning for severe or recurrent staffing risks, as required by Duty 12IE of the Health and Care Staffing (Scotland) Act 2019. The current system is effective for day-to-day staffing decisions but lacks strategies for the long-term identification and mitigation of risk. In the context of financial constraints, confidence in the service’s ability to manage sustained pressures is reduced. Addressing this gap is essential to maintain safe staffing levels and meet legislative obligations during persistent challenges.

Midwifery

Limited to Reasonable ⇧

4.45 On average 60% of responses for Midwifery were “yes” to meeting obligations around the Duty to have arrangements to address severe and recurrent risks in Q1 2025/26 a 22% increase from Q1 2024/25. This resulted in the profession changing from Limited to Reasonable Assurance. Audit responses indicate increased confidence due to strengthened processes aligned with the Duty to address severe and recurrent risks. For example, the Nursing and Midwifery Workforce Escalation Framework consolidates risk assessment tools and governance processes into a single, accessible document. It supports decision-making based on patient acuity, staffing availability, and system-wide pressures. In addition, all Datix reports involving staffing concerns are annotated and escalated to senior leadership, with quarterly summaries reviewed by governance groups. These robust, transparent processes are used to identify staffing level risks patterns and mitigate ongoing risks, in line with legislative obligations.

Pharmacy

Reasonable to Limited ⇩

4.46 On average 46% of responses for Pharmacy were “yes” to meeting obligations around the Duty to have arrangements to address severe and recurrent risks in Q1 2025/26, a 6% decrease from Q1 2024/25. This led to a change in assurance from Reasonable to Limited. Respondents in Pharmacy services explained that confidence in addressing severe and recurrent staffing risks is lessened due to structural and operational challenges. Whilst small non-patient-facing teams can often manage shortages internally through prioritisation, maintaining up-to-date contingency plans is difficult. One respondent noted that their current business continuity planning (BCP) focuses on short-term solutions, leaving them vulnerable to long-term shortages, however BCPs are widely in place with robust thresholds. The absence of a definition of recurrent risks also adds to the uncertainty.

12IF Duty to seek clinical advice on staffing

4.47 This duty places the requirement on Boards to put, and keep in place, arrangements for seeking and having regard to appropriate clinical advice in making decisions, and putting in place arrangements in relation to staffing under the various sections of the Act; and to put, and keep in place, arrangements for recording and explaining decisions which conflict with that clinical advice.

4.48 **Duty to seek clinical advice on staffing: Compliance by Professional Group and Financial Year, Quarter 1:**

	Q1 Compliance Assurance	
Professional Group	**2024/25**	**2025/26**
AHP	Reasonable	Reasonable
Dental	Reasonable	Reasonable
Healthcare Scientists	Limited	⇧ Reasonable
Medical & Dental	Reasonable	Reasonable
Midwifery	Limited	⇧ Reasonable
Nursing	Reasonable	Reasonable
Pharmacy	Limited	⇧ Reasonable
Psychology	Substantial	⇩ Reasonable
Public Health		Reasonable
Registered Chaplains		Limited
All Professions	**Reasonable**	**Reasonable**

⇩ = Q1 2025/26 Assurance Level has decreased compared with Q1 2024/25
⇧ = Q1 2025/26 Assurance Level has increased compared with Q1 2024/25

Assurance Level: All Professions

4.49 On average, 72% of responses to the Q1 2025/26 Audit were “Yes” and 11% were “Partially” when asked if they met obligations under the Duty to seek clinical advice on staffing. A Yellow RAYG Rating (reasonable assurance) was calculated based on responses across all professions.

Assurance Level: Profession specific changes

4.50 3 out of 4 professions increased their assurance level based on audit responses and one profession, Psychology, decreased. This section gives context around these professions where there has been a change in assurance level for the Duty to seek clinical advice on staffing when compared with Q1 2024/25. Please note, these findings are based on services that responded to the audit and the views of professional leads and does not necessarily apply to all services within a profession.

Healthcare Scientists

Limited to Reasonable ⇧

4.51 In Q1 2025/26, 60% of Healthcare Scientist responses were “yes” to meeting the Duty to seek and have regard to clinical advice, a 37% increase from Q1 2024/25, raising assurance from Limited to Reasonable. Services that responded to the audit have taken several steps within their profession that may help understand this increase in confidence and that align with the legislative requirement to seek and have regard to clinical advice

on staffing. Small staff groups use clinical advice to triage priority cases and ensure appropriate staff availability. A staffing tool helps determine Physiologist requirements based on activity levels. Regular workforce reviews and the involvement of the wider multidisciplinary team, including clinical, managerial, and partnership leads, supports collaborative decision-making. This robust approach ensures clinical input is embedded in staffing decisions, aligning with the legislative duty. Health Science respondents also feel more involved in staffing decisions and clinical advice is valued, ensuring safe staffing levels and supporting integrated workforce planning.

Midwifery

Limited to Reasonable ⇧

4.52 In Q1 2025/26, 70% of Midwifery responses were “yes” to meeting the Duty to seek and have regard to clinical advice, a 67% increase from Q1 2024/25, raising assurance from Limited to Reasonable. This improvement reflects robust processes employed within Midwifery services that responded to the audit. Including escalation routes through the Nursing lines to senior leadership and consultation with Medical professionals. Such multidisciplinary arrangements support compliance with Duty 12IF of the Act, ensuring staffing decisions have regard to clinical advice. This robust approach also promotes transparency, accountability and supports staffing decisions that are responsive to clinical need.

Pharmacy

Limited to Reasonable ⇧

4.53 On average 53% of responses for Pharmacy were “yes” to meeting obligations around the Duty to seek and have regard to clinical advice in Q1 2025/26 a 26% increase from Q1 2024/25. This resulted in the Pharmacy profession changing from Limited to Reasonable Assurance. Services that responded to the audit have taken several steps within their profession that may help understand this increase in confidence and that align with the legislative Duty to seek and clinical advice on staffing. Staffing decisions are made by registered practitioners, ensuring clinical expertise is central to workforce planning. Senior managers with a clinical background provide leadership that bridges operational and clinical priorities. Business cases for new services are developed with clinical input to ensure safe staffing capacity. Furthermore, maintaining consistent service availability across all covered hospitals reflects proactive planning based on clinical need. These practices demonstrate compliance with the Duty to seek and consider clinical advice, supporting safe, effective, and sustainable staffing aligned with legislative obligations.

Psychology

Substantial to Reasonable ⇩

4.54 On average 50% of responses for Psychology were “yes” to meeting obligations around the Duty to seek and have regard to clinical advice in Q1 2025/26 a 50% decrease from Q1 2024/25. This drop led to a change in assurance from Substantial to Reasonable. It should be noted that as there is one submission for the Psychology service, one answer has a large effect on the average response and therefore the assurance level. A key issue is the lack of formal processes to record when clinical advice is not followed. The respondent for the Psychology service explained that there is no system for clinicians to document disagreement with staffing decisions or to explain decisions that conflict with clinical input. Additionally, clinical advice in Psychology is often limited to recruitment and workforce changes, rather than daily staffing, and is not always recorded as part of safe staffing processes. The Act requires organisations to both seek and have regard to clinical advice. Without clear documentation, services risk reduced transparency, accountability and compliance with the Act.

12IH Duty to ensure adequate time given to clinical leaders

4.55 This duty is intended to ensure that clinical leaders receive the right amount of time and resources to discharge their responsibilities under the duties within the Act, alongside all the other professional duties and responsibilities they have. These include the clinical leadership and management functions that support the delivery of high-quality care. This section should be considered within the context of existing staff and clinical governance arrangements, and professional structures.

4.56 **Duty to ensure adequate time given to clinical leaders: Compliance by Professional Group and Financial Year, Quarter 1:**

	Q1 Compliance Assurance	
Professional Group	**2024/25**	**2025/26**
AHP	Reasonable	Reasonable
Dental	Reasonable	Reasonable
Healthcare Scientists	Limited	⇧ Reasonable
Medical	Reasonable	Reasonable
Midwifery	Limited	⇧ Reasonable
Nursing	Reasonable	Reasonable
Pharmacy	Limited	⇧ Reasonable
Psychology	Substantial	⇩ Reasonable
Public Health		Substantial
Registered Chaplains		No Assurance
All Professions	**Reasonable**	**Reasonable**

⇩ = Q1 2025/26 Assurance Level has decreased compared with Q1 2024/25
⇧ = Q1 2025/26 Assurance Level has increased compared with Q1 2024/25

Assurance Level: All Professions

4.57 On average, 69% of responses to the Q1 2025/26 Audit were “Yes” and 24% were “Partially” when asked questions on if they met obligations under the Duty to ensure adequate time given to clinical leaders. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

Assurance Level: Profession Specific Changes

4.58 3 professions increased their assurance level based on audit responses and one profession, Psychology, decreased. This section gives context around these professions where there has been a change in assurance level for the Duty to ensure adequate time given to clinical leaders when compared with Q1 2024/25. Please note, these findings are based on services that responded to the audit and the views of professional leads and does not necessarily apply to all services within a profession.

Healthcare Scientists

Limited to Reasonable ⇧

4.59 On average 60% of Healthcare Scientist responses were “yes” to meeting obligations around the Duty to ensure adequate time given to clinical leaders in Q1 2025/26 a 23% increase from Q1 2024/25. This resulted in the profession changing from Limited to Reasonable Assurance. There is growing confidence among respondents to the audit

that Duty 12 IH is being met, as clinical leaders now benefit from protected time to conduct managerial duties, to discuss support needs and to receive mentorship from Heads of Service. The introduction of fixed rotas enhances predictability in workloads, whilst monthly Continuing Professional Development (CPD) and departmental accreditation processes boost leadership growth and quality standards. These measures align with the duty's legislative aim to empower clinical leaders with the time and resources necessary to fulfil all aspects of their role.

Midwifery

Limited to Reasonable ⇧

4.60 On average 50% of responses for Midwifery were "yes" to meeting obligations around the Duty to ensure adequate time given to clinical leaders in Q1 2025/26 a 42% increase from Q1 2024/25. This resulted in the profession changing from Limited to Reasonable Assurance. Free text responses for Midwifery also demonstrated confidence with fulfilling this legislative duty. Charge Midwives' use of HealthRoster and SafeCare and their active role in twice-daily safety huddles, demonstrates time set aside for staffing oversight aspects of the clinical leadership role. Respondents also highlighted protected time for supervision and task allocation, during appropriate staffing levels. Despite services highlighting no formal leadership time allocation, increases in assurance levels around real-time staffing, risk escalation and addressing severe and recurrent risks implies a strong alignment with this duty and that time is utilised effectively for clinical leadership.

