

# Nurse Staffing Levels (Wales) Act 2016

## Final Internal Audit Report

August 2024

Hywel Dda University Health Board



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Audit and Assurance Services conform with all Public Sector Internal Audit Standards as validated through the external quality assessment undertaken by the Chartered Institute of Public Finance & Accountancy in April 2023.

### Acknowledgement:

NHS Wales Audit and Assurance Services would like to acknowledge the time and co-operation given by management and staff during the course of this review.

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# Executive Summary

## Purpose

To review arrangements to ensure compliance with the Nurse Staffing Levels (Wales) Act 2016.

## Overview

We have concluded **reasonable** assurance.

Nurse staffing levels have been reviewed for all wards with the Spring 24 template demonstrating compliance with the prescribed methodology and triangulated approach set out within the Act. Sample testing also confirmed the presence of data/evidence supporting the rationale for proposed changes.

We have identified three medium priority findings relating to:

- The Nurse Staffing Level Policy requires reviewing and updating to reflect the requirements of the Act including the inclusion of paediatric wards within the scope of the Act from October 2021.
- Whilst the name of the approver was stated on the review templates in all cases, there was no explicit evidence of approval by the Designated Person.
- We previously recommended more regular assurance reporting to QSEC but this has not been implemented.


Full details of matters arising are provided within Appendix A.

## Report Opinion


Trend

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Reasonable



Some matters require management attention in control design or compliance.



2021/22

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## Assurance summary<sup>1</sup>

Objectives	Assurance
1 Nurse staffing levels are calculated using the prescribed methodology and are reviewed twice annually	Reasonable
2 All reasonable steps are taken to enable wards to maintain nurse staffing at the calculated levels	Reasonable
3 Nurse Staffing Levels are reported to the Board and Welsh Government	Substantial

<sup>1</sup>The objectives and associated assurance ratings are not necessarily given equal weighting when formulating the overall audit opinion.

## Matters Arising

	Objective	Control Design or Operation	Recommendation Priority
1 Nurse Staffing Level Policy	1	Operation	Medium
2 Evidence of Approval by Designated Person	1	Design	Medium
3 Assurance Reporting to QSEC	2	Design	Medium

## 1. Introduction

- 1.1 The Nurse Staffing Levels (Wales) Act 2016 (NSLWA) requires health bodies to have regard for the provision of appropriate nurse staffing levels, to ensure nurses have time to provide the best possible care for patients. The Act empowers nurses and ward managers with evidence to support and inform their professional judgement when determining nurse staffing levels on their wards.
- 1.2 The Act consists of five sections, the second of which (25B) relates to the requirement to calculate and take reasonable steps to maintain nurse staffing levels. This applies to adult acute medical and surgical wards and paediatric inpatient wards.
- 1.3 The associated potential risks considered in this review are:
  - Poor quality care, patient harm and/or negative patient and staff experience
  - Non-compliance with the requirements of the Nurse Staffing Levels (Wales) Act 2016
- 1.4 The review has focused on the processes in place for calculating nurse staffing levels in line with the prescribed methodology, but has not sought to verify or validate the appropriateness of nurse staffing levels.

## 2. Detailed Audit Findings

**Objective 1: Nurse staffing levels for Section 25B wards are calculated using the prescribed methodology and are reviewed twice annually in accordance with the requirements of the Act**

