

Cyflwynwyd yr ymateb i ymgynghoriad y [Pwyllgor Iechyd a Gofal Cymdeithasol ar Ddeddf Lefelau Staff Nyrsio \(Cymru\) 2016: craffu ar ôl deddfu.](#)

This response was submitted to the [Health and Social Care Committee](#) consultation on the [Nurse Staffing Levels \(Wales\) Act 2016: post-legislative scrutiny.](#)

NS07: Ymateb gan: | Response from:

Bwrdd Iechyd Prifysgol Hywel Dda / Hywel Dda University Health Board





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Bwrdd Iechyd Prifysgol
Hywel Dda
University Health Board

Eich cyf / Your ref:

Ein cyf/Our ref:

MR/KM

Gofynnwch am/Please ask for:

Mandy Rayani

Rhif Ffôn /Telephone:

[REDACTED]

E-bost/E-mail:

[REDACTED]

Dyddiad/Date:

25 July 2023

Swyddfeydd Corfforaethol, Adeilad Ystwyth
Hafan Derwen, Parc Dewi Sant, Heol Ffynnon Job
Caerfyrddin, Sir Gaerfyrddin, SA31 3BB

Corporate Offices, Ystwyth Building
Hafan Derwen, St David's Park, Job's Well Road,
Carmarthen, Carmarthenshire, SA31 3BB

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Health and Social Care Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

Sent by Email only: SeneddHealth@senedd.wales

To whom it may concern,

Nurse Staffing Levels (Wales) Act 2016: post-legislative scrutiny

The Committee is considering:

- 1. The operation and effectiveness of the Act to date, including its impact on patient outcomes, impact on nurse recruitment and retention, and barriers to compliance with the legislation.**

Operation and effectiveness of the Act:

HDdUHB has embraced the opportunities that the 2016 Act has offered from the commencement of the first duty it imposed in April 2017. The commencement of the second duty in April 2018 was used as the springboard by the Health Board to focus on right-sizing the acute adult in-patient ward nursing teams in a consistent manner across all four acute hospital sites.

The structured 'triangulated' approach, set out in the Act when calculating the required nurse staffing levels for Section 25B wards; together with the requirement to review the nurse staffing level on a biannual basis, has enabled a systematic approach to quickly become embedded across the Health Board Section 25B wards. In addition, the health board quickly saw the benefits of this systematic approach and endorsed the adoption of the principles of this approach for use when reviewing the nurse staffing levels across all nursing services of the Health Board. The benefits of this approach were particularly evident during the Covid-19 pandemic, when nursing services had to reset themselves and their staffing levels, often several times in quick succession.

The phased implementation of the required uplifts to nurse staffing establishments for Section 25B wards agreed by the Board (anticipated to take up to three years to implement) was achieved within less than two years, with all Section 25B wards fully funded for their required establishments by April 2020. The recruitment of around 100 additional WTE HCSW into these newly established, substantive posts over the first two years proved to be of huge benefit to the Health Board in providing for a more stable workforce.

HDdUHB has made a significant contribution to the national Nurse Staffing Programme since the commencement of the Act, actively providing leadership and supporting the work of all five work streams (adult, paediatrics, health visiting, district nursing and mental health inpatient wards), as well as providing a major contribution to operationalising the 2016 Act and its statutory guidance across NHS Wales during the first three-year reporting period. The health board's Nurse Staffing Programme Lead post was pivotal to the work undertaken by the health board and this post was seen as an exemplar for other health boards.