Pharmacy

Limited to Reasonable ⇧

4.61 On average 73% of responses for Pharmacy were "yes" to meeting obligations around the Duty to ensure adequate time given to clinical leaders in Q1 2025/26 a 34% increase from Q1 2024/25. This resulted in the profession changing from Limited to Reasonable Assurance. Services that responded to the audit have taken several steps within their profession that may help understand this increase in confidence and that align with the duty to ensure adequate time given to clinical leaders. Protected learning time is actively promoted across all staff grades, aligning with the Act's emphasis on appropriate staffing through training of staff. Pharmacists report greater success in accessing this time, supported by structured CPD and mentorship. Embedding protected learning time across roles strengthens team capability and fosters a culture of continuous improvement.

Psychology

Substantial to Reasonable ⇩

4.62 On average 50% of responses for Psychology were "yes" to meeting obligations around the Duty to ensure adequate time given to clinical leaders in Q1 2025/26, a 50% decrease from Q1 2024/25. This led to a change in assurance from Substantial to Reasonable. It should be noted that as there is one submission for the Psychology service, one answer has a large effect on the average response and therefore the assurance level. The audit respondent for the Psychology service, highlighted a decrease in confidence regarding the time allocated for leadership within Psychology Services, despite prior efforts in job planning, demand and capacity analysis, and Agenda for Change (AfC) job description work. While these initiatives laid a strong foundation, the implementation of the Act has highlighted gaps in communicating and securing protected leadership time. This learning has prompted a renewed focus on articulating and advocating for the leadership capacity required to meet legislative expectations and ensure safe, effective psychological care delivery.

12II Duty to ensure appropriate staffing: training of staff

4.63 This duty requires relevant organisations to ensure that employees have appropriate and relevant training, to ensure that suitably qualified and competent individuals from such a range of professional disciplines as necessary are working in such numbers as are appropriate for the health, wellbeing and safety of patients and the provision of safe and high-quality healthcare. This duty also requires that adequate time and resource is provided to undertake that training.

4.64 **Duty to ensure appropriate staffing: training of staff: Compliance by Professional Group and Financial Year, Quarter 1:**

	Q1 Compliance Assurance	
Professional Group	**2024/25**	**2025/26**
AHP	Reasonable	Reasonable
Dental	Substantial	⇩ Reasonable
Healthcare Scientists	Reasonable	Reasonable
Medical	Substantial	⇩ Reasonable
Midwifery	Reasonable	Reasonable
Nursing	Reasonable	Reasonable
Pharmacy	Reasonable	Reasonable
Psychology	Substantial	Substantial
Public Health		Substantial
Registered Chaplains		Substantial
All Professions	**Reasonable**	**Reasonable**

⇩ = Q1 2025/26 Assurance Level has decreased compared with Q1 2024/25

Assurance Level: All Professions

4.65 On average, 85% of responses to the Q1 2025/26 Audit were "Yes" and 13% were "Partially" when asked questions on compliance with the Duty to ensure appropriate staffing: training of staff. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

Assurance Level: Profession specific changes

4.66 2 out of a potential 8 professions changed their assurance level based on audit responses. This section gives context around these professions where there has been a change in assurance level for the Duty to ensure appropriate staffing: training of staff when compared with Q1 2024/25. Please note, these findings are based on services that responded to the audit and the views of professional leads and does not necessarily apply to all services within a profession.

Dental

Substantial to Reasonable ⇩

4.67 On average 84% of responses for Dental were "yes" to meeting obligations around the Duty to ensure appropriate staffing: training of staff in Q1 2025/26, a 16% decrease from Q1 2024/25. This led to a change in assurance from Substantial to Reasonable. Respondents for Dental services demonstrated a reduced confidence around training and role clarity. Whilst staffing levels currently allow Dental Team Leaders (DTLs) protected time for clinic rota planning with professional leads, this has not consistently

translated into comprehensive training structures. For example, Public Dental Service (PDS) clinicians have historically lacked formal job plans, an issue now being addressed. These gaps have highlighted the importance of aligning workforce plans with the Health and Care (Staffing) (Scotland) Act's requirements. Ensuring all staff have defined roles and access to training is essential to meet legislative of the Act.

Medical

Substantial to Reasonable ⇩

4.68 On average 79% of responses for Medical were "yes" to meeting obligations around the Duty to ensure appropriate staffing: training of staff in Q1 2025/26, a 21% decrease from Q1 2024/25. This led to a change in assurance from Substantial to Reasonable. This is despite progress in job planning and the introduction of 1:1 performance reviews and new roles. These initiatives have contributed to improved staff retention; however, inconsistencies in implementation and issues around clarity of role impact training assurance levels. Ensuring that time spent job planning, the introduction of new roles, and performance reviews lead to actionable staff development is important for increasing assurance with this duty in the Act.

12IJ and 12IL Duty to follow the Common Staffing Method inc. training and consultation of staff

4.69 The Common Staffing Method (CSM) sets out a process, including the use of the relevant Staffing Level Tool and the Professional Judgement Tool and a range of other considerations, which must be applied rigorously and consistently. The application of the CSM will support NHS Boards to ensure appropriate staffing, the health, wellbeing and safety of patients and the provision of safe and high-quality care. The frequency of applying the CSM has been defined as once per financial year as a minimum.

4.70 The types of health care, locations and employees that have a duty to use the CSM aligns with the availability of a speciality-specific Staffing Level Tools, as use of such tools are an integral part of the CSM. There are currently 10 Staffing Level Tools which apply to nursing and midwifery areas only and doctors within emergency departments. Therefore, only these staff groups had the option to answer questions around the Common Staffing Method and for medical this was answered on this occasion by the nurse manager who led the multi-professional team to complete the Emergency Department Tool.

4.71 **Duty to follow the Common Staffing Method inc. training and consultation of staff: Compliance by Professional Group and Financial Year, Quarter 1:**

	Q1 Compliance Assurance	
Professional Group	**2024/25**	**2025/26**
Medical	Reasonable	Reasonable
Midwifery	Limited	⇧ Reasonable
Nursing	Reasonable	Reasonable
All Professions	**Reasonable**	**Reasonable**

⇧ = Q1 2025/26 Assurance Level has increased compared with Q1 2024/25

Analysis

4.72 It should be noted that staffing level tools are recommended to be run a minimum of once per annum over a minimum two-week period, but there is no requirement in legislation that dictates when the tools are to be run. NHS Lothian has a well-established annual schedule of tool runs throughout the year, and so not all respondents will have had the opportunity to review their establishments following the common staffing method and this will be reflected in the overall assurance rating. Considering the last complete financial year of tool runs, 180 staffing level tools were successfully run during 2024/25 throughout NHS Lothian, across 10 different types of specialty specific staffing level tools. Training and support are provided by 1wte Health and Care Staffing Lead within Corporate Nursing.

4.73 On average, 59% of responses to the Q1 2025/26 Audit were “Yes” and 37% were “Partially” when asked if they met obligations under the Duty to follow the Common Staffing Method inc. training and consultation of staff. This resulted in an RAYG Rating (reasonable assurance) based on responses across all the applicable professions.

Example Areas of Success

4.74 The improvement in Midwifery's assurance rating from Limited to Reasonable, along with the stable Reasonable assurance across other professions using the Common Staffing Method, reflects progress in embedding the CSM into workforce planning processes. A key success is the high level of staff engagement with staffing tool runs, supported by comprehensive training and the proactive involvement of the Health & Care Staffing Team. This has enabled a culture of continuous improvement and collaboration.

4.75 Furthermore, the development of the Health Check template, which triangulates staffing tool data with quality and workforce metrics, provides a data-driven approach to staffing decisions. Implementation of staffing level tools when combined with the Health Check template has informed service redesigns. Furthermore, the introduction of a standardised reporting template ensures consistency in how staffing decisions are documented and reviewed. The template also incorporates local context and staff feedback and encourages transparency which aligns with the Duty to follow Common Staffing Method. The application of the nationally validated Professional Judgment Tool in specialties lacking validated speciality specific staffing level tools, such as Theatres and Outpatients, also demonstrates adaptability and a commitment to the Act's principles.

4.76 Governance structures including the Nursing & Midwifery Workforce Programme Board provide oversight and strategic alignment of the application of the common staffing method within Nursing and Midwifery. This governance and assurance framework includes alignment of staffing practices with statutory obligations to improve quality of care, and support workforce sustainability.

Example Areas of Challenge

4.77 Despite these successes, there are challenges to compliance with the Duty to follow common staffing method. One issue is the lack of nationally validated staffing tools for certain specialties, such as Community Mental Health and Research Nursing. This gap forces a reliance on professional judgment tools, which are effective, but lack speciality specific background calculators.

4.78 Additionally, the staffing tools currently in use are often described as outdated and not reflective of modern nursing roles, leading to frustration among staff. Manual data entry into systems like SSTS where the tools are hosted is time-consuming and resource-intensive, particularly in areas without dedicated administrative support.

4.79 Another barrier is the absence of a formal, documented process for incorporating service user feedback into staffing decisions, which limits the ability to fully demonstrate compliance with a Guiding Principle of the Act, namely, "taking account of the views of staff and service users". Whilst efforts are ongoing to address this, the lack of robust consultation processes is a gap. In addition, interpreting the results from tool runs can be challenging, with some staff reporting difficulty in understanding the results of tool runs or how to act on the data. This is exacerbated by automated tool run reports that often lack the nuance of personalised data analytical reports. These challenges suggest a need for continued investment in tool development and digital infrastructure.

Identified Gaps in Compliance

4.80 The Q1 2025/26 Compliance and Assurance Audit has identified several areas where NHS Lothian does not yet have fully robust or consistent processes in place across all professional groups to meet the legislative obligations of the Health & Care Staffing (Scotland) Act 2019. The following duties have been highlighted as having relatively low or inconsistent compliance:

12IE – Duty to Have Arrangements to Address Severe and Recurrent Risks

- Rated as Limited Assurance overall.
- 58% of respondents reported no regular reporting on severe/recurrent staffing level risks.
- 57% reported no agreed definition of what constitutes a severe or recurrent risk.
- Several professional groups experienced a drop in assurance due to lack of long-term staffing planning, unclear definitions, and limited reporting mechanisms.

12ID – Duty to Have Risk Escalation Processes in Place

- Although rated as Reasonable Assurance, the audit revealed variation in escalation systems across professions.
- Some services lack 24/7 escalation clarity, and training on escalation procedures is inconsistent.

12IF – Duty to Seek Clinical Advice on Staffing

- Rated as Reasonable Assurance, but gaps remain in documenting decisions that conflict with clinical advice.
- Some services lack formal processes for recording disagreements or providing feedback to clinicians when advice is not followed.

Recommendations

Actions to Address Gaps

1. **Continue the work on Board-wide communication and education planning to raise awareness of duties under the Act. This action will:**
    - Support the standardisation of definitions and reporting for severe and recurrent risks.
    - Enhance risk escalation processes.
    - Strengthen clinical advice governance.

2. **Produce Board-wide policy and guidance outlining definitions, responsibilities, and expectations under the Act, aligned with Statutory Guidance. This action will:**
    - Supports the establishment of a shared understanding of “severe” and “recurrent” risks.
    - Define consistent escalation protocols.
    - Clarify documentation and feedback processes for clinical advice.

