

National Assembly for Wales / Cynulliad Cenedlaethol Cymru  
[Health and Social Care Committee / Y Pwyllgor Iechyd a Gofal  
Cymdeithasol](#)

[Safe Nurse Staffing Levels \(Wales\) Bill / Bil Lefelau Diogel Staff Nyrsio  
\(Cymru\)](#)

Evidence from Older People's Commissioner for Wales – SNSL(Org) 09 /  
Tystiolaeth gan Comisiynydd Pobl Hŷn Cymru – SNSL(Org) 09



**Older People's Commissioner for Wales**  
**Comisiynydd Pobl Hŷn Cymru**

## **Response from the Older People's Commissioner for Wales**

**to the**

**National Assembly for Wales, Health and  
Social Care Committee consultation on the  
Safe Nurse Staffing Levels (Wales) Bill**

**January 2015**

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## **About the Commissioner**

The Older People's Commissioner for Wales is an independent voice and champion for older people across Wales, standing up and speaking out on their behalf. She works to ensure that those who are vulnerable and at risk are kept safe and ensures that all older people have a voice that is heard, that they have choice and control, that they don't feel isolated or discriminated against and that they receive the support and services they need. The Commissioner's work is driven by what older people say matters most to them and their voices are at the heart of all that she does. The Commissioner works to make Wales a good place to grow older - not just for some but for everyone.

The Older People's Commissioner:

- Promotes awareness of the rights and interests of older people in Wales.
- Challenges discrimination against older people in Wales.
- Encourages best practice in the treatment of older people in Wales.
- Reviews the law affecting the interests of older people in Wales.

## **Safe Nurse Staffing Levels (Wales) Bill**

The Older People's Commissioner for Wales welcomes the opportunity to respond to the consultation on the Safe Nurse Staffing Levels (Wales) Bill. Responses were also submitted to two previous consultations that were held by the member in charge, Kirsty Williams AM, which have been attached for reference.

As the independent voice and champion for older people across Wales, the Commissioner is supportive of any efforts made to improve the quality of care that is provided to older people in our hospitals. Older people are the largest users of the NHS in Wales, and the Welsh NHS has a duty of care to get it right for older people.

In 2011, the Commissioner published 'Dignified Care?', a report into the treatment of older people in Welsh hospitals in relation to dignity and respect. One of the main findings of this report was that staffing levels on wards had to better reflect the needs of older people both now and in the future. The needs of older people in hospital will be complex and varied, and many may be living with dementia or a cognitive impairment. The Commissioners, 'Dignified Care: Two Years On' report stated that "There is a clear link between staffing levels and the safety and quality of care on hospital wards. Routine and public reporting about the adequacy of staffing levels must be an immediate priority for the Welsh Government and the NHS."<sup>1</sup>

Ensuring that nurse staff are able to meet these needs is complicated and requires a great deal of planning. Staffing ratios are a useful tool to be used in monitoring staffing levels; they are a standard that act as a

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<sup>1</sup> Older People's Commissioner for Wales, Dignified Care: Two Years On, The experiences of older people in hospital in Wales, 2013

warning signal if this changes below a certain level. However, this must be used in conjunction with an intelligent acuity tool that calculates the level of staffing based upon the complex, and variable needs of patients in order to achieve the best outcomes for patients.

The emphasis at all times should be on the duty of health service bodies to facilitate and deliver staff levels that produce safe, effective, appropriate and timely care in a kind and compassionate manner, as opposed to minimum standards or the use of staffing ratios to balance the bodies finances. Therefore it is welcome that the Bill recognises safe, rather than minimum nursing staff levels, and includes the use of acuity tools to determine safe levels.

### **Recording staffing numbers**

The Commissioner's submission to previous consultations raised concerns that "there must be more clarity and accuracy in recording staffing numbers as currently this can include people on sick leave and those that are suspended".

The Bill includes provision for the protection of 'planned and unplanned leave' when determining safe staffing levels, and it can be assumed that this would include those staff members on sick leave. However, further clarification on whether this would include suspended staff would be welcome, and if not, what can be put in place to ensure that they are taken into account when workforce and rota planning.

### **The right staff with the right skills**

Alongside using acuity tools to determine the number of staff that are needed to meet the needs of older people, those staff must be equipped with the right skills and must be present on the ward in the right mix.