Areas where Section 25B of the Act applies:

The health board's response to the Act has recognised the challenges posed by the nursing workforce deficits since the Act came into effect and this has enabled innovative and creative changes to be made to the workforce including:

- ✓ changes, where appropriate, to the skill mix within the team;
 - ✓ development of new roles within the Support Worker workforce,
 - ✓ using the HEIW All Wales Guidelines for Delegation (2020);
 - ✓ improved efficiencies in the way the workforce is utilised and rostered within the service;
 - ✓ changes to roles within the team which have enhanced the skills and competencies of our workforce; and
 - ✓ Enhancing the clinical leadership capacity of the nursing team.
- **Ward Leadership:** Leadership capacity within each of the Section 25B wards has increased significantly since the Act came into effect in 2018. Providing sufficient leadership capacity to enable 7 day a week visible clinical leadership was an explicit priority agreed by the Board and funding was added to each team which enables every Senior Sister/Charge Nurse to be fully supernumerary to the planned roster. Whilst this has been challenging to fully implement due to registered nurse vacancies all 25B ward sisters/charge nurses have been allocated dedicated supernumerary time at least 1 day per week. In addition, where it did not already exist, all Section 25B wards with 18 or more beds had a second (Band 6) Sister/Charge Nurse post created within their WTE establishment.
 - **Support Worker Role Development:** The detailed review of nurse staffing establishments has offered teams the opportunity to consider in detail the potential for role development across both nursing and other professional groups. From a nursing perspective, this has led nursing leaders across the Health Board to consider the feasibility of developing roles for HCSWs who can take on tasks delegated by registered nurse, for example, assistant practitioner roles, pharmacy technician roles, ward administrators.

Areas where Section 25A of the Act applies: The health board has duties under the Act to have regard to providing sufficient nurses in all nursing services to meet all reasonable requirements. At the time of commencement of the full requirements of the 2016 Act (April 2018), HDdUHB took the decision that all nurse staffing level reviews, undertaken in any nursing service, should seek to apply the principles of the triangulated approach described within Section 25C of the 2016 Act as far as possible. Although the statutory requirement to undertake nurse staffing level reviews in this way applied only to acute medical and surgical adult wards at that time (and now paediatric inpatient wards since Oct 2021), the Health Board endorsed this as the approach to be used as the framework for all reviews of nurse staffing levels.

Similarly, the duty to report set out in S25E of the Act applies only to S25B settings and there is no statutory requirement to report on S25A areas (although as a HB we make reference to the work in S25A areas within our reports to Board). These reports reflect the Health Board's commitment to its statutory duties under Section 25A of the 2016 Act although the expectations around calculating and maintaining the nurse staffing levels for S25A areas are not clearly set out in the Act.

Impact on patient outcomes,

Since the Act came into force, the process and methodology to inform the triangulated approach to calculating the nurse staffing levels has evolved as confidence in meeting the requirements of the 2016 Act has grown and learning has informed each successive cycle. The systematic, 6 monthly cycle of nurse staffing levels review and recalculation that has been established within the Health Board, is led by the Director of Nursing, Quality and Patient Experience (DoNQPE), facilitated by the corporate nursing team and utilises the many tools provided through the national Nurse Staffing programme which has been established to support the implementation of the 2016 Act. The impact of the nurse staffing levels on patient outcomes is a focus of the 6 monthly cycle (with consideration being given to the quality indicators set out in the Act and the statutory guidance i.e. pressure ulcers, which have developed and/or shown deterioration whilst receiving inpatient care; any error in the preparation, administration or omission of medication by nursing staff; any fall that a patient has experienced, any complaint partly or wholly about nursing care and in addition for paediatric wards, any injury experienced by a patient during an intravenous infiltration).

The incidents reported as part of health board's annual assurance reports, which form the basis of the three yearly assurance report to Welsh Government are a sub set of these incidents, that is

- Hospital acquired pressure damage (grade 3, 4 and unstageable).
- Falls resulting in serious harm or death (i.e. level 4 and 5 incidents).
- Medication related never events.
- Complaints about nursing care resulting in patient harm reported from 2019/20 onwards.
- Incidents of infiltration/extravasation injuries (added for paediatric wards since October 2021).