3. **Health and Care Staffing Professional Leads to analyse audit results by profession group and area. Report findings through local governance structures. Identify and address profession-specific gaps. This action will:**
    - Tailor risk reporting and mitigation strategies to each profession.
    - Ensure escalation processes are embedded locally.
    - Promote consistent clinical engagement in staffing decisions.

4. **Continue onboarding and optimising systems such as HealthRoster, SafeCare, and eJobPlan. This action will:**
    - Support the integration of staffing data into service planning, workforce planning, and improvement cycles
    - Enable automated tracking and reporting of severe/recurrent risks.
    - Support real-time escalation and documentation.
    - Enable transparent decision-making and audit trails for clinical advice.

List of appendices

The following appendices are included with this report:

Appendix 1

April 2025 Compliance and Assurance Audit Questions



April 2025 Compliance and Ass

Appendix 2

Red, Amber, Yellow and Green (RAYG) Calculations



Red, Amber, Yellow and Green (RAYG) Ca

Health and Care (Staffing) (Scotland) Act 2019
Quarterly Board Compliance Report

Quarter 3
01 September – 30 November 2025

Date: 27 November 2025

Report Authors:
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Executive Lead: Alison Macdonald, Executive Nurse Director

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Situation

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

2.1 The Act aims to enable high quality care and improved outcomes for people using services in both health and care by helping to ensure appropriate staffing. The Act places duties on health boards, care service providers, Healthcare Improvement Scotland, the Care Inspectorate and Scottish Ministers.

2.2 All clinical staff, including staff who provide clinical advice, are subject to the duties within the Act. Leaders/ Managers of clinical teams also have specific duties under the Act to comply with. The Act does not apply to non-clinical staff e.g. administrative staff.

2.3 Section 12IF of the Act sets out that quarterly reports, as a minimum, on compliance with the Act, are to be provided to the Board of the relevant organisation(s) by the Executive-level clinician on the board with responsibility for the legislation, in this case, the Executive Nurse Director. These reports must include staff's views on compliance. A board-wide Compliance and Assurance Audit was distributed to managers during quarter 1 (Q1) to gather staff views.

2.4 This quarterly report provides NHS Lothian's Board with an overview of compliance with all health duties under the Act and updates on progress made against the board approved recommendations from the Q1 Health & Care Staffing Board Compliance Report. This supports board-level assessment and decision-making on the duties within the Act since accountability for compliance with the health duties rests at Board level and not with individuals who may be charged with carrying out certain actions. This paper does not include reporting on any workforce data as this is not a requirement of the Act.

2.5 Applying the Scottish Government rating system, the overall (across all professions) level of assurance across all duties is "Reasonable". That is, systems and processes that are aligned with the duties in the Health & Care (Staffing) (Scotland) Act 2019 are in place for, and used by, 50% or above of all services/ professional groups managed by respondents to the Q1 Compliance and Assurance Audit. Utilising the Corporate Governance and Assurance system employed within NHS Lothian's Board, the assurance level for Q3 is **Moderate** on how effectively NHS Lothian is meeting its legal duties within the Health & Care (Staffing) (Scotland) Act 2019.

Background

3.0 The duties under the provisions of the Act set in statute the 12IA Duty to ensure appropriate staffing; “that at all times suitably qualified and competent individuals from such a range of professional disciplines as necessary are working in such numbers as are appropriate for the health, wellbeing and safety of patients or service users and the provision of high-quality health care.” Information on further duties and the guiding principles to be met within the Act can be found in Appendix 1.

3.1 NHS Lothian’s Health and Care Staffing Programme Board, chaired by the Executive Nurse Director sets direction and provides oversight on multi-professional efforts pan-Lothian to ensure compliance with the Act. A core implementation team and network of lead professionals have been established to support this work.

3.2 A Q1 2025/26 Compliance and Assurance Audit used to inform this report was made available online from the 4 April to 3 May 2025 and consisted of 70 multiple choice and free text questions covering health duties within the legislation. Responses were analysed to assess NHS Lothian’s compliance with the Act, identify gaps, and informed the development of Q1 recommendations. These findings also shaped the subsequent objectives and actions outlined in this report.

3.3 The Annual Reporting Plan was formally approved by the Staff Governance Committee in March 2025. As part of this plan, certain Board quarterly reports are scheduled to be prepared and submitted prior to the end of each quarter. This approach ensures timely approval through the agreed governance route and supports adherence to statutory reporting deadlines. The reporting timelines have been approved as bespoke to meet strict legislative requirements, which necessitates aligning report submissions with Board meeting dates. This proactive scheduling helps avoid delays in subsequent reporting cycles and ensures compliance with all relevant statutory obligations.

Assurance Level Rating

3.4 Responses from the April 2025 audit were used to rate compliance at NHS Lothian level and by Health & Care (Staffing) (Scotland) Act Duty. A Red, Amber, Yellow and Green (RAYG) system (Table 2) of categorising the assurance level is employed throughout this report. This aligns with the rating system employed within the Health and Care (Staffing) (Scotland) Act 2019 Annual Reporting Template on compliance, provided by the Scottish Government (SG). Aligning the rating system in the Board’s quarterly reports will enable the accurate formulation of the annual report submitted to the Scottish Government. Boards are free to develop their own format/ template for quarterly reporting as none has been provided by the Scottish Government.

3.5 **Table 1.** Red, Amber, Yellow and Green (RAYG) Compliance Ratings

Green (substantial assurance)	Systems and processes are in place for and used by all services and professional groups managed by respondents.
Yellow (reasonable assurance)	Systems and processes are in place for, and used by, 50% or above of all services/ professional groups managed by respondents.
Amber (limited assurance)	Systems and processes are in place for, and used by, under 50% of all services and professional groups managed by respondents.
Red (No assurance)	No systems are in place.

3.6 RAYG ratings are based on average responses from the April 2025 audit. Further detail on how the RAYG Ratings were calculated can be found in Appendix 2.

3.7 The RAYG reporting scale is broad, which may result in incremental improvements within an assurance level being under-reported. However, assurance of progress is supported through a combination of narrative insights from the audit and the oversight provided by HCSA Professional Leads, highlighting variation and advancement within each RAYG category.

3.8 Increases in assurance levels reported may, in whole or in part, reflect improved understanding of the Act resulting from ongoing education efforts within and across professions.

3.9 The Scottish Government has indicated that Boards will be expected to demonstrate robust processes are in place to meet legislative requirements. A common thread throughout the Statutory Guidance is that the legislation is not prescriptive in nature, therefore with the exception of the Staffing Level Tools, the processes, practices and procedures Boards choose to use is often at their discretion.

3.10 Since enactment on 1 April 2024, Healthcare Improvement Scotland's (HIS) role and function has changed to monitoring health boards compliance with the duties as cited within the legislation.

3.11 Each quarter, HIS request a copy of the Board's Internal Quarterly Report and the Use of High-Cost Agency Staff Report and at the end of the financial year, request the Board's Annual Report to Scottish Government. To support this function, NHS Lothian's Executive Leads for the Act participate in bi-annual Board Engagement Calls with HIS, providing an opportunity to discuss the quarterly reports content and review progress against the duties set out in the Act.

Assessment

Overall level of assurance

4.0 The overall compliance ratings across all professional groups and individual duties remain unchanged in Q3, 2025/26 compared with Q2, 2025/26. This is expected, as assurance levels for both quarters are based on the same Q1 2025/26 audit results. A detailed narrative outlining the shifts in assurance between Q1 2024/25 and Q1 2025/26 including analysis by duty and professional group is set out in the Q1 2025/26 Board Compliance Report (Appendix 3).

4.1 **Table 2.** Overall Level of Assurance by Individual Duty and Across All Duties Under the Health and Care (Staffing) (Scotland) Act: 2024/25 and 2025/26 to Date

Quarter

Duty	Q1, 2024/25	Q2, 2024/25	Q3, 2024/25	Q4, 2024/25	Q1, 2025/26	Q2, 2025/26	Q3, 2025/26
12IA Appropriate staffing	Limited	Limited	Limited	Limited	Reasonable	Reasonable	Reasonable
12IC Real-time staffing assessment	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12ID Risk escalation process	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12IE Address severe & recurrent risk	Reasonable	Limited	Limited	Reasonable	Limited	Limited	Limited
12IF Seek clinical advice on staffing	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12IH Adequate time for clinical leaders	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12II Training of staff	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
12IJ Follow the common staffing method	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable
Across all duties	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable	Reasonable

4.2 The **overall level of assurance across all duties** remains unchanged at Reasonably Assured.

4.3 **This reflects the organisation's performance in discharging its responsibilities under section 2 of the 2019 Act, and sections 12IA, 12IC, 12ID, 12IE, 12IF, 12IH, 12II, 12IJ and 12IL, as of June 2025:**

Reasonably Assured

12IB Duty to ensure appropriate staffing: agency workers

4.4 The Act stipulates that, the board must report on the number of occasions that it has paid an agency worker more than 150% of the amount that would be paid to a full-time equivalent employee to fill the equivalent post for the same period. The report must include the number of occasions on which it is paid more than 150%, the amount paid on each occasion and the circumstances that have required the higher amount to be paid. The Scottish Government provide a template for this report which includes the figures to be used for a full-time equivalent employee for each band / grade so that all Boards are using the same.

4.5 The duty does not prohibit the use of workers above the 150% figure, rather it states that the amount to be paid to secure the services of an agency worker should not exceed 150%, but if it does then all instances of this have to be reported quarterly to the Scottish Ministers.

4.6 Compliance with the Duty to ensure appropriate staffing: agency workers is not surveyed within the Compliance & Assurance Audit. The reporting obligations for Registered Nurses, Midwives, Health Care Support Workers, Medical Locums, Allied Health Professionals, Health Care Sciences Staff and Pharmacy are managed through supplementary staffing services within Corporate Nursing rather that the wider workforce. It should be noted that Agency spend will be managed through appropriate operational lines and appropriate professional leads.

4.7 Reports should cover the following periods and be sent by the corresponding deadlines:

4.8 **Table 3.** NHS Lothian: Agency Reporting timeline and Update

Period	Deadline	Status
1 April to 30 June	31 July 2025	Submitted
1 July to 30 September	31 October 2025	Submitted
1 October to 31 December	31 January 2026	Not Yet Started
1 January to 31 March	30 March 2026	Not Yet Started

4.9 All four submission deadlines for 2024/25 were met.

Agency Submission Narrative | 01 July to 30 September

4.10 During the period 1 July to 30 September 2025, NHS Lothian recorded 101 agency shifts exceeding the 150% cost threshold, representing an increase of 48 shifts compared to Q1. All high-cost shifts were within medical staffing, with no nursing or AHP shifts reported above the threshold. The majority of these shifts (approximately 52%) were linked to vacancies in the Hospital at Home service which covers the City of Edinburgh, filled by FY2 Resident Doctors. The remaining shifts were associated with gaps in the trainee programme across multiple specialties, notably ENT, Neurosciences, A&E, Paediatrics, and the Regional Eating Disorder Unit, as well as one Specialty Doctor post at HMP Addiewell.