Well-trained staff driven by a culture of care is essential to guarantee that patients get the best possible experience, and it is disappointing that despite the examples of excellent care that the Commissioner comes

across, recent reports demonstrate that older people are still not receiving the dignified and compassionate care that they have a right to receive. Following the Commissioner's 'Dignified Care?' reports, the Welsh NHS must now build upon the recommendations set out in the 'Trusted to Care'<sup>2</sup> report, especially around improving the skills and knowledge of staff in treating and caring for older people and delivering relationship-centred care.

The Bill recognises that the appropriate nursing skill mix is needed alongside numbers in order to achieve safe levels and reflect patient care needs. It is also welcome that in determining and maintaining safe levels, the Bill introduces protections for staff time for induction and continuous training. Ensuring that nurse staff have access to training so that they can gain and maintain the skills that they need to care for older people is just one element in providing high quality care to older people in hospital.

However it is essential that this protected time is achieved in reality, as without access to appropriately skilled staff, ensuring the numbers and mix are correct in itself will not improve patient care.

## **Leadership and professional judgement**

The Commissioner's submission to the previous consultations stated that leadership and the ability to make decisions, especially when the needs of patients change quickly, should form part of the debate on improving nursing standards. Hospital staffing should be flexible so that it can adapt in response to the ever-changing needs of their patients. When difficult decisions need to be made, ward managers need to have the power to respond and alter their staff balance accordingly.

Ward managers have told the Commissioner that despite considerable investment in initiatives and the development of clinical leadership programmes, they are often not allowed to select the staff for the ward themselves. This limits their opportunity to assess the skills, knowledge,

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<sup>2</sup> 'Trusted to Care' An independent Review of the Princess of Wales Hospital and Neath Port Talbot Hospital at Abertawe Bro Morgannwg University Health Board, Professor June Andrews, 2014

and the attitudes of the staff working on their wards<sup>3</sup>. It is welcome therefore that the Bill includes the exercise of professional judgement within the staff planning process.

### **Role of nursing staff in other settings**

The Commissioner's recently published Review into the Quality of Life and Care of Older People Living in Care Homes in Wales, 'A Place to Call Home?' included significant evidence regarding the key role that the Welsh NHS and its nurses play in the quality of care and safety of older people in residential and nursing care homes. Ensuring there are adequate numbers of nursing staff is essential but, as has been recognised above in relation to hospital wards, it is also about ensuring staff have the right skills and knowledge, the ability to draw in other services and support where required, and are provided with the time not just to undertake clinical care but also to deliver crucially important, yet often intangible compassion and kindness. Please see Appendix A for the relevant section of the Review.

In addition to nursing care homes, there is a large number of nurse staff working across Wales in community settings. With the planned policy shift away from treatment and long stays within acute wards and towards care and treatment within the community, and also the need to better integrate health and social care services, responsive workforce planning and safe nurse staffing levels need to apply in those settings to ensure that potentially frail and vulnerable older people are receiving safe and appropriate care in all situations.

The Bill includes a subsection that would allow Welsh Ministers to extend the safe nurse staffing duty to 'additional settings within the National Health Service in Wales'. However, it is unlikely that this would support the extension of safe nurse staffing levels into nursing care home settings as these are often independently owned with placements commissioned by the Local Authority or Health Board. This is disappointing as there are vulnerable older people living in these

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<sup>3</sup> Dignified Care: Two Years On' The experiences of older people in hospital in Wales, Older People's Commissioner for Wales, 2013

settings who receive care and treatment from nurse staff on a daily basis.

Furthermore in the context of community based nursing, it is unclear from the Bill whether the provision of nursing care within someone's own home would qualify as an 'additional **setting within** the National Health Service in Wales'.

Consideration should therefore be given to amending this subsection to include additional settings where care is delivered by a suitably qualified nurse or healthcare professional, such as care homes, health visitors and district nurses.

### **Annual report by health service bodies and indicators of safe nursing**

The requirement that 'each health service body in Wales must publish an annual report' will be a method through which compliance against the safe nurse staffing levels duty can be judged, and is to be welcomed.

For example, as stated above -, 'it is essential that this protected time (for staff induction and training) is achieved in reality...'. The annual report would therefore present an opportunity to state if this was the case, and if not, why not.

Whenever a service 'gets it wrong' the price is never paid by that service. It is paid by the individual and that price is often far too high. The requirement to publish an annual report on compliance against the duty will act as a method of public assurance. For these annual published reports to achieve these aims, they must be truly accessible to, and understandable by the wider public.

The provision within the Bill for Welsh Ministers to undertake a regular review of the operation and effectiveness of the Act is essential to ensuring that it is having a meaningful impact on the quality and safety of patient care. Therefore the inclusion of 'indicators of safe nursing', which Welsh Government must report against, are to be welcomed.