Early in 2018, it was agreed by Executive Nurse Directors and the CNO that when it came to incidents of harm, the reports would include a strict interpretation of what section 25E of the Act requires – that being serious incidents of harm that occurred where failure to maintain the nurse staffing level was deemed to have been a contributing factor. The decision was largely taken on the basis of what was possible to report on at the time and the definition of a '*serious incident*' as being one reported to WG was clear and consistent across Wales.

A review of the first three yearly assurance reports submitted by health boards in 2021 identified that the number of incidents being reported as serious incidents where failure to maintain the nurse staffing level was deemed to have been a contributing factor was very low and therefore, there was limited opportunity to see what impact the Act had or would have on patient harm if we continued to use these measures. In addition, the incidents reported previously to WG as serious incidents were reviewed and changed and consideration needed to be given to the impact of the Health and Social Care (Quality and Engagement) (Wales) Act 2020 on what incidents of patient harm needed to be reported going forward. The Executive Nurse Directors agreed that the measures needed to be reviewed and to that end, a sub-group of the All Wales Nurse Staffing Group was set up with intention of reviewing the existing measures and updating these, where appropriate.

Impact on nurse recruitment and retention: The challenging nursing workforce position, nationally as well as locally has required innovative approaches to nursing workforce planning with several strategic programmes, aimed at addressing the challenge of ensuring a sufficient nursing workforce across all nursing services, put into place.

- **Recruitment of internationally educated nurses** - In December 2021, HDdUHB embarked on the All Wales International Recruitment Programme. HDdUHB's Workforce Plan is to recruit 100 IENs between December 2021 and March 2023 (Phase 1) and 140 IENs during March 2023 and March 2024 (Phase 2). Phase 1 was a success with 100 IENs recruited and 100% retention achieved to date. Since embarking on the All Wales programme, 174 IENs have been offered positions within HDdUHB, of which 134 are in situ. Of those 134, 102 are now Band 5 RNs, the remainder are onboarding or undertaking OSCE training.

- The Health Board's '**Grow Your Own**' programme which aims to support suitably qualified Support Worker employees to undertake registered nurse educational programme in a part time capacity. This opportunity is offered to HCSW's who have a permanent contract of 30 hours + and have the qualifications required or the level 4 Cert HE. The courses are offered over 4 years, 3 days per week but after level 4, students can access the program at year 2. 16 hours is funded by HEIW and topped up by HB monies so it is no cost to the ward budget.
- The first **Ceredigion-based registered nurse degree programme** cohort in Aberystwyth University commenced their studies in September 2022
- The **First Five Years programme**, as an extended preceptorship programme, offers a pathway for registered nurses to develop a strong foundation for their subsequent professional careers. The programme is intended to support registered nurse recruitment and retention and for HDdUHB to strengthen its position as an employer of choice.
- The **in-house STAR leadership development programme** was initially established in 2019 to support Senior Sisters/Charge Nurses from Section 25B ward to maximise their leadership potential as they became supernumerary to the planned rosters. This programme gives these leaders the opportunity to develop and enhance the skills and knowledge they are then able to utilise creatively within their supervisory and supernumerary leadership roles. This programme has been extended to all Senior Sisters/Charge Nurses in all nursing services.
- **'Level 4 certificate** - The Certificate in Health Care Studies qualification offers an excellent opportunity for Health Care Support Workers to obtain a Level 4 qualification. This programme supports learners to focus on their self-development, self-awareness, and nursing skills. This allows HCSW's to become **Assistant Practitioners** or to access the part time degree (GYO) at year 2
- **Clinical healthcare learning opportunities** e.g. significantly increased access to appropriate Agored qualifications for Support Workers working in focussed roles such as Frailty or rehabilitation support worker post appointees who require a Level 3 qualification on or immediately after appointment
- **Apprenticeship Academy:** The programme aims to support the participants to become (mainly) registered nurses whilst remaining in Health Board employment and undertaking increasingly complex support worker roles.
- **OD Relationship Managers (ODRM):** The Health Board's team of Organisation Development Relationship Managers (ODRM) have been in place for some 18 months. A first for Wales and a courageous investment in conduits for cultural change across HDdUHB, our ODRMs focus on promoting and providing proactive and responsive support to local teams to enable healthy and happy working cultures. As the cornerstone of our culture change, the ODRMs co-developed a Cultural Jigsaw with our trade union colleagues which brings together the seven key themes our staff told us are important to them.
- **Nurse Retention Group:** As part of HDdUB's culture change journey, just over 12 months ago we established a Nurse Retention Group, with a focus on reducing turnover and increasing retention across our nursing staff. Core membership consists of nurses, Trade Unions and Workforce and OD colleagues.