4.11 The organisation provides full assurance on data completeness, as all agency shifts are reconciled through the Staff Bank before invoice processing. Accuracy is considered high, though the report notes that the 150% comparator excludes certain costs (e.g.,

apprenticeship levy) and uses standardised assumptions for NI contributions, which may affect threshold calculations.

4.12 Overall, the data indicates that the primary driver of high-cost agency usage in Q2 was medical staffing vacancies, rather than systemic reliance on agency staffing.

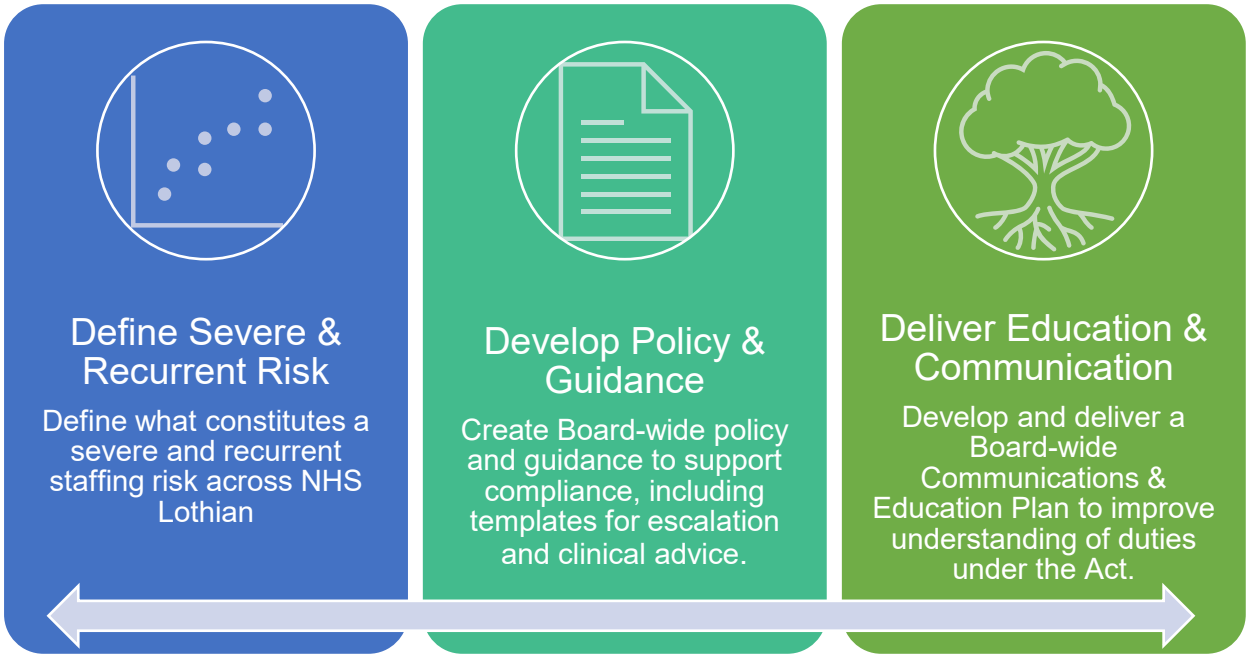
The Professional Leads Group (PLG)

4.13 The PLG serves as the operational arm of the Health & Care Staffing Programme Board, tasked with delivering strategic objectives and ensuring multi-professional alignment across NHS Lothian. This includes recommendations from the Q1 2025/26 Board Compliance Report.

4.14 The PLG comprises senior professional leaders from allied health professions, healthcare science, registered chaplains (Spiritual Care), dentistry, medicine, midwifery, nursing, pharmacy, psychology and public health. The group meets every six weeks and reports quarterly to the Health & Care Staffing Programme Board, ensuring consistent oversight and accountability.

4.15 The PLG has agreed annual objectives to guide subgroup activities and ensure strategic alignment. These are based on the recommendations from the Q1 Board Compliance report, multi-professional judgment and Q1 compliance audit findings.

4.16 To meet these objectives and address the compliance gaps identified in Q1 2025/26, the PLG agreed to establish three dedicated subgroups:



4.17 Each subgroup is tasked with developing its own detailed workplan, aligned with overarching objectives and key deliverables set by the PLG. Operational representation from across professions is underway, with the aim of convening initial meetings before the next PLG meeting.

Progress | Board recommendations

4.18 This section provides an update on progress made against the Board-approved recommendations outlined in the 2025/26 Q1 Health & Care Staffing Board Compliance Report. These recommendations were designed to strengthen NHS Lothian's compliance with the Health & Care (Staffing) (Scotland) Act 2019, with a particular focus on improving governance, standardisation, and operational alignment across professional groups. The Q1 report identified four key areas for action:

4.19 **Table 4.** Progress on Board-Approved Recommendations

Recommendation	Status	Next Steps
Continue the work on Board-wide **communication and education planning** to raise awareness of duties under the Act.	On Track	Priorities include building subgroup infrastructure, improving resource visibility, tailoring engagement, and using analytics to shape the Board-wide Communications and Education Plan.
Produce Board-wide **policy and guidance** outlining definitions, responsibilities, and expectations under the Act, aligned with Statutory Guidance.	On Track	Priorities include mapping Board policies for updates, aligning terminology with Severe & Recurrent Risk subgroup, presenting draft policy/ templates for review, and working with Policy Hub Manager to ensure approval process compliance.
Health and Care Staffing Professional Leads to **analyse audit results** by profession group and area. Report findings through local governance structures. Identify and address profession-specific gaps.	On hold	Implementation is sequenced pending outputs from communications and policy workstreams, which will establish the framework and priorities for profession-specific analysis. Current subgroup capacity is focused on building governance and infrastructure to ensure alignment. AHP audit results for Q1 have been analysed and shared with the profession-specific workforce group, with next steps identified.
Continue **onboarding and optimising systems** such as HealthRoster, SafeCare, and eJobPlan.	On hold	Implementation is sequenced to follow completion of foundational priorities, including Board-wide policy and communication plans, which will set governance, engagement, and reporting standards before advancing to systems such as SafeCare and eJobPlan.

4.20 Each recommendation was aimed at enhancing understanding and implementation of the Act's duties, particularly around severe and recurrent staffing risks, escalation protocols, and clinical advice governance.

Progress | Subgroups

Subgroup Progress | Severe & Recurrent Risk Definition

Objective

4.21 Strengthen assurance across all professions in relation to the duty to have arrangements to address severe and recurrent risks (Duty 12IE), by establishing a Board-wide definition and understanding of what constitutes “severe” and “recurrent” staffing risks and how these should be recognised and addressed.

Sub-objectives

Enable	Enable transparent, evidence-based approaches to identifying recurring staffing level risks.
Strengthen	Strengthen governance and escalation pathways through clarity and consistent application.

Progress to Date

- The Severe & Recurrent Risk Definition subgroup held its first meeting to establish membership and shape the initial agenda for addressing severe and recurrent risks.
- The subgroup has begun gathering nominations for operational members and confirming their availability for upcoming meetings.

Next Steps

- Review and compare definitions, escalation criteria and risk thresholds from other Boards to inform a consistent Board-wide approach.
- Develop and agree standardised definitions to support a shared understanding of “severe” and “recurrent” staffing risks.
- Address compliance gaps regarding Duty 12IE identified in the Q1 2025/26 audit (currently rated Limited).
- Present draft definitions and pathway recommendations to the Professional Leads Group for approval prior to wider engagement and feedback across services.

Subgroup Progress | Board-wide Communications & Education

Objective

4.22 Develop and roll out a Board-wide Communications & Education Plan.

Sub-objectives

Develop	Develop targeted communication materials tailored to clinical staff.
Plan	Plan delivery through staff meetings, intranet updates, and newsletters.
Ensure	Ensure all clinical staff understand their responsibilities under the Act.

Progress to Date

- The subgroup has met regularly and progressed priority workstreams, despite the Chair not taking up post until November.
- Baseline understanding of current awareness, induction content and available learning resources has been established.
- Early analysis indicates variation in induction access across professions, highlighting the need for tailored communication approaches.
- Work is underway to improve the visibility and accessibility of Health & Care Staffing information on the intranet and in education materials.

Next Steps

- Analyse training uptake data to target communication and learning priorities.
- Refresh intranet content to improve visibility and access to resources.
- Develop profession-specific engagement and education approaches.
- Confirm subgroup governance and representation to support Board-wide delivery.

Subgroup Progress | Policy and Guidance Development

Objective

4.23 To develop Board-wide policy, guidance and supporting documentation that enables the consistent application of the duties within the Health & Care (Staffing) (Scotland) Act 2019.

Sub-objectives

Clarify	Clarify roles and responsibilities for giving and recording clinical advice on staffing
Define	Define consistent escalation protocols
Align	Align with Statutory Guidance to support a shared understanding of “severe” and “recurrent” risks

Progress to Date

- The subgroup has met twice and membership from relevant professional leads has been confirmed.
- Existing guidance and resources from other Health Boards and national bodies have been reviewed to ensure alignment and prevent duplication.
- A Standard Operating Procedure (SOP) for the Common Staffing Method has been developed and tested within DATCC, with learning informing final refinement before wider rollout.

Next Steps

- Map existing Board policies to identify where updates or consolidation are required to reflect the duties of the Act.
- Work collaboratively with the Severe & Recurrent Risk subgroup to ensure shared terminology and aligned escalation processes.
- Prepare draft Board-wide policy and supporting templates for review by the Professional Leads Group. Work with the Policy Hub to progress the formal approval process and ensure clear implementation for services.

All subgroups | Next Steps

4.24 Before the next PLG session, subgroups will generate detailed workplans with specific actions to achieve their objectives. Progress will be monitored through regular PLG reporting to NHS Lothian's Health & Care Staffing Programme Board and through the quarterly reports to NHS Lothian's Board, as required under the Health & Care (Staffing) (Scotland) Act 2019.

Risks

4.25 The following risks represent key areas requiring continued focus to support full compliance with the Health & Care (Staffing) (Scotland) Act 2019. Risk levels reflect current assurance and progress within subgroups.

4.26 **Table 5.** Key Risks, Impacts, and Mitigation Actions

Risk	Impact	Mitigation	Current Action
Lack of Board-wide definition for severe and recurrent staffing risk (12IE)	Inconsistent escalation and response to sustained staffing pressures across services.	Develop and implement standardised definitions and escalation pathways.	Subgroup progressing development of Board-wide definitions and pathways; benchmarking against other Boards underway.
Incomplete Board-wide policy and guidance framework with regards to the Act.	Variation in interpretation and application of statutory duties; reduced staff confidence in governance processes.	Finalise and approve policies and SOPs aligned with statutory guidance.	Subgroup reviewing existing policies; draft SOP for Common Staffing Method tested; alignment with Severe & Recurrent Risk subgroup ongoing.
Variable uptake of education and communication initiatives	Uneven understanding of duties under the Act; potential gaps in compliance and decision-making.	Deliver targeted, profession-specific communications and training.	Subgroup analysing training data; refreshing intranet content; developing tailored engagement strategies.
Continued use of high-cost agency staffing	Financial strain and potential workforce sustainability issues.	Advance PLG subgroup work to support the Act's aim of appropriate staffing by strengthening governance, planning, and reporting, and reducing reliance on agency staff.	Agency shift data reconciled via Staff Bank; quarterly reports submitted to Scottish Ministers; vacancies in medical staffing identified as key driver.