### Policy / Framework

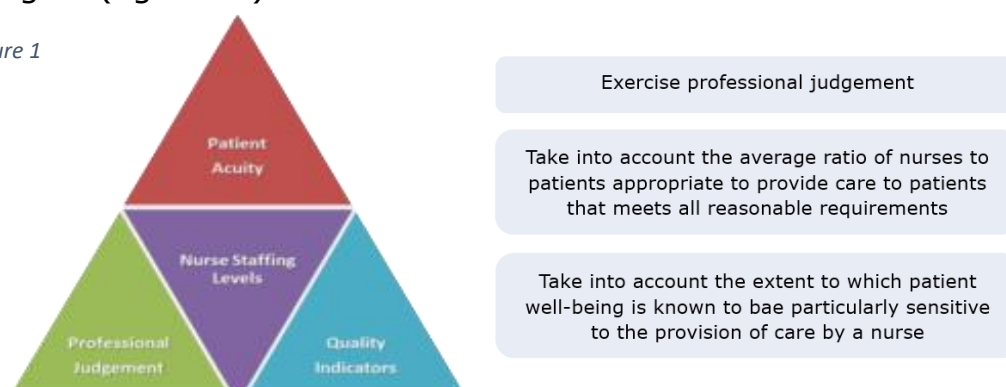
- 2.1 The *Nurse Staffing Levels (Wales) Act 2016* (the 'Act') passed by the National Assembly for Wales in March 2016 requires the Health Board to have an overarching framework that provides sufficient nurse staffing levels across the organisation.
- 2.2 The Health Board has a *Nurse Staffing Level & Escalation Plan: Acute Adult Policy* in place which is available to staff on the intranet. The policy is aligned to the Act and provides information and standards to support the calculation of nurse staffing levels, identifies the 'reasonable steps' to be taken to ensure levels are maintained, and the escalation process where this is not achieved.
- 2.3 The Interim Director of Nursing, Quality & Patient Experience is identified as the 'designated person' responsible for making a recommendation to the Board regarding the nurse staffing level for each ward subject to section 25B of the Act.
- 2.4 The previous audit (2021/22) highlighted that the policy was last reviewed and approved in January 2019 and requires updating to reflect changes to legislation in 2021 regarding the inclusion of paediatric wards under the scope of the Act with effect from October 2021. The policy is yet to be updated with the review date extended annually, with the current review due date showing as August 2024.

### [Matter Arising 1]

### Prescribed Approach

- 2.5 Section 25C of the Act prescribes the triangulated approach to determining appropriate nurse staffing levels and the responsibilities of the Designated Person in doing so (figure 1<sup>1</sup>).

Figure 1



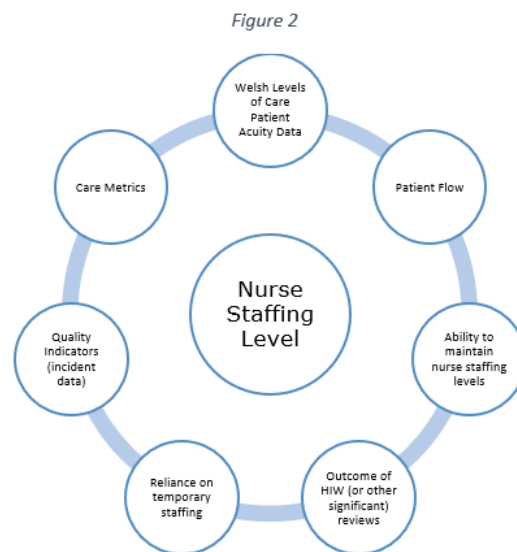
- 2.6 Using the framework provided by the national Nurse Staffing Programme, the Health Board has devised a template to facilitate this triangulated approach.

<sup>1</sup> Source: *Nurse Staffing Levels (Wales) Act 2016: statutory guidance (version 2) March 2021*

2.7 We noted good practice with the enhancement of this template since our previous review – from a basic (but adequate) word document to a slide deck clearly demonstrating application of the prescribed methodology and consideration of the factors influencing the required nurse staffing level (see figure 2), with all supporting evidence embedded.

2.8 There are 35 S25B wards (adult and paediatric) across the four acute hospitals to which section 25B of the Act (the duty to calculate and take steps to maintain nurse staffing levels) currently applies – this is unchanged from our previous review in 2021/22.

2.9 We confirmed that bi-annual nurse staffing level reviews have been undertaken, most recently in Autumn 23 and Spring 24. All 35 wards were included in the Spring 24 review and followed a consistent approach using the agreed template.



### Determining the Planned Roster

2.10 We sampled 10 of the 35 section 25B wards across the four acute sites for detailed review of the Spring 24 nurse staffing level reviews. In all cases the completed templates evidenced review of the factors identified at figure 2 and discussion with the Nurse Staffing Programme (NSP) Team, with outcomes clearly documented.

2.11 Our sample focused on wards with requested/proposed staffing changes and included one example where a ward had requested additional resource due to acuity but this was rejected on the basis that acuity was inconsistent and HIW and therefore did not evidence a need for additional resource at the time of review.

2.12 A staffing increase was proposed for seven of the wards reviewed – in all cases the supporting data and evidence was consistent with the stated rationale.

### Calculating the WTE Requirements

2.13 In simplistic terms, the calculation of the nurse staffing level involves determining the planned roster and calculating the whole-time equivalents (WTE) required to fulfil this roster (including 26.9% 'headroom' to allow for staff absence from the workplace as required by the Act).