- **Staff Recognition and Appreciation Programme:** HDdUHB refreshed its recognition/appreciation offering in 2022 in line with research, best practice, organisational values and our organisation's goals. The programme that the Culture and Workforce (C&WE) Team implemented looked to provide an equitable, fair, meaningful, ethical and sustainable provision in line with Health Board values and strategically aligned to organisational objectives.

Barriers to compliance with the legislation.

- ***The finance and workforce requirements:*** There was a significant gap between the funded WTE establishment and the required WTE establishment at the time that the first calculation of the required WTE establishment was undertaken, using the triangulated approach, immediately prior to the commencement of the 2016 Act in April 2018. Following a careful and detailed option appraisal, a decision was taken that the Health Board would fund - and seek to recruit into - the required WTE staffing levels in a phased, risk-based approach and it was anticipated that implementation of this phased approach would be finalised during 2020/21. Although, as a result of an intense work programme the 'required WTE establishment' and the 'funded WTE establishment' were aligned – as is required by the 2016 Act, by the end of 2019/20. A factor that influenced the Board's decision was the position with registered nurses recruitment at that time and also the concern that recruiting a large number of HCSWs from local communities en masse had the very real potential to destabilise the domiciliary and care home workforce, which was already stretched and that this could also have had a significant detrimental impact on system wide working and the availability of care for patients within our community.
- ***Support Roles:*** The statutory guidance is clear that in calculating nurse staffing levels the planned roster should only include those roles that deliver delegated nursing care duties. On this basis, a number of roles which are integral to the functioning of the ward exist, but have been excluded from the planned roster and the associated establishment calculations. These roles include:
 - Ward Clerk
 - Ward Housekeeper
 - Ward Administrator
 - Frailty Support Workers
 - Rehabilitation/Reablement Workers
- ***Commissioned Care:*** Although the Care Home work stream has been removed from the All Wales Nurse Staffing Programme (2020/21) and relocated under the responsibility of the National Collaborative Commissioning Unit, the Nurse Staffing Levels (Wales) Act continues to apply to care that is commissioned as well as care that is provided by the Health Board. In terms of setting the staffing levels for these care home environments, some of the larger national provider companies have developed their own tools through which they assess patient dependency: other providers continue to rely on the Home Manager /Responsible Individual to use their professional judgement, taking into account their own assessment of patient/resident dependency as well as the care home environment, which can impact significantly (both positively and negatively) on the staffing levels required
- ***IT infrastructure:*** When the second duty of the 2016 Act came into force in April 2018, there was no consistent solution to extracting all of the data explicitly required under Section 25E. This was as a result of the NHS Wales health boards using a variety of E-Rostering and reporting systems at that time. Within this health board, attempts were made to utilise the health board's e-rostering system to develop and utilise a report which aimed to monitor the extent to which nurse

staffing levels were maintained. This work proved to be subject to enormous accuracy challenges as well as being very resource intensive and it was agreed that the Health Board officers should invest their time instead in supporting the national Nurse Staffing Programme efforts to find both short term and longer-term solutions to achieve a consistent approach to the reporting requirements of the 2016 Act. In light of this situation, the HDdUHB 2018/9 and 2019/20 annual reports – along with the reports published by all other health boards/trusts in Wales in those years - provide only brief narrative (rather than quantitative details) when reporting on the extent to which the nurse staffing levels have been maintained.