List of appendices

The following appendices are included with this report:

Appendix 1

Further information on duties placed on health boards within the Health & Care (Staffing) (Scotland) Act 2019



Further information on duties placed on

Appendix 2

Red, Amber, Yellow and Green (RAYG) Calculations



Red, Amber, Yellow and Green (RAYG) Ca

Appendix 3

Q1 Health and Care (Staffing) (Scotland) Act 2019 - Quarterly Board Compliance Report



Appendix 3_Q1 Health and Care (Sta

Health and Care (Staffing) (Scotland) Act 2019

Quarterly Board Compliance Report

Quarter 1

01 April – 30 June 2024

Date: 1 August 2024

Report Authors:
Fiona Tynan, Associate Nurse Director, Corporate Nursing
Kevin Dickson, Health and Care Staffing Lead

Executive Lead: Alison Macdonald, Executive Nurse Director

2. Situation

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

2.2 The Act aims to enable high quality care and improved outcomes for people using services in both health and care by helping to ensure appropriate staffing. The Act places duties on health boards, care service providers, Healthcare Improvement Scotland, the Care Inspectorate and Scottish Ministers.

2.3 All clinical staff, including staff who provide clinical advice, are subject to the duties within the Act. Leaders/ Managers of clinical teams also have specific duties under the Act to comply with. The Act does not apply to non-clinical staff e.g. administrative and maintenance staff etc.

2.4 Section 12IF of the Health & Care (Staffing) (Scotland) Act 2019 (the Act) sets out that quarterly reports, at a minimum, on compliance with the Act, are to be provided to the Board of the relevant organisation(s) by the Executive-level clinician on the board with responsibility for the legislation, in this case, the Executive Nurse Director. These reports must include staff's views on compliance. A Board wide Compliance and Assurance Audit was distributed to managers during June 2024 to gather staff views.

2.5 The purpose of this inaugural quarterly report is to provide NHS Lothian's Board with a summary of compliance levels across all of the duties and requirements of the Act overall, by professional group, including evidence of areas of success and challenges identified by staff in meeting compliance. This supports board-level assessment and decision-making on the duties within the Act, since accountability for compliance with the health duties rests at Board level and not with individuals who may be charged with carrying out certain actions.

2.6 The report details compliance with the duties through the systems and processes that are in place to meet the requirements of the Act and ensure appropriate staffing. **It does not include reporting on any workforce data as this is not a requirement of the Act.**

2.7 Applying the Scottish Government rating system the overall level of assurance is "Reasonable". That is, systems and processes that are aligned with the duties in the Health & Care (Staffing) (Scotland) Act 2019 are in place for, and used by, 50% or above of all services/ professional groups managed by respondents to the June 2024 Compliance and Assurance Audit.

3 Background

3.1 The duties under the provisions of the Act set in statute the **12IA Duty to ensure appropriate staffing**; "that at all times suitably qualified and competent individuals from such a range of professional disciplines as necessary are working in such numbers as are appropriate for the health, wellbeing and safety of patients or service users and the provision of high-quality health care."

There are further duties within the Act:

- **12IB Duty to ensure appropriate staffing: agency worker** (reporting instances of high-cost agency staff, when agency costs have been higher than 150% of the equivalent NHS staff cost for the equivalent post for the same period).

- **12IC Duty to have real time staffing assessment in place and 12ID; Duty to have a risk escalation processes in place** (having procedures in place for identifying risks relating to staffing and then mitigating these or escalating as required).

- **12IE Duty to have arrangements to address severe and recurrent risks** (Having arrangements set out on how information on staffing risks will be collated, analysed and recorded, including reporting to The Board when required). The Act does not define what a severe or recurring risk is – organisations are expected to determine a locally accepted definition.

- **12IF Duty to seek clinical advice on staffing** (to have in place arrangements for seeking and having regard to appropriate clinical advice in making staffing decisions and having arrangements for recording and explaining decisions that conflict with that clinical advice).

- **12IH Duty to ensure adequate time given to clinical leaders** (giving sufficient time and resources to clinical leaders to carry out their leadership role).

- **12II Duty to ensure appropriate staffing: training of staff** (to ensure that staff are provided with information and training to implement the duties in The Act effectively **and** ensure that staff are suitably qualified and able to maintain competence in their role).

- **12IJ Duty to follow the Common Staffing Method, including 12IL training and consultation of staff**
  The Common Staffing Method is a consistent triangulated assessment with 9 components including reviewing the results of Staffing Level tools which should be run once per year. This duty requires organisations to use the Common Staffing Method as a framework for gathering and analysing relevant staffing and quality data. This helps clinical leaders understand and evidence staffing requirements and quality of care for their clinical areas.

The Act also lists '**guiding principles'** to be met when organisations are arranging staffing:

(a) that the main purposes of staffing for health care are:

(i) to provide safe and high-quality services, and

(ii) to ensure the best health care or care outcomes for service users

(b) in so far as consistent with these main purposes, staffing is to be arranged while:

(i) improving standards and outcomes for service users;

(ii) taking account of the particular needs, abilities, characteristics and circumstances of different service users;

(iii) respecting the dignity and rights of service users;

(iv) taking account of the views of staff and service users;

(v) ensuring the wellbeing of staff;

(vi) being open with staff and service users about decisions on staffing;

(vii) allocating staff efficiently and effectively, and

(viii) promoting multi-disciplinary services as appropriate.

3.2 All of these principles must be considered together when determining staffing levels and organisations are also expected to provide information on the steps they have taken to have regard to the guiding principles in the Board's annual report to Scottish Ministers.

3.3 Section 2 of the Act "Guiding principles etc. in health care staffing and planning" stimulates that Boards must also have regard to guiding principles when planning or securing the provision of health care from a third party.

3.4 Further information on the duties and guiding principles within the legislation can be found in the Health and Care (Staffing) (Scotland) Act 2019 Statutory Guidance document in Appendix 1.

3.5 NHS Lothian's Health and Care Staffing Programme Board, chaired by the Executive Nurse Director sets direction and provides oversight on multi-professional work pan Lothian to ensure compliance with the duties within the Act.

3.6 NHS Lothian has established a Core team to support the implementation of the Act and a network of lead professionals.

3.7 A Reporting Subgroup was commissioned to consider all legislative requirements regarding reporting and to develop a reporting plan to ensure NHS Lothian's compliance with the duties within the Act. This plan was supported by CMT in January and April 2024, including development of a board wide compliance and assurance audit to help gather accurate data on compliance with the duties.

3.8 The audit consisted of 62 multiple choice and free text questions covering Health Duties within the legislation. One final question was also asked to understand staff views on the overall assurance level with the Act. A full list of audit questions is included at Appendix 2.

3.9 Responses were used to understand compliance with the legislation across NHS Lothian, to identify any gaps and develop recommendations for improvement as required by the legislation.

3.10 **Assurance Level Rating**

Responses were used to rate different professions and areas in terms of compliance. A Red, Amber, Yellow and Green (RAYG) system (Table 1) of categorising the Assurance Level is employed throughout this report. This aligns with the rating system employed within the Health and Care (Staffing) (Scotland) Act 2019 Annual Reporting Template on compliance, provided by the Scottish Government (SG) (Appendix 3). This will allow for the quarterly Board reports to be used to accurately formulate the annual report which is submitted to Scottish Government. Boards are free to develop their own format / template for quarterly reporting as none has been provided by the Scottish Government.

3.11 **Table 1: The Scottish Government Red, Amber, Yellow and Green (RAYG) system employed throughout this report**

Green (substantial assurance)	Systems and processes are in place for and used by all services and professional groups managed by respondents.
Yellow (reasonable assurance)	Systems and processes are in place for, and used by, 50% or above of all services/ professional groups managed by respondents.
Amber (limited assurance)	Systems and processes are in place for, and used by, under 50% of all services and professional groups managed by respondents.
Red (No assurance)	No systems are in place.

3.12 Please note, the RAYG ratings are based on the average question responses to the Compliance and Assurance Audit questions per Duty. Further detail on how the RAYG Ratings are calculated can be found in Appendix 4.

3.13 **Completion Rate**

The Compliance and Assurance Audit was circulated in June 2024 to 202 NHS Lothian operational managers across all of the professions as the Health and Care Staffing Professional Leads. Some areas and professions over reported due the Audit being shared by recipients with a larger group than had been initially identified by the professional leads for completion. Also, some areas and professions underreported. As well as seeking to understand gaps in completion, work to understand additional completions for future quarters will take place. The Audit received 181 responses. The number expected to complete was 204. The completion rate by profession ranged from 69% to 200%. Table 2 illustrates the number of returns by profession.

3.14 **Table 2: June 2024 Compliance and Assurance Audit Responses by Profession**

Profession	Actual Responses	Expected Responses
Nursing & Midwifery	96	122
Allied Health Professions (AHP)	38	23
Pharmacy	27	39
Healthcare Scientists	15	17
Medical	1	1
Dental	2	1
Physician Associate	1	0
Psychology	1	1
Grand Total	**181**	**204**

3.15 The responses from Psychology and Medical staff groups were completed by the Professional Lead. For this first report it was determined that this was the most appropriate arrangement. Going forward, the responses will be devolved.

3.16 It is important to note that some professions and areas have comparatively lower response rates. It is expected that progressive improvements will be made over time, leading to a broader base of staff views being captured in subsequent Quarterly Compliance Reports. These improvements in completion rates across the organisation will go hand in hand with communication efforts, to help staff understand the roles in scope of the legislation and any obligations under the Act. Registered Chaplains and Public Health Roles not included within the professions in the table above, are to be included in future reporting. Work is ongoing to fully understand how the legislative duties will apply to these professions.

3.17 The Scottish Government have indicated that Boards will be expected to demonstrate robust processes are in place to meet legislative requirements. A common thread throughout the Statutory Guidance is that the legislation is not prescriptive in nature, therefore with the exception of the Staffing level tools, the processes, practices and procedures Boards choose to use is often at their discretion.

4 Assessment

4.1 Guiding Principles & Duty 12IA To ensure appropriate staffing

4.2 The Duty to ensure appropriate staffing can be viewed as the overarching duty of the Act. The section 12IA duty sits alongside the staff governance, clinical governance and financial governance requirements which already apply to Health Boards. The aim of the legislation is to ensure appropriate staffing as defined below:

> "It is the duty of every Health Board to ensure that at all times suitably qualified and competent individuals, from such a range of professional disciplines as necessary, are working in such numbers as are appropriate for —
>
> (a)the health, wellbeing and safety of patients,
> (b)the provision of safe and high-quality health care, and
> (c)in so far as it affects either of those matters, the wellbeing of staff."