2.14 For the sample of 10 wards reviewed we reconciled the planned rosters per the templates to the most recent financial impact analysis spreadsheet for the Spring 2024 cycle and confirmed that the WTEs and associated costs had been calculated based on the agreed planned rosters within the templates and included the 26.9% headroom required by the Act.

2.15 Additional staffing and funding requirements following the August 23 (enacted) and Spring 24 (proposed) review cycles is summarised in table 1 below:

Table 1

Funding Source	Autumn 2023 Cycle				Spring 24 Cycle			
	RN WTE	HCSW & Other WTE	Total WTE	£	RN WTE	HCSW & Other WTE	Total WTE	£
NSA	6.26	-3.56	2.7	£143,670	-0.75	27.32	26.57	£957,890
Service Change	13.23	28.29	41.52	£1,686,928	12.11	13.24	25.35	£1,108,567
Directorate/Site	-1.55	12.25	10.7	£406,121		1	1	£27,885
			<b>54.92</b>	<b>£2,236,719</b>			<b>52.92</b>	<b>£2,094,342</b>

2.16 The NSA related additional requirement is significantly higher following the Spring 24 cycle compared to the Autumn 23 cycle. 71% of the additional requirement relates to additional HCSWs for wards 1, 3 & 4 at PPH, all of which were included in our sample for review.

2.17 Service change is the primary cause of additional nurse staffing requirements across the two review cycles. Whilst outside the scope of this review, we noted concern raised by the Core Delivery Group as to whether the correct processes for implementing service change, including business case approval, is being followed. If the correct process was being followed for service change then additional staffing requirements should be picked up as part of this process, rather than as part of the NSA reviews. The Head of Nursing advised that many relate to service changes implemented during COVID-19 initially as temporary measures but the decision subsequently taken to make permanent.

### Approval

2.18 The 2021/22 audit highlighted the lack of evidence of review/discussion with and approval by the Designated Person. This has been strengthened with discussions and outcomes and the name of the approver documented on the template for each ward. However, there is still no explicit evidence that the Designated Person has reviewed and approved the proposed nurse staffing levels. We also noted instances where the Assistant Director of Nursing was stated as the approver – policy is not clear on whether this is permitted. Whilst acknowledging that approval is implied through the subsequent reporting of agreed nurse staffing levels by the Designated Person to the Board, this will be after review/approval at the Value & Sustainability Group and enactment of approved changes. **[Matter Arising 2]**

2.19 The Spring Cycle 2024 was in progress at the time of audit and had not yet been presented to the Value & Sustainability Group for approval. We reviewed the Autumn Cycle 2023 and confirmed that the proposed nurse staffing levels and associated financial impact analysis were presented and agreed by the Core Delivery Group<sup>2</sup> in December 2023.

### Enacting the Changes

2.20 Following agreement of proposed roster/establishment changes and associated funding, the planned rosters are set within the Allocate roster system to aid resource planning and monitoring of compliance with the nurse staffing levels.

<sup>2</sup> The Core Delivery Group was replaced by the Value & Sustainability Group in 2024

Changes to the rosters resulting from the Autumn 2023 cycle were reviewed and satisfactorily agreed to Allocate.

### Conclusion:

2.21 Policy requires review and updating to reflect the inclusion of paediatric wards under the scope of the Act, and approval arrangements need to be further strengthened to better evidence approval of proposed changes by the Designated Person. Nevertheless, nurse staffing levels have been reviewed for all wards with the Spring 24 template demonstrating compliance with the prescribed methodology and triangulated approach set out within the Act. The sample tested demonstrated thorough and consistent review with data/evidence supporting the rationale for proposed changes. We have concluded **Reasonable** assurance for this objective.