During 2019/20, officers of Hywel Dda University health board, together with colleagues from across NHS Wales worked together to develop a consistent approach to capturing quantitative data on a daily basis via enhancements to the NHS Wales Health and Care Monitoring System (HCMS). The HCMS system was seen as an interim solution pending the procurement of a Once for Wales e-rostering informatics system, the enhanced HCMS system did enable all health boards in Wales to capture quantitative and qualitative data, on a daily basis, to enable it to meet the statutory reporting requirements laid out in Section 25E(2a) of the 2016 Act.

The medium term plan was to a Once for Wales informatics system (i.e. the Allocate Health Roster system supported by the associated SafeCare module) would be introduced across Wales. The All Wales Programme team, together with representatives from each Health Board/Trust, have worked with the Allocate team to ensure that the e-roster and Safecare systems are fully adapted to be able to support the requirements of the 2016 Act. Once achieved, this will support this Health Board to meet its statutory reporting requirements in a more efficient manner and to do so consistently with other Health Boards across NHS Wales. The SafeCare module (which is the data capture module) has been rolled out to all S25B wards within the health board (during December 2022 to March 2023) and the reports required to meet our statutory responsibilities around reporting will be available via the Allocate system as part of the next version due to be released Q2, 2023/24.

- **All Reasonable Steps:** The Act states that the Health Board(s) must take ‘all reasonable steps’ to maintain nurse staffing levels. The Statutory Guidance which accompanies the 2016 Act articulates examples of (some of) the reasonable steps expected to be taken at national, strategic corporate and operational levels. The lack of a consensus across NHS Wales bodies in terms of what constituted ‘all reasonable steps’ posed a risk to both HDdUHB and to all NHS Wales Boards / Trusts and to that end, following a consultation process involving each Health Board and Trust, a more detailed list of what was judged to comprise ‘all reasonable steps’ was agreed. Although this list was not included within the Operational Guidance document produced by the national Nurse Staffing Programme, the list was agreed with Executive Nurse Directors and CNO and issued to Boards/Trusts with the advice that each of the steps listed be considered for inclusion within each organisations’ ‘Operating Framework’
- **Covid-19 pandemic:** the impact of Covid-19 cannot be underestimated which resulted in wards being repurposed and re-designated as Covid-19 wards – there was significant reliance on the professional judgement of nursing leaders across the HDUHB to manage the constantly evolving operational situations, with systems being put into place to enable early recognition of, and response to, the need for variations in the planned nurse staffing levels for Section 25B (and indeed, all other) wards and services throughout this period. The statutory guidance that supports the implementation of the Act (paragraph 14) recognises that planned rosters may need to be

‘appropriately varied’ on ‘rare occasions’ and this was a principle that was applied during the Covid-19 pandemic as the exceptionality of the circumstances presented by the pandemic unfolded and when planned nurse staffing levels had to be adjusted on an almost daily basis in response to COVID-19 outbreaks, staff absences, surge bed requirements, ward mergers etc.

The other specific challenge that the pandemic brought was the development and opening of three Field Hospital services as in-patient facilities. The staffing levels for these new services were calculated using the principles of the ‘triangulated methodology’ and the nurse staffing levels arrived at were agreed by the ‘Designated Person’ (DoNQPE) before being implemented in practice.

Further actions needed to ensure a sustainable supply of nursing staff to meet patient needs and the requirements of the legislation going forward.

Maintaining the nurse staffing levels across the Section 25B wards (and across all nursing services within the health board) remains a significant challenge with a reliance on temporary staff, both bank and agency. There continues to be challenges to securing a stable registrant workforce to ensure that the care delivered is of the highest possible standards. Many of the workforce strategies described previously will not begin to supply the additional, locally based registered nurses until the third reporting period relating to the 2016 Act i.e. in 2024-2027. As well as the health board strategies, future actions include:

- Understanding the role of the registered nurse associate in Wales, which is being considered by the CNO
- Implementing the recommendations and actions in the “Retaining and Valuing Nurses within the NHS in Wales: A Nursing Retention Plan” (planned publication date was April 2023, but at the time of writing, this has been delayed).