4.3 To comply with this overarching duty, all the other duties applicable to Health Boards within the legislation must be complied with. Additionally, Health Boards must have regard to the guiding principles when determining staffing levels. A specific question was asked within the Audit regarding overall compliance across all health duties (including the duty to ensure appropriate staffing). Responses to overall compliance can be found in the **Overall Level of Assurance** section below at 4.90.

4.4 In establishing staff opinions on whether they had appropriate staffing as defined above and in the legislation, respondents were asked:

> "Does your service(s) at all times have suitably qualified and competent individuals, working in such numbers as are appropriate for-
>
> (a) the health, wellbeing and safety of patients;
>
> (b) the provision of safe and high-quality health care, and;
>
> (c) in so far as it affects either of those matters, the wellbeing of staff?".

Table 3 sets out the responses from these questions by professional group

4.5 **Table 3: Compliance by Professional Group June 2024 Duty 12IA To ensure appropriate staffing**

Professional Group	Overall Compliance Assurance
AHP	Reasonable
Dental	Reasonable
Healthcare Scientists	Limited
Medical	Substantial
Midwifery	Limited
Nursing	Limited
Pharmacy	Limited
Physician Associate	Substantial
Psychology	Limited
All Professions	**Limited**

4.6 **Analysis**

On average, 41% of respondents answered “Yes” and 40% answered “Partially” when asked if their service(s) at all times had suitably qualified and competent individuals, working in such numbers as are appropriate for (a) the health, wellbeing and safety of patients;(b) the provision of safe and high-quality health care, and;(c) in so far as it affects either of those matters, the wellbeing of staff. This resulted in an Amber RAYG Rating (limited assurance) based on responses across all professions.

4.7 **Examples of Areas of Success Duty 12IA To ensure appropriate staffing**

AHP respondents listed encouraging staff views, effective local real-time staffing assessments and effective roster management as related to successes with this Duty. Other examples shared by the other professions include reviewing exit questionnaire information, the retire and return scheme, creating additional leadership and management capacity for clinical research and utilising workforce predictor data (age/retirement/undergraduate trainee numbers and vacancies). Other ongoing initiatives to support the recruitment pipeline reported included modern and graduate apprenticeships and career progression pathways.

4.8 **Examples of Areas of Success: Having Regard to the Guiding Principles**

Senior clinical leaders, together with management from Acute, Mental Health and Learning Disability, Primary Care, Health and Social Care Partnerships and Corporate functions, Finance, Strategic Planning, Professional Leads, and Partnership Leads collaborated to establish NHS Lothian’s Workforce Plan (2022–2025). The plan stipulates that significant measures must be taken to ensure that each job family is included in workforce planning that is meaningful and that workforce enablers are developed for each to support and underpin the plan's implementation, including staff engagement and patient experience.

4.9 Services and professions have created 12-month action plans to support the delivery of annual objectives to deliver the strategy. The Health and Care Staffing Leads are engaged with the Workforce Planning Team to ensure that outputs of compliance monitoring efforts are integrated into the workforce planning process - to identify any

successes and challenges around compliance and use this to inform Board and service level workforce plans. The NHS Lothian Staff Engagement and Experience Framework aimed at improving and encouraging staff wellbeing and listening and learning from the experience of patients via Care Opinion which can then be used to influence simple changes in practice and /or procedures.

4.10 **Example Areas of Challenge: 12IA Duty to ensure appropriate staffing:**
All audit respondents mentioned recruitment challenges, financial pressures and increasing demand as challenges in ensuring appropriate staffing at all times. Many professions also noted that few services have funding models to support 52 weeks/year service - yet patient demand is whole year and that this routinely compromises appropriate staffing levels. Audit respondents for the Healthcare Science profession highlighted ensuring suitable supplies of competent individuals in small specialist teams, while managing vacancies and leave as particularly challenging, exacerbated by an aging workforce and financial constraints.

4.11 Healthcare Scientists, Psychology and AHP all reported that articulating the required workforce is hampered by a lack of workforce benchmarking across NHS Scotland or tools to understand workforce demand. For example, there are limited national benchmarking or workforce models for AHP, except guidelines in critical care and stroke therapeutic intervention and some professions, specialties and bands are harder to recruit to. Whilst there are routes to AHP practice, there are no national agreement on pre-registration training numbers. AHP pre-registration (with exception of paramedics) is not subject to controlled numbers which impacts on recruitment strategies and workforce planning. AHP workforce pipeline is therefore inconsistent and is driven largely by HEI (Higher Education Institution) strategy rather than NHS. Some pre-registration courses e.g. Physiotherapy, have 50% overseas students, the majority of whom do not end up in NHS workforce.

4.12 **Example Areas of Challenge: having regard to the Guiding Principles**
With regards to the Guiding Principles in Healthcare Staffing and Planning, it is recognised by NHS Lothian's Health & Care Staffing Programme Board that more work is required to understand compliance around the requirements when planning or securing the provision of health care from a third party. Boards must have regard to guiding principles when planning or securing the provision of health care from a third party. In having regard to the guiding principles there is also a need for the person from whom the provision of health care is to be secured to have appropriate staffing arrangements in place. The challenge is understanding how to capture the contracting processes across NHS Lothian and determining whether these processes are robust enough to meet the legislative requirements. This issue had been flagged up to the Scottish Government in the Quarter 3 Feedback session. Further guidance is being produced by Scottish Government to support understanding of this requirement.

4.13 Duty 12IB To ensure appropriate staffing: agency workers

4.14 The Act stipulates that, the board must report on the number of occasions that it has paid an agency worker more than 150% of the amount that would be paid to a full-time equivalent employee to fill the equivalent post for the same period. The report must include the number of occasions on which it is paid more than 150%, the amount paid on each occasion and the circumstances that have required the higher amount to be

paid. The Scottish Government provide a template for this report which includes the figures to be used for a full-time equivalent employee for each band / grade so that all Boards are reporting consistently. NHS Lothian's Quarter 1 Agency Report was submitted to Scottish Government on 31 July 2024 and can be found in Appendix 5.

4.15 The Duty does not prohibit the use of workers above the 150% figure, rather it states that the amount to be paid to secure the services of an agency worker should not exceed 150%, but if it does then all instances of this have to be reported quarterly to the Scottish Ministers.

4.16 Compliance with the Duty to ensure appropriate staffing: agency workers is not surveyed within the Compliance & Assurance Audit. The reporting obligations are managed through the Staff Bank (the service securing all supplementary staffing) rather that via the wider workforce.

4.17 It should be noted that Agency spend will be managed through numerous operational and professional groups. Parallel work in NHS Lothian to manage the agency utilisation is in place and reports to the Workforce Thematic Efficiency Programme Board.

4.18 The agency reports should cover the following periods and are required to be submitted according to the timelines set out in table 4.

4.19 Table 4 NHS Lothian: Agency Reporting timeline and Update

Period	Deadline	Status
01 March to 30 June	31 July 2024	Submitted
01 July to 30 September	31 October 2024	Not Yet Started
01 October to 31 December	31 January 2025	Not Yet Started
01 January to 31 March	30 March 2025	Not Yet Started

4.20 The Quarter 1 High-Cost Agency Report (Appendix 5) submitted on 31 July 2024 reported 318 occasions on which more than 150% of the amount that would be paid to a full-time equivalent employee to fill the equivalent post for the same period was paid to an agency worker. This is 9% of the total number of agency shifts (3541) used by all professions in NHS Lothian in 2024.

4.21 36% of shifts using higher cost agency workers were due to vacancies in hard to recruit areas for example, Doctors who work in Elderly Psychiatry and a long-term vacancy Assistant Practitioner role in Pathology Labs - which has now been successfully recruited to. 38% of shifts were due to requiring a Biomedical Scientist for a waiting list initiative.

4.22 Duty 12IC To have real-time staffing assessment in place

4.23 Real-time staffing assessment aims to ensure appropriate staffing through identification and mitigation of risks relating to staffing in real time. This requirement is not solely to assess numbers of staff on shift, and no staffing tools or calculators are required to comply with the duty. Real-time staffing assessment may consider:

- patient acuity / workload / activity for non-bed-holding areas
- number and skill mix of available staff
- professional judgement of the staff required

4.24 **12IC Duty to have real-time staffing assessment in place:**

4.25 **Table 5 Compliance by Professional Group, June 2024**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Substantial
Healthcare Scientists	Reasonable
Medical	Substantial
Midwifery	Limited
Nursing	Reasonable
Pharmacy	Reasonable
Physician Associate	Substantial
Psychology	Substantial
All Professions	**Reasonable**

4.26 **Analysis**

On average 72% of respondents answered “Yes” and 25% answered “Partially” when asked if they met obligations under the Duty to have real-time staffing assessment. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

4.27 **Example Areas of Success**

The real-time staffing assessment system “SafeCare” has been in use within Nursing for 9 years with high levels of compliance in completion of census data, and the system is also used effectively to mitigate risk. Respondents within Nursing noted real-time staffing successes including a well-planned use of SafeCare, effective communication to staff, good support for staff regarding SafeCare as well as continued compliance with SafeCare census entry, allowing for data-based decision making. Other examples given include twice daily staffing huddles to discuss staffing issues and review any escalated risks, and in community nursing, local huddles reporting into Health & Social Care Partnership Resilience Meetings if required. The Clinical Research Nursing Leadership Team developed a 'Safe to Start' matrix in 2023, based on the Acute Safe to Start model. This informs the Team Huddles assessment of the staffing situation in real time in each of the individual clinical research teams. In addition, there is an agreed Clinical Research Prioritisation Matrix, which supports decision making regarding research activity if staffing is not at an optimal level. These assessments are not formally recorded in any system; however, each team would be

aware of the actions to take if staffing were not optimal. After collaboration with colleagues across Scotland and with Public Health Scotland, Psychology are trialling a profession specific real-time staffing tool which will enable teams to meet with requirements of the Act and facilitate operational management.

4.28 **Example Areas of Challenge**
All professions reported not having access to SafeCare yet as a challenge in meeting this duty, some because the system is not yet available to them, for example within the Allied Health Professions, and others due to the testing of the SafeCare calculators which do not accurately reflect Midwifery areas. Healthcare Scientists, Nursing and AHP all mentioned small speciality teams/services and services being impacted when staffing is assessed as at risk as there are no options to mitigate by utilising supplementary staffing or redeploying from other areas.

4.29 12ID Duty to have risk escalation process in place

4.30 The purpose of this duty is to ensure that relevant organisations have robust risk escalation processes in place to provide a consistent means of recording the escalations and mitigations of any staffing risk. All risks identified, by any staff member, must be notified to the professional with lead responsibility for that area. This may be a team leader. Risks that cannot be mitigated by the professional with lead responsibility must be escalated to a more senior decision maker.