### Objective 2: All reasonable steps are taken to enable wards to maintain nurse staffing at the calculated levels, with mechanisms in place for recording and reviewing any variation

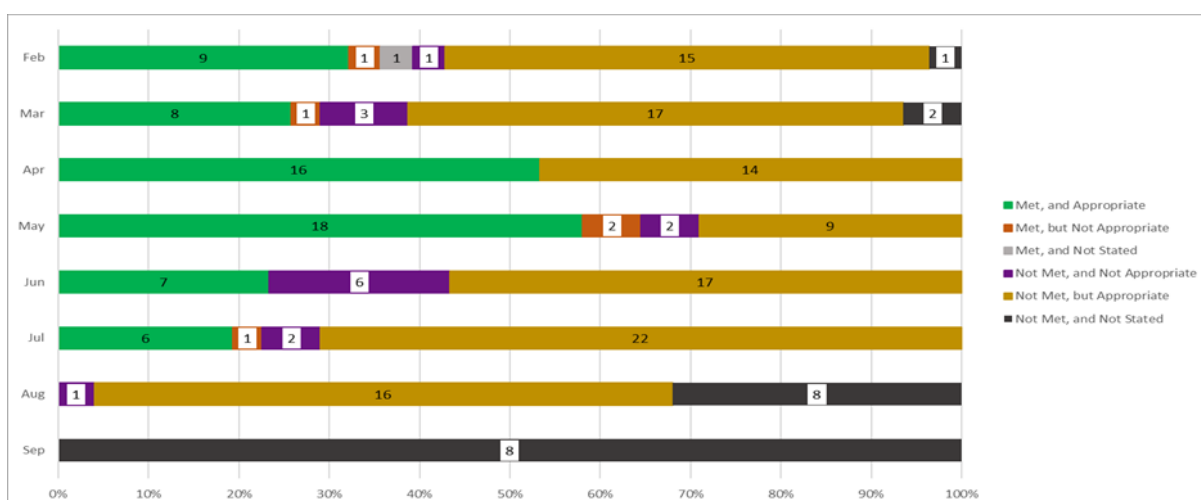
2.22 The Health Board is required to ensure that 'all reasonable steps' are taken to maintain the nurse staffing level in all areas. Roles and responsibilities of the Chief Executive, Executive Directors and operational staff in ensuring that nurse staffing levels are maintained are clearly defined. The policy identifies examples of 'reasonable steps' including:

Strategic Steps	
Workforce planning linked to IMTP and education commissioning processes	
Recruitment & retention strategies	
Robust organisational risk management framework	
Operational Steps	
Robust electronic rostering tool	Redeployment of staff from other areas of the HB
Temporary (bank & agency) staff	Use of other healthcare professionals
Effective resource planning	Senior nursing staff to work within planned roster
Appropriate and timely escalation where necessary	

2.23 Compliance with the nurse staffing levels is recorded on a shift-by-shift basis via the Safecare module within the Allocate system to produce *Extent to Which* data. The senior nurse on duty on each ward records the patient acuity and roster hours worked in the last 24 hours and then forms one of six conclusions on the extent to which planned rosters were met (after 'all reasonable steps' have been taken), based on their professional judgement:

- (i) Planned roster was met and was appropriate (based on patient acuity)
- (ii) Planned roster was met but was deemed not appropriate (based on patient acuity)
- (iii) Planned roster met but appropriateness not stated (based on patient acuity)
- (iv) Planned roster was not met but deemed appropriate (based on patient acuity)
- (v) Planned roster was not met and deemed not appropriate (based on patient acuity)
- (vi) Planned roster Not Met but appropriateness not stated (based on patient acuity)

2.24 The data is extracted into the IRIS system and displayed in graphs (example below) depicting the extent to which nurse staffing levels were complied with, to aid review and monitoring at ward, managerial and Board level.



2.25 The assessment of whether the available staffing level is appropriate to meet patient care needs is based on the senior nurses’ professional judgement of the match (or mismatch) between workforce availability and patient acuity. The *Safecare* software implemented across NHS Wales enables a more visible and explicit triangulation between the roster information and the patient acuity data to underpin this judgement. The senior nurse on duty is still able to apply their own professional judgement to the extent to which the workforce can meet with patients’ needs but the daily use of this system to support operational decision making helps to ensure the reliability and validity of the data captured.

2.26 *Extent to Which* data was included within the Nurse Staffing Act annual assurance report to the Quality Safety & Experience Committee (QSEC) in April 2024 and Board in May 2024.