The Commissioner's submission to previous consultations stated that 'because of the known demographic of the hospital population who have high acuity needs and levels of frailty, the addition of the number and severity of pressure sores would be beneficial'. It is welcome that the 'number and severity of hospital-acquired pressure ulcers' has now been included as an 'indicator of safe nursing'.

However this could be further strengthened by the addition of an indicator linked to the amount of staff time that has been protected for training and details on the content of that training, for example training on dementia awareness, sensory loss, human rights, POVA and raising concerns.

## **Impact Assessment**

The average age of a hospital patient is over eighty<sup>4</sup>, and the needs of older people in hospital will be complex and varied, many of whom may be a carer, living with dementia or a cognitive impairment. The findings of the Commissioner's 'Dignified Care?' reports, and more recently 'Trusted to Care' have clearly demonstrated the importance of the right number of nursing staff, with the right skills, in delivering safe, effective, appropriate and timely care to older people in a kind and compassionate manner.

It is noted that a Children's Rights Impact Assessment (a key mechanism for implementing the United Nations Convention on the Rights of the Child) was under taken and reported within the Bill's Explanatory Memorandum. In July 2014, the Welsh Government launched the Declaration of Rights for Older People in Wales<sup>5</sup> which clearly articulate the rights of older people in Wales as already underpinned by law. In light of the significant impact that proposed legislation would have on the care and safety of older people in hospitals, best practice in the development of impact assessments should be the specific and thorough consideration of the needs of people living with dementia, sensory loss or those who are carers.

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<sup>4</sup> The Kings Fund, The care of frail older people with complex needs: time for a revolution, 2012

<sup>5</sup> Welsh Government, Declaration of Rights for Older People in Wales, 2014

## **Conclusion**

Placing safe nurse staffing levels on a statutory footing, in a way that meets patient needs through the use of acuity tools and responsive staff planning will ensure that the nurse staff who are present on wards of Welsh hospitals are in the right number and appropriately skilled to meet the complex and varied needs of older people.

It is essential that positive provisions within the Bill, such as protected training time, become a reality and that financial pressures and the demands of daily work do not overshadow the importance of a skilled workforce in the delivery or treatment and care. Annual reports from health service bodies and Welsh Government reviews of the impact of the duty could provide the pressure and support necessary to turn positive aspiration into reality.

However, the provision to extend the duty to other settings must be amended to capture nursing care homes and broader community settings. Without doing so, there is a danger that the known risks to patient safety and dignity from inappropriate nurse staffing on an acute ward will also apply, unchecked and unmonitored in nursing care homes.

Finally, in order to capture the full benefits and impact of such legislation on older people who receive health services in settings that would be effected, impact assessments should include the specific and thorough consideration of the needs of older people living with dementia, sensory loss or those who are carers.

## **Appendix A**

### **Older People's Commissioner for Wales, 'A Place to Call Home? A Review into the Quality of Life and Care of Older People living in Care Homes in Wales', 2014**

#### **Nursing Staff**

Oral evidence from the RCN stated that there was disparity between the standards of nursing in the NHS and the standards found in nursing homes. They identified a number of reasons for this, including limited clinical supervision, a lack of peer support in nursing homes and a lack of opportunities for professional development, as well as nurses often having to make decisions on their own as they have no one to discuss issues with. These factors can be a particular issue in smaller nursing homes.

The RCN also stated that it is more difficult to recruit nurses to work in nursing homes due to a lower standard of pay and conditions, more isolated working environments and a general negative perception of nursing homes.

This can often result in newly qualified nurses being recruited to nursing homes who may have limited experience in working with older people and may require additional support and training. Retaining these nurses can also be difficult as many will move to a nursing role within the NHS.

Their evidence stated that Health Boards do not have a primary care strategy for nurses working in the residential care sector, which means that workforce planning for Wales is based on the needs of the NHS and

has failed to consider the needs of Welsh citizens living in residential care.

Whilst nurses working in nursing homes have a wide range of care skills, there will always be instances when older people will need timely access to specialist healthcare. The Commissioner received evidence from the RCN, Care Home Managers and independent providers that demonstrated there can be confusion about roles and responsibilities for medical treatment and care between the NHS and nursing care homes.

Evidence received from Care Home Managers stated that there are assumptions that nurses working in nursing homes can 'do everything', which means that the NHS often does not provide support in a proactive way.