4.31 **12ID Duty to have risk escalation process in place:**

4.32 **Table 6 Compliance by Professional Group June 2024**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Reasonable
Healthcare Scientists	Limited
Medical	Limited
Midwifery	Limited
Nursing	Reasonable
Pharmacy	Limited
Physician Associate	Substantial
Psychology	Reasonable
All Professions	**Reasonable**

4.33 **Analysis**
On average, 63% of respondents answered “Yes” and 19% answered “Partially” when asked questions on compliance with the Duty to have risk escalation process in place. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

4.34 **Example Areas of Success**
Respondents from Pharmacy highlighted work undertaken to put a clear structure in place to help identify and escalate staffing risks. In addition, an MS Team’s form and channel has been established to allow local leads to escalate risks to the Pharmacy

senior leadership. Staff can also escalate further to resilience leads for decision of Associate Directors/Director of Pharmacy.

4.35 Escalation of significant risks is also possible via Board and regional workforce planning committees and to Board Corporate Management Team (CMT) via a documented governance process flowchart and documented in service and corporate risk registers.

4.36 An example from Healthcare Science was having a robust escalation process in place, including out of hours cover and working together if a significant staffing risk was identified to adjust workload by clinical priority to ensure patient safety and escalating further if risk not able to be mitigated.

4.37 **Example Areas of Challenge**
The need for more robust systems and processes for identifying, mitigating, and escalating staffing level risks was mentioned by all professional groups. Other challenges described included having no clearly written process for escalations and a poor understanding of, and compliance with the need to involve professional leaders in decision making, and unpredictable workload demands for speciality teams fluctuating over the day.

4.38 Duty 12IE To have arrangements to address severe and recurrent risks

4.39 This Duty requires Boards to have arrangements set out how information on staffing risks will be collated, analysed and recorded, (including reporting to The Board when required). The Act does not define what a severe or recurring risk is – organisations are expected to determine a locally accepted definition.

4.40 **12IE Duty to have arrangements to address severe and recurrent risks:**

4.41 **Table 7: Compliance by Professional Group, June 2024:**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Substantial
Healthcare Scientists	Reasonable
Medical	Substantial
Midwifery	Limited
Nursing	Reasonable
Pharmacy	Reasonable
Physician Associate	Substantial
Psychology	Limited
All Professions	**Reasonable**

4.42 **Analysis**
On average, 68% of respondents answered “Yes” and 23% answered “Partially” when asked questions on if they met obligations under the Duty to have arrangements to

address severe and recurrent risks. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

4.43 **Example Areas of Success**
All professional groups reported having risk registers and appropriate escalation procedures to report severe and recurrent risks to senior management. For example, in nursing and midwifery, all Datix reports that include nursing and midwifery staffing levels as a factor are annotated with staffing data and escalated to the Executive Nurse Director with quarterly summary reports produced at Nursing and Midwifery Workforce Governance Groups.

4.44 AHP respondents address severe and recurrent risks though Datix entries in a daily report that is sent to Senior Management, identifying and recording plans to deal with staffing.

4.45 Other successful processes across other professions include RAG rated daily staffing huddles, reviewing SafeCare and HealthRoster data overtime to identify patterns (nursing) and collaborative partnership working.

4.46 **Example Areas of Challenge**
Every professional group reported using a different set of systems and processes to escalate staffing risks making data capture of risks overtime variable.

4.47 AHP respondents cited challenges of managing variable demand, variable capacity, and multifactorial limitations of ability to support any additionality and that timely recruitment as essential for addressing severe and recurrent risks within their area.

4.48 All professions cited budget and funding limitations and lack of formal processes to record risks as challenges in addressing sever and recurrent staffing risks.

4.49 Duty 12IF To seek clinical advice on staffing

4.50 This duty places the requirement on Boards to put, and keep in place, arrangements for seeking and having regard to appropriate clinical advice in making decisions, and putting in place arrangements in relation to staffing under the various sections of the Act; and to put, and keep in place, arrangements for recording and explaining decisions which conflict with that clinical advice.

4.51 Section 8.7 of The Health and Care (Staffing) (Scotland) Act 2019: statutory guidance (Appendix 1) gives an example of how and when an organisation would seek and have regard to clinical advice.

4.52 **Duty to seek clinical advice on staffing:**

4.53 **Table 8 Compliance by Professional Group, June 2024:**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Reasonable
Healthcare Scientists	Limited
Medical	Reasonable
Midwifery	Limited
Nursing	Reasonable
Pharmacy	Limited
Physician Associate	Substantial
Psychology	Substantial
All Professions	**Reasonable**

4.54 **Analysis**
On average, 59% of respondents answered “Yes” and 14% of respondents answered “Partially” when asked if they met obligations under the Duty to seek clinical advice on staffing. A Yellow RAYG Rating (reasonable assurance) was calculated based on responses across all professions.

4.55 **Example Areas of Success**
Medical and Nursing respondents cited the triumvirate nursing/ midwifery, medical leadership, and general/ service management model as a success in ensuring a professional voice in staffing decision-making.

4.56 An AHP respondent stated having daily staffing huddles to make staffing decisions ensured compliance with this duty.

4.57 A triumvirate approach to seeking and having regard to clinical advice is also employed within Research Nursing, where clinical advice is sought through the professional Nursing line up to the Chief Nurse Research & Development, who, if necessary, would seek further advice from the Nurse Director Acute or the Executive Nurse Director and also seek advice from the Research and Development Director who is a Medical professional and the individual Principal Investigators who are Medical professionals.

4.58 A common thread throughout the audit responses is the importance of the daily huddle in providing the structure to enable clinical advice to be sought and had regard to across job families and health and social care teams. This approach aligns with the statutory guidance around utilising existing organisational governance structures and processes which may already fully support delivery of the duties in the Act.

4.59 **Example Areas of Challenge**
While many examples across all professions of seeking and having regard to clinical advice were provided within the organisational structures and events of the day, it was also noted by respondents that information is not recorded in detail. A common theme amongst respondents is that a process is required to formally record employee views, specifically on staffing levels. Obtaining staff views is an important aspect of the

Guiding Principles and the Common Staffing Method and there is a specific requirement within the duty to seek clinical advice on staffing, to record and explain decisions which go against clinical advice on staffing and for a lead clinical professional to record their disagreement.

4.60 A common ask from respondents is around clarity, of the need to define a process. For example, when to go outwith a service to seek clinical advice and to finalise how to record clinical advice given on a daily basis. Respondents also suggest that recording disagreements with clinical advice might integrate well with the real-time staffing process such as in the SafeCare system. Challenges were highlighted around who to seek advice from and that not understanding a service may lead to the wrong advice.

4.61 Duty 12IH To ensure adequate time given to clinical leaders

4.62 This duty is intended to ensure that clinical leaders receive the right amount of time and resources to discharge their responsibilities under the duties within the Act, alongside all the other professional duties and responsibilities they have. These include the clinical leadership and management functions that support the delivery of high-quality care. This section should be considered within the context of existing staff and clinical governance arrangements, and professional structures.

4.63 **Duty to ensure adequate time given to clinical leaders:**

4.64 **Table 9: Compliance by Professional Group, June 2024**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Reasonable
Healthcare Scientists	Limited
Medical	Reasonable
Midwifery	Limited
Nursing	Reasonable
Pharmacy	Limited
Physician Associate	Substantial
Psychology	Substantial
All Professions	**Reasonable**

4.65 **Analysis**

On average, 62% of respondents answered “Yes” and 25% answered “Partially” when asked questions on if they met obligations under the Duty to ensure adequate time given to clinical leaders. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

4.66 **Example Areas of Success**
In Acute areas of Nursing, plans to formalise the time given to clinical leaders and reducing the nursing vacancy gap to provide supernumerary status for Senior Charge Nurses was reported by respondents as a success that will see compliance with this duty improve each quarter.

4.67 Psychology cited work completed on Job Planning, demand and capacity planning and job description reviews as valuable in preparing their services to comply with this duty.

4.68 Other areas of success from other professions included regular 1:1 meetings between senior leaders and team leads, and agreeing time during the annual Personal Development Plan/ appraisal process with 6 monthly reviews.

4.69 **Example Areas of Challenge**
Responses for the Midwifery profession recognised that further work is required to support teams to determine what adequate time and resources are required for ensuring sufficient time for clinical area management and ensuring high quality and standards of care and the process for keeping the time and resources under review. A conversation was beginning within Midwifery to understand what 'time to lead' means within the Midwifery function and this will become one of the work streams for the team in 2024.

4.70 Overall, all other professionals responded with a recognition that the time needs to be set aside to lead but this can be challenging where there are staffing shortfalls.

4.71 Duty 12ll To ensure appropriate staffing: training of staff

4.72 This duty requires relevant organisations to ensure that employees have appropriate and relevant training, to ensure that suitably qualified and competent individuals from such a range of professional disciplines as necessary are working in such numbers as are appropriate for the health, wellbeing and safety of patients and the provision of safe and high-quality healthcare. This duty also requires that adequate time and resource is provided to undertake that training.

4.73 **Duty to ensure appropriate staffing: training of staff:**

4.74 **Table 10 Compliance by Professional Group, June 2024**

Professional Group	Overall Compliance Assurance Rating
AHP	Reasonable
Dental	Substantial
Healthcare Scientists	Reasonable
Medical	Substantial
Midwifery	Reasonable
Nursing	Reasonable
Pharmacy	Reasonable
Physician Associate	Substantial
Psychology	Substantial
All Professions	**Reasonable**

4.75 **Analysis**

On average, 81% of respondents answered “Yes” and 17% answered “Partially” when asked questions on compliance with the Duty to ensure appropriate staffing: training of staff. This resulted in a Yellow RAYG Rating (reasonable assurance) based on responses across all professions.

4.76 **Example Areas of Success**

Successful robust processes in place within Pharmacy include Lothian Pharmacy Services Training and Royal Pharmaceutical Society Frameworks being in place with appropriate supervisors, mentors and peer support. Also, group education sessions, peer reviews, induction plans and ensuring sufficient training day attendances. A job planning pilot has made and continues to make significant progress within the Pharmacy profession. Focusing on training the trainers was also cited as a successful strategy within Pharmacy.

4.77 In Healthcare Science, an Education Subgroup has been formed with a primary aim to explore the development of a comprehensive education and skills competency framework in collaboration with National Education for Scotland (NES) and Scottish Government. This will ensure the healthcare science workforce in Scotland has access to an educational framework that provides flexibility; supports career progression across all levels of practise and is underpinned by robust education and training programmes in a Once for Scotland approach.

4.78 All professions mentioned training requirements for staff forming part of the annual PDP and appraisal processes documented on TURAS. Doctors and dentists in training have a curriculum approved by the General Medical Council with delivery overseen by NES. Career grade doctors have an annual appraisal with a personal development plan produced and an allocation of time and budget for study leave as well as time for supporting professional activities.

4.79 **Example Areas of Challenge**
Across all professional responses in the audit, staffing level challenges are often cited as barriers to complying with various legislative requirements within the Act.