	Adult		Paediatrics	
<b>Period Reviewed</b>	06/04/2023 – 05/04/2024			
<b>Total Number of Shifts</b>	23679		1764	
<b>Number &amp; % of Shifts where:</b>				
<b>Planned Roster Met and Appropriate</b>	5115	21.06%	707	40.08%
<b>Planned Roster Met but Not Appropriate</b>	2069	8.74%	10	0.57%
<b>Planned Roster Met but appropriateness not stated</b>	1103	4.66%	26	1.47%
<b>Planned Roster Not Met but Appropriate</b>	8705	36.76%	883	50.06%
<b>Planned Roster Not Met and Not Appropriate</b>	5386	22.75%	80	4.54%
<b>Planned Roster Not Met but appropriateness not stated</b>	1301	5.49%	58	3.29%
<b>Data Completeness</b>	89.85%		95.24%	

2.27 The 2021/22 audit recommended more frequent reporting on compliance with nurse staffing levels to the QSEC, with an agreed action to provide six monthly updates in February and August each year as part of the Quality Assurance Report. Management acknowledged that this has not been achieved. **[Matter Arising 3]**

2.28 Section 25B of the Act requires the Health Board to make arrangements for the purpose of informing patients of the nurse staffing level. Observations at eight wards at GGH identified one ward where the information was not displayed. This has been highlighted to management.

**Conclusion:**

2.29 Mechanisms are in place to monitor and record the extent to which nurse staffing levels are maintained, and these are included within the annual assurance report to QSEC and Board. However, the previously agreed action of more frequent reporting to of *Extent to Which* data to QSEC has not been implemented. We also identified instances where nurse staffing levels are not displayed on wards. We have concluded **Reasonable** assurance for this objective.

**Objective 3: Nurse staffing levels are reported to the Board and Welsh Government in accordance with Section 25E of the Act**

2.30 The annual assurance report was presented to Board in May 2024. Health Board policy also requires the Designated Person to formally present the nurse staffing level for each section 25B ward to the Board on an annual basis. The latest report, presented in November 2023, confirmed the approach to calculating nurse staffing levels and the finance and workforce implications of the Autumn 2023 review. The report included a summary of nurse staffing levels for section 25B wards, highlighting the pre- and post-review planned rosters and required establishments. We confirmed that the planned rosters and required establishments reported to Board in agreed to the financial impact analysis for the Autumn 23.

2.31 Section 25E of the Act states that for each three-year reporting period, the Health Board must submit a report to WG detailing:

- the extent to which nurse staffing levels have been maintained;
- the impact the board considers that not maintaining nurse staffing levels has had on care provided to patients by nurses (by reference to increase in complaints, medication errors, patient falls and hospital acquired pressure ulcers); and
- any actions taken in response to not maintaining nurse staffing levels.

2.32 A caveated<sup>3</sup> report for the period 6 April 2021 - 5 April 2024 was presented to the QSEC in April 2024 ahead of initial submission to WG within 30 days of the period end. The full report will be presented to Board in September and WG in October 2024 in line with WG reporting requirements.

**Conclusion:**

2.33 We have concluded **Substantial** assurance for this objective.

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<sup>3</sup> The caveated report included incomplete data for March and up to 5 April 2024 due to reporting timescales and availability of data at the point of initial reporting. This is a nationally agreed approach to WG reporting.

## Appendix A: Management Action Plan

Matter Arising 1: Nurse Staffing Level Policy (Operation)		Impact
<p>The previous audit (2021/22) highlighted that the <i>Nurse Staffing Level &amp; Escalation Plan: Acute Adult Policy</i> was last reviewed and approved in January 2019 and requires updating to reflect changes to legislation in 2021 regarding the inclusion of paediatric wards under the scope of the Act with effect from October 2021. The policy is yet to be updated with the review date extended annually, with the current review due date showing as August 2024.</p>		<p>Potential risk of:</p> <ul style="list-style-type: none"> <li>Policy does not reflect the requirements of the Act, potentially leading to non-compliance</li> </ul>
Recommendations		Priority
1.1	Review and update the <i>Nurse Staffing Level &amp; Escalation Plan: Acute Adult Policy</i> to ensure it accurately reflects the requirements of the Act.	<b>Medium</b>
Agreed Management Action		Target Date
1.1	Finalise the review of the <i>Nurse Staffing Level &amp; Escalation Plan: Acute Adult Policy</i> so that it is updated to include the Paediatric Escalation Procedure (procedure 818) and becomes the overarching HB policy for calculating, maintaining and reporting nurse staffing levels across all services.	October 2024
		Responsible Officer
		Head of Nursing, Professional Standards and Regulation


