

COVID-19 POLICY BRIEFING – CORONAVIRUS BILL: HEALTH AND SOCIAL CARE MEASURES

Summary - Within the Coronavirus Bill there are a number of key health and social care provisions, recognising that the NHS and social care sector will have to manage increasing numbers of patients needing medical treatment. Health and care services will also face their own pressures from staff shortages due to sickness, imposed isolation and caring responsibilities. The Government has identified that urgent legislative measures are needed to support the NHS and social care, and to increase the available health and social care workforce in particular.

Key points

Workforce measures

- The Bill includes a series of measures that will allow the emergency registration of some health professionals and students and will support recently retired NHS staff and social workers to return to work.
- Clauses 2-4 and Schedule 1 of the Bill provide for the emergency registration of health and care professionals by the Nursing and Midwifery Council (NMC) and the Health and Care Professions Council (HCPC).
- Clauses 5 and 6 and Schedule 4 and 5 of the Bill would enable regulators to temporarily add social workers to their registers who may have recently left the profession, to ensure continuity of care for vulnerable children and adults.
- Plans are being put in place to allow healthcare students near the end of their training to work in the NHS, however guidance regarding medical education and training notes that “trainees must not be asked to undertake any activity beyond their level of competence and must be advised that they should seek senior workplace guidance if that arises.”
- The Chief Executives of the NMC, HCPC and the other statutory regulators of health and care professionals issued a joint statement on 3 March 2020, recognising that in dealing with the coronavirus outbreak professionals may need to depart from established procedures in order to care for patients and people using health and social care services.
- The Bill sets out that decisions on how to deploy staff who have been through the emergency registration process should be made on a local basis, to enable essential health and care services to continue to function as demand for services increases.

Indemnity cover for healthcare staff

- Clauses 10-12 of the Bill would provide indemnity cover for clinical negligence liabilities of healthcare staff arising from the response to the coronavirus outbreak (and where there is no existing indemnity arrangement in place). This will ensure that those providing healthcare services across the UK are legally protected for the work they are required to undertake as part of dealing with cases of covid-19.

Emergency volunteering

- Clauses 7 and 8 and Schedule 6 of the Bill create a right to ‘emergency volunteering leave’ (EVL), a new type of leave created to enable workers to volunteer in the health and social care sectors.

- A worker is entitled to take a period of EVL if they have obtained an 'emergency volunteering certificate'. This is issued by a relevant authority stating that the person has been approved as a volunteer in health or social care. A certificate can specify that a person will be a volunteer for two, three or four consecutive weeks. The worker must give their employer at least three days' notice before taking EVL.
- The Bill lists a number of 'relevant authorities' who can issue certificates to workers. These include the Secretary of State for Health and Social Care, the NHS, councils and Ministers in devolved administrations.
- The Bill does not provide for EVL to be paid. However, clause 8 provides that the Secretary of State must make arrangements to compensate emergency volunteers for loss of earnings, travel and subsistence costs.

Changes to mental health and mental capacity legislation

- The Bill would amend the usual requirement that two doctors must recommend the compulsory detention of a patient under the 1983 Act, for treatment or assessment in hospital, if this is impractical or would involve undue delay. The Bill would enable just one doctor to carry out this function.
- The Bill would extend or remove some time limits for compulsory detention contained in the 1983 Act. The DHSC has said these would be temporary changes to allow for greater flexibility where services are less able to respond.
- Given there are likely to be high rates of coronavirus related staff absence, organisations may find it very difficult to comply with the procedural requirements set out in Mental Health legislation. The Bill also makes temporary modifications to the procedural safeguards around the detention of patients with severe mental illness for treatment or assessment in hospital.

Implications for Surrey

- The Bill includes measures to help services continue to operate effectively during periods of significant staff shortage, by reducing the administrative burden on frontline staff and allowing tasks to be performed more quickly. To support this, the Bill enables local authorities to **prioritise care for people with the most pressing needs**.
- A number of those who work in social care could be off sick or may need to care for members of their own family. The Government has stated that this could mean that local authorities which are responsible for social care, **may not be able to do all the things they are usually required to do**.
- Under the Care Act 2014, local authorities have a range of duties relating to assessing and meeting the care and support needs of adults. Clause 14 and Schedule 11 of the Bill provide for the **relaxation of local authority duties around the provision of care and support needs**. For example, under the Bill local authorities would not have to comply with the duty to conduct needs assessments.
- Where a local authority has not charged a person for their care during the pandemic, the Bill provides for the **power to apply charges retrospectively**, subject to a

financial assessment.

- The powers would, the guidance states, “only be used if demand pressures and workforce illness during the pandemic meant that local authorities were at imminent risk of failing to fulfil their duties and only last during the duration of the emergency.” Local authorities will, the guidance adds, **still be expected “to do as much as they can to comply with their duties to meet needs during this period** and these amendments would not remove the duty of care they have towards an individual’s risk of serious harm or neglect.”
- The UK Government’s Impact Assessment for the Bill states that without the provisions relating to social care support, local authorities **“would be constrained by existing assessments, which could result in them maintaining these at the expense of new, more urgent needs, or prevent them from allocating scarce support purely on the basis of severity of need.”**

Further information

- [House of Commons – briefing paper](#)