4.80 In relation to the duty to provide adequate training the responses note that securing time for training was a barrier to attending anything other than the training essential to perform a role. Absences of other staff can have a negative impact on the time set aside for others in training. Availability of suitable training courses and money to attend training courses was also noted as a barrier to ensuring appropriate staffing through training of staff.

4.81 Duties 12IJ and 12IL To follow the Common Staffing Method inc. training and consultation of staff

4.82 The types of health care, locations and employees that have a duty to use the CSM aligns with the availability of a speciality-specific Staffing Level Tools, as use of such tools are an integral part of the CSM. There are currently 10 Staffing Level Tools which apply to nursing and midwifery areas only and doctors within emergency departments. Therefore, only these staff groups had the option to answer questions around the Common Staffing Method and for medical this was answered on this occasion by the nurse manager who led the multi-professional team to complete the Emergency Department Tool.

4.83 The Common Staffing Method (CSM) sets out a process, including the use of the relevant Staffing Level Tool and the Professional Judgement Tool and a range of other considerations, which must be applied rigorously and consistently. The application of the CSM will support NHS Boards to ensure appropriate staffing, the health, wellbeing and safety of patients and the provision of safe and high-quality care. The frequency of applying the CSM has been defined as once per financial year as a minimum.

4.84 **Duty to follow the Common Staffing Method inc. training and consultation of staff:**

4.85 **Table 11 Compliance by Professional Group, June 2024:**

Professional Group	Overall Compliance Assurance Rating
Nursing	Reasonable
Medical	Reasonable
Midwifery	Limited
All Professions	**Reasonable**

4.86 **Analysis**
It should be noted that staffing level tools should be run a minimum of once per annum over a minimum two-week period, but there is no requirement in legislation that

dictates when the tools are to be run. NHS Lothian has a well-established annual schedule of tool runs throughout the year, and so not all respondents will have had the opportunity to review their establishments following the common staffing method and this will be reflected in the overall assurance rating. In 2024/25 to-date, 52 tools have been run across NHS Lothian. In 2023/24, with training and support provided by 1WTE Health and Care Staffing Lead within Corporate Nursing, a total of 754 individual staffing level tools were run with good compliance across them all. It should also be noted that a revised Maternity Staffing Level Tool is under development by HIS and therefore all teams did not have the opportunity to run the maternity tool which is reflected in the answers.

4.87 On average, 53% of respondents on average answered “Yes” and 30% on average answered “Partially” when asked if they met obligations under the Duty to follow the Common Staffing Method inc. training and consultation of staff. This resulted in an RAYG Rating (Reasonable assurance) based on responses across all the applicable professions.

4.88 **Example Areas of Success**

Respondents noted positive engagement of staff across NHS Lothian with tool runs and the available training for staff and support from the NHS Lothian Health & Care Staffing Team as areas of success with complying with this duty. Positive work is ongoing across nursing to develop a template that pulls together the staffing level tools results and other metrics as required by the duty to follow the common staffing method, as part of a triangulated approach to decisions around staffing.

4.89 **Example Areas of Challenge**

Presently, some nursing and midwifery specialties do not have nationally validated staffing level tools. For example, Community Mental Health Nursing and Research Nursing. Although responses suggest an enthusiasm to utilise such tools if available. As such, some areas are running a Professional Judgment Tool only, that typically runs alongside the speciality specific staffing level tools. It was also raised in Audit responses that the tools can be challenging and time consuming to use on SSTS and involve manually typing lots of data. This frustration is confounded by what many have viewed as archaic staffing level tools and calculators that often do not capture the modern nursing role. There is a duty on Health Improvement Scotland to develop the Staffing Level tools.

4.90 Overall Level of Assurance

4.91 As mentioned previously, the 12IA Duty to ensure appropriate staffing is an overarching duty. To comply with this duty, all other Health duties within the legislation must be met at a minimum. A separate question was asked within the Audit on overall assurance level across all applicable Health duties within the legislation (including the Duty to ensure appropriate staffing). To assess this Overall Level of Assurance. The following question was asked at the end of the Compliance and Assurance Audit:

"How assured are you that the service/services in your area and for the professional group you are reporting on has clearly defined systems and processes aligned with the duties in the Act in place, that are used, to ensure appropriate staffing?"

4.92 **Table 12: Overall Level of Assurance, Compliance by Profession, June 2024**

Profession	Green substantial assurance	Yellow reasonable assurance	Amber limited assurance	Red No assurance
AHP	30%	**65%**	5%	0%
Dental	0%	**100%**	0%	0%
Healthcare Scientists	13%	**60%**	20%	7%
Medical	0%	100%	0%	0%
Midwifery	0%	**50%**	50%	0%
Nursing	30%	**59%**	11%	0%
Pharmacy	15%	**63%**	22%	0%
Physician Associate	**100%**	0%	0%	0%
Psychology	**100%**	0%	0%	0%
All Professions	**26%**	**60%**	**14%**	**1%**

4.93 86% of those staff that completed the Compliance and Assurance Audit gave "substantial" or "reasonable" assurance that the area/s and the professional group they are reporting on has clearly defined systems and processes aligned with the duties in the Act in place, that are used, to ensure appropriate staffing. Only 1% of respondents gave "No assurance". Health & Care Staffing Professional Leads will work to understand the assurance levels in the gap of non-responders for future reports.

4.94 **Example Areas of Success**

NHS Lothian has made investments in a number of systems to help managers make informed decisions about staffing levels at the local level. These include dashboards that display historical supply and demand data, HR and finance dashboards that help managers comprehend and plan for cyclical demand, the eRostering system, which offers metrics and intelligence for the best use of workforce utilisation, monthly KPIs for specific business units, real-time deployment data, absence and additional activity requirements, and the SafeCare system, which matches patient acuity with available staffing to provide a real-time assessment of risk at a local and system-wide level. All of these were given as examples shared by respondents as areas of success in carrying out the duty to ensure appropriate staffing.

4.95 Of particular note, the Psychology professional lead completing the audit for the Psychology service gave a substantial assurance level. Psychology has made some significant developments around the workforce, including obtaining support from IT and Finance within Lothian to improve current systems to allow for better recording of establishment and Psychologists on leave.

4.96 **Example Areas of Challenge**

In the Audit responses across all professions, the examples of the main barriers to meeting obligations within the legislation are financial and recruitment constraints. Psychology gave the example of how these barriers are acutely felt in small services,

of which there are many within Psychology. For example, financial and recruitment constraints increase the length of time to recruit, and small services are particularly affected by establishment gaps.

4.97 **Overall Level of Assurance, Compliance by Duty, June 2024:**

Duty	12IA	12IC	12ID	12IE	12IF	12IH	12II	12J&L
	Appropriate Staffing	Real-time Staffing assessment	Risk escalation process	Address severe & recurrent risk	Seek clinical advice on staffing	Adequate time for clinical leaders	Training of staff	Follow the common staffing method
Overall Assurance Level	**Limited**	**Reasonable**	**Reasonable**	**Reasonable**	**Reasonable**	**Reasonable**	**Reasonable**	**Reasonable**

4.98 **Overall Level of Assurance, of how the organisation has carried out its duties under section 2 of the 2019 Act, and sections 12IA, 12IC, 12ID, 12IE, 12IF, 12IH, 12II, 12IJ and 12IL, June 2024:**

Reasonably Assured

4.99 The positive assurance rating across professions and across NHS Lothian concurs with the narrative backed by the Scottish Government and Healthcare Improvement Scotland that complying with the legislation will involve identifying what is already going on within services and understanding if robust process, practices and procedures are in place that meet legislative requirements.

4.100 **Identified Gaps in Compliance**

The Compliance and Assurance Audit has identified where robust processes are not in place for all areas and professions across NHS Lothian, that meet legislative obligations within the Health & Care Staffing Scotland (Act) 2019. Duties identified that have relatively low compliance rates are:

- 12ID Duty to Have Risk Escalation Processes in Place.
- 12IE Duty to Have Arrangements to Address Severe and Recurrent Risks.
- 12IF Duty to Seek Clinical Advice on Staffing.

4.101 The Statutory Guidance states that NHS Boards should have a written procedure, set out and readily available to staff on:

- Agreed staffing assessment and risk escalation procedures.
- How information on risk escalated to a defined level (as agreed by the organisation's Board) will be collated, analysed, and recorded to highlight severe and/or recurrent risk(s).
- How it will seek and have regard to clinical advice on staffing.
- Arrangements for documenting decisions which conflict with clinical advice given.
- How it will deal with decisions which conflict with advice.

4.102 The Audit has identified that every professional group uses a different set of systems and processes to escalate staffing risks and that work is required to assess and thoroughly outline the current procedures for staffing escalation, as well as how these fit into the clinical governance and professional team structures that are in place.

4.103 The audit has also highlighted that improvements are required in the process of recording and explaining staffing decisions across all professional groups, including ensuring there is the ability to record the decision, provide feedback to the person providing clinical advice and a mechanism for that person to disagree (and request a review of the decision unless the decision was made at a Board level) with the decision made if it conflicts with their clinical advice.

5 Recommendations

5.1 **Action to Address Gaps**
The Health and Care Staffing Programme Board have commissioned:

- The Reporting Subgroup to take learning from this first quarter to further develop the Compliance and Assurance Audit to fully assess compliance with the duties within the Act and obtain even more accurate data to monitor compliance, whist also seeking to reduce the data burden for those charged with completing the Audit for their service/ profession. This will include a review of the distribution list and understanding gaps in responses.

- In addition to the extant training materials, communications and information about the Act a Board wide policy and guidance is to be produced, laying out definitions and requirements to comply with the Act which will ensure all staff understand their roles and responsibilities with regards to the Act. The Statutory Guidance will help inform this.

- The Board wide communication and education planning group is continuing to work to raise awareness among all levels of staff utilising national educational resources.

- The Health and Care Staffing Professional Leads to further analyse on the results per profession and per area and report locally through governance groups on key findings, identifying any profession specific gaps and actions required to mitigate.

- The Health and Care Staffing Professional Leads to continue to work together to share areas of success, good practice, and areas of challenge to work towards consistency across the Board and overall improved compliance including:
    - work to assure consistency and benchmarking within each duty e.g. variations in professional judgement

- work to develop and onboard systems to support duties e.g. HealthRoster, SafeCare, eJobPlan
- work to integrate the data into service planning, workforce planning and improvement cycles.

6 List of appendices

6.1 The following appendices are included with this report:

Appendix 1

Statutory Guidance Health and Care (Staffing) (Scotland) Act 2019

Statutory Guidance Health and Care Sta

Appendix 2

June 2024 Compliance and Assurance Audit Questions

June 2024 Compliance and Ass

Appendix 3

Scottish Government Exemplar Annual Report Template

HCSA - Q2 Reporting Template

Appendix 4

Red, Amber, Yellow and Green (RAYG) Calculations

Red, Amber, Yellow and Green (RAYG) Ca

Appendix 5

NHS Lothian High-Cost Agency Report for Quarter 1

NHS Lothian High Cost Agency Report