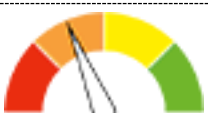
<b>Matter Arising 2: Evidence of Approval by Designated Person (Design)</b>		<b>Impact</b>
<p>The 2021/22 audit highlighted the lack of evidence of review/discussion with and approval by the Designated Person. This has been strengthened with discussions and outcomes and the name of the approver documented on the template for each ward. However, there is still no explicit evidence that the Designated Person has reviewed and approved the proposed nurse staffing levels.</p> <p>We also noted instances where the Assistant Director of Nursing was stated as the approver – policy is not clear on whether this is permitted. Whilst acknowledging that approval is implied through the subsequent reporting of agreed nurse staffing levels by the Designated Person to the Board, this will be after review/approval at the Value &amp; Sustainability Group and enactment of approved changes.</p>		<p>Potential risk of:</p> <ul style="list-style-type: none"> <li>Non-compliance with the Act and Health Board Policy</li> </ul>
<b>Recommendations</b>		<b>Priority</b>
2.1	As recommended in our 2021/22 audit, review and approval of the agreed nurse staffing levels by the Designated Person should be explicitly evidenced.	<b>Medium</b>
<b>Agreed Management Action</b>		<b>Target Date</b>
2.1	Ahead of the next calculation cycle (Autumn 2024) agree a process by which the Designated Person confirmation of the agreed nurse staffing levels is formally documented and can be explicitly evidenced	31 <sup>st</sup> August 2024
		<b>Responsible Officer</b>
		Head of Nursing, Professional Standards and Regulation

<b>Matter Arising 3: Assurance Reporting to QSEC (Design)</b>		<b>Impact</b>	
The 2021/22 audit recommended more frequent reporting on compliance with nurse staffing levels to the QSEC, with an agreed action to provide six monthly updates in February and August each year as part of the Quality Assurance Report. Management acknowledged that this has not been achieved.		Potential risk of: <ul style="list-style-type: none"> <li>• The Board does not receive assurance in respect of the organisation's ability to maintain agreed nurse staffing levels</li> <li>• Inappropriate variation from the planned nurse staffing levels may result in poor quality care or patient harm</li> </ul>	
<b>Recommendations</b>		<b>Priority</b>	
3.1	As recommended in our 2021/22 audit, QSEC should receive regular assurance reports on the Health Board's ability to maintain agreed nurse staffing levels, with escalation to the Board as appropriate.	<b>Medium</b>	
<b>Agreed Management Action</b>		<b>Target Date</b>	<b>Responsible Officer</b>
3.1	Provide, at minimum, a 6 monthly report to the Health Board's Quality Safety & Experience Committee as part of the regular overarching assurance report to that committee. The report will include the extent to which the nurse staffing levels have been maintained across S25B wards data and the impact associated with maintaining/not maintaining the nurse staffing levels	October 2024 (next planned meeting)	Head of Nursing, Professional Standards and Regulation

## Appendix B: Assurance opinion and action plan risk rating

### Audit Assurance Ratings

We define the following levels of assurance that governance, risk management and internal control within the area under review are suitable designed and applied effectively:

	<b>Substantial assurance</b>	Few matters require attention and are compliance or advisory in nature. <b>Low impact</b> on residual risk exposure.
	<b>Reasonable assurance</b>	Some matters require management attention in control design or compliance. <b>Low to moderate impact</b> on residual risk exposure until resolved.
	<b>Limited assurance</b>	More significant matters require management attention. <b>Moderate impact</b> on residual risk exposure until resolved.
	<b>Unsatisfactory assurance</b>	Action is required to address the whole control framework in this area. <b>High impact</b> on residual risk exposure until resolved.
	<b>Assurance not applicable</b>	Given to reviews and support provided to management which form part of the internal audit plan, to which the assurance definitions are not appropriate. These reviews are still relevant to the evidence base upon which the overall opinion is formed.

### Prioritisation of Recommendations

We categorise our recommendations according to their level of priority as follows:

Priority level	Explanation	Management action
High	Poor system design OR widespread non-compliance. Significant risk to achievement of a system objective OR evidence present of material loss, error or misstatement.	Immediate*
Medium	Minor weakness in system design OR limited non-compliance. Some risk to achievement of a system objective.	Within one month*
Low	Potential to enhance system design to improve efficiency or effectiveness of controls. Generally issues of good practice for management consideration.	Within three months*

\* Unless a more appropriate timescale is identified/agreed at the assignment.



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