Progress in developing the evidence base to extend the Act to further settings.

Representatives from the health board have worked alongside colleagues across Wales to develop the evidence based to extend the Act. The All Wales Nurse Staffing Group (AWNSG) is a working group established and constituted by the Chief Nursing Officer for Wales and the Executive Nurse Directors to support NHS Wales to fulfil the requirements of the Nurse Staffing Levels (Wales) Act (2016) and providing support, guidance and direction to NHS Wales as they prepared for the implementation of the Act and the extension of the second duty of the Act. One of the primary functions of the group is to ensure NHS Wales follows the “Once for Wales Approach” co-ordinating the operational impact and work of each of the work streams within a structured programme. The work streams include paediatrics (until the Act was extended to inpatient paediatric wards in Oct 2021) and Mental Health, District Nursing and Health Visiting.

The Act was extended to paediatric inpatient wards in October 2021, following extensive work to develop a tool for use in NHS Wales that had been validated for use by establishing an evidence base of its applicability in Welsh clinical settings i.e. the Welsh Levels of Care for paediatrics.

Work on developing similar tools for health visiting, district nursing and mental health inpatient wards have been undertaken as part of the national nurse staffing programme. The three respective tools are at different stages of development and there is still work to do to establish the evidence base of their applicability in Welsh clinical settings. The secondments for the dedicated work stream programme leads for Mental Health, District Nursing and Health Visiting came to an end in March 2023 and, although there are plans for work to continue, this will have an impact on the timelines for progressing this work.

The interim nurse staffing principles for district nursing have been agreed and published by the CNO. There has been work to develop interim principles for mental health inpatient wards and health visiting, however, these have not been formally published by the CNO, although they do form the basis of the health board work as they are based on best practice.

There are other settings e.g. critical care, emergency departments which haven't had a formal work stream programme set up as part of the All Wales Nurse Staffing Programme and further work is required to understand what evidence base workforce planning tool would be required to enable the Act to be extended to these areas.

The extent to which the Act is 'future-proof', and will contribute to ensuring that NHS Wales has the future workforce it needs to deliver effective, patient-centred care that meets the needs of all population groups.

The Act has increased the focus on nursing and provided the opportunity to right size the nursing workforce for some settings (primarily those where S25B of the Act applies). However, the statutory requirement set out in S25B and S25C of the Act only applies currently to adult in-patient medical & surgical wards and paediatric in-patient wards. The Act does not extend to S25A areas and can result in inequity in how S25A areas are managed, when compared to wards where S25B of the Act applies.

One of the CNO's priorities 2022-2024 is around the workforce with a focus on multidisciplinary, multi professional teams collaborating to improve outcomes. However, the focus of the Act is on nursing and this does potentially impact on the implementation of a multi-professional 'team around the patient' approach to patient care as there is a statutory requirement to calculate, maintain and fund the nurse staffing levels (for those wards where S25B applies) but not the same requirement to calculate, maintain and fund the staffing requirements for other professions who play an equal part in delivering multi-professional team models. Further work, being led by HEIW, is required to fully understand the impact of the Act on multi-professional team models.

The Scottish Parliament passed the Health and Care (Staffing) Act in 2019 and sets out requirements for staffing across both health and care services. The Covid-19 pandemic delayed the Scottish Act coming into force but the agreed timetable will see the Act come into force in April 2024 and it will be interesting to see what lessons Wales can learn from this legislation.

Yours sincerely



Mandy Rayani
Director of Nursing, Quality and Patient Experience
Cyfarwyddwr Nyrsio, Ansawdd a Phrofiad Cleifion
Bwrdd Iechyd Hywel Dda / Hywel Dda Health Board