"She [NHS professional] said 'what sort of nursing home are you that you can't do a male catheterisation?'. But with an EMI psychiatric nursing home you don't very often find a gentleman with advanced dementia with a catheter. The nurse felt 'that big'." Care Home Manager (Oral Evidence)

Evidence taken during the roundtable discussion on health also highlighted the historical attitude towards nurses working in care homes:

"When I joined the Health Board in 2008 or 2009, there was an appalling attitude to nursing homes. It was very negative, they were somehow below us and I was quite shocked at that because I'm from primary care, I'm a General Practitioner... I think we've come on leaps and bounds, I think there's an awful lot of respect for our colleagues in the independent sector. They're not NHS nurses but they're still nurses... I think there is a long way to go yet, I still think that our opinions of care homes lacks a lot so I think there is still some work to do." Abertawe Bro Morgannwg University Health Board (Oral Evidence)

It is clear that on-going support to nurses working in care homes, whether from their peers or from the wider health system, is vital, not only to ensure that they have the skills and experience necessary to carry out their role effectively, but also to ensure that older people are receiving the care they need.

This is something that was acknowledged by Health Boards across Wales during the roundtable discussion on health:

“There are some great examples of secondary care being provided in nursing homes that prevents people from coming into secondary care type services. We’ve got a range of those, so a question of Health Boards is, given that this is happening and it’s producing great results, why aren’t you doing that everywhere? So the reflection of our board is that there’s great practice in parts of our board, but why aren’t they consistently and reliably doing this everywhere because it saves us money, it saves us time?” Abertawe Bro Morgannwg University Health Board (Oral Evidence)

### **Good practice: Betsi Cadwaladr University Health Board – Residential Care Liaison Nurse Project**

The aim of this project is to take a proactive approach to maintaining the health of residents living in a residential care home, thus enabling them to stay in their home environment, preventing hospital admissions and being transferred to a nursing care home.

A trained nurse with the District Nursing team will coordinate and support the 29 registered residential care homes within the Health Board area. Initially a 12 month pilot project is planned where the liaison nurse will develop the role within one home over a four to six month period with a view of extending it to three homes within the year.

The team’s initiative will be to support the care homes by assisting them in identifying training and development needs and assisting them in enhancing their practise.

### **Workforce Planning**

Evidence from CSSIW stated that workforce planning is challenging due to a lack of demographic projections about future need therefore it is not possible to quantify the ‘right’ number of care staff as this will vary depending on the support needs of individuals living in residential or nursing care homes.

“One of the things we battle with as an inspectorate is staffing sufficiency. There are no set number ratios and that is both a good thing and a bad thing. The bad thing is it is very hard for us to hold people to account for the number of staff that they’ve got on duty. On the other hand, you need to be flexible in terms of people’s increased dependency.” CSSIW (Oral Evidence)

Evidence from the Care Council for Wales stated that the unregulated nature of the care home workforce in Wales, which means that data is not held on the number of care home staff in Wales, can also lead to difficulties around effective workforce planning.

Evidence from the RCN identified that, in relation to nursing staff in particular, there is a lack of effective workforce planning. They stated that this planning is based on the needs of Health Boards and the hospitals they run and does not consider the needs of residential care.

Evidence from Carmarthenshire County Council and Rhondda Cynon Taf County Borough Council also stated that they have significant issues around the recruitment of nurses, particularly in recruiting Registered Mental Health Nurses and nurses to work in EMI care homes.

Issues around recruiting EMI nurses were also highlighted in evidence from Caerphilly County Borough Council.

“The EMI capacity, particularly in nursing capacity, is a real problem for us. Not so much on a residential EMI capacity, we’re doing okay on that. But it’s proving very difficult to persuade providers to go and provide those EMI nursing facilities. It is not an attractive market for them to move into. So those capacity issues, I can only see continuing, to be honest.” Caerphilly County Borough Council (Oral Evidence)

Local Authorities have also stated that the recruitment and retention of Registered Mental Health Nurses, alongside the higher cost of specialist nursing care in EMI settings, is a significant barrier to providers entering and sustaining this type of provision, especially in rural areas.

The Care Council for Wales also identified that a number of Care Home Managers are not registered and, although succession planning has

improved, there are still gaps in the number of registered managers that are needed for the future.

“Whereas there is some evidence of succession planning in that there were more services with more than one person qualified and registered as a manager than in 2012, there still needs to be careful succession planning for the service.” Care Council for Wales (Written Evidence)

Without the correct workforce – the right number of staff, with the right skills, in the right places – residential care provision will be unstable and unable to meet the needs of older people living in residential care both now and in the future.