

3.2

Nurse Staffing Levels

*Presenter: Mandy Rayani*

Item 3.2 Nurse Staffing Levels

Appendix 1

**PWYLLGOR ANSAWDD, DIOGELWCH A SICRHAU PROFIOD  
QUALITY, SAFETY AND EXPERIENCE ASSURANCE COMMITTEE**

<b>DYDDIAD Y CYFARFOD: DATE OF MEETING:</b>	07 July 2020
<b>TEITL YR ADRODDIAD: TITLE OF REPORT:</b>	Nurse Staffing Levels
<b>CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:</b>	Mandy Rayani, Executive Director of Nursing, Quality & Patient Experience
<b>SWYDDOG ADRODD: REPORTING OFFICER:</b>	Chris Hayes, Nurse Staffing Programme Lead Helen Humphreys, Senior Nurse, Nursing Workforce and Practice Development

**Pwrpas yr Adroddiad (dewiswch fel yn addas)**

**Purpose of the Report (select as appropriate)**

Er Sicrwydd/For Assurance

**ADRODDIAD SCAA  
SBAR REPORT**

**Sefyllfa / Situation**

The Coronavirus (COVID-19) pandemic across the UK (and globally) has meant that NHS Wales' is under significant and, potentially, sustained additional pressure, with a direct impact on the nurse staffing resource. Based on patient modelling data, whilst continuing to take account of the requirements relating to the Nurse Staffing Levels (Wales) Act (the Act), there has been a requirement for HDdUHB to keep under continual review both the 'normal' and the escalation positions for the planned nurse staffing levels within a number of settings where nursing care is provided.

This paper describes HDdUHB's approach in establishing revised processes to ensure that nurse staffing levels are systematically calculated and agreed in line with the requirements of the Act; and provides an overview of how the nurse staffing levels have been planned, managed and maintained during the pandemic; together with a review (based on data currently available) of the impact on the quality of patient care provided.

This report provides information in relation to the following adult in-patient wards:

1. Adult medical and surgical inpatients wards (i.e. Section 25B wards);
2. COVID-19 inpatient wards;
3. Community hospital inpatient wards

**Cefndir / Background**

The Act has five sections:

- Section 25A of the Act relates to the overarching responsibility placed upon each Health Board, requiring Health Boards and Trusts to ensure they have robust workforce plans, recruitment strategies, structures and processes in place to ensure appropriate nurse staffing levels across their organisations. This duty came into effect in April 2017.
- Section 25B requires health boards/ trusts to calculate and take reasonable steps to maintain the nurse staffing level in all adult acute medical and surgical wards. Health boards/ trust are also required to inform patients of the nurse staffing level.

- Section 25C requires health boards/trusts to use a specific method to calculate the nurse staffing level in all adult acute medical and surgical wards. These duties came into effect in April 2018.
- Section 25D of the Act required that Welsh Government devised statutory guidance to support the Act and this was launched on the 2nd November 2017. An operational handbook was subsequently developed to assist Health Boards and Trusts interpret and implement the requirements of the Act and this was issued at the end of March 2018.
- Section 25E requires health boards/trusts to report their compliance in maintaining the nurse staffing level for each adult acute medical and surgical ward and the Health Board must submit a three-yearly report to Welsh Government, along with an Annual Report to Board outlining compliance with the nurse staffing levels, the impact upon the quality of care where the nurse staffing level was not maintained and the actions required in response to this.

Since April 2018, and the commencement of the full scope of the Act, the nurse staffing levels for the 30 plus adult medical and surgical wards that are covered by Section 25B/C of the Act, have been calculated by using the triangulated methodology set out in the Act. In addition, in pursuit of achieving the best care quality for its patients, HDdUHB has sought to apply the principles which underpin this triangulated approach to the review of a significant number of other nursing services which currently fall under the more general requirements of Section 25A of the Act.

In summary, these principles require that in calculating the nurse staffing levels of any nursing service, HDdUHB can demonstrate themselves to be:

- *Exercising professional judgement;*
- *Taking into account the average ratio of nurses to patients appropriate to provide care to patients that meet all reasonable requirements, estimated for a specified period using evidence based workfare planning tools; and*
- *Considering the extent to which patients' well-being is known to be particularly sensitive to the provision of care by nurses.*

(NSLWA: Section 25C, 1a and 1b(i)(ii))

Additionally, the detailed requirements of the Act (Sections 25B and C ) also state that the designated person may calculate different nurse staffing levels –

- *In relation to different periods of time;*
- *Depending on the conditions in which care is provided by a nurse*

(NSLWA Section 25C, 2a and 2b)

HDdUHB will continue to apply these principles to guide its actions when calculating nurse staffing levels as part of its COVID-19 pandemic response plan. It is acknowledged however that significant deviation from the norm in relation to nurse staffing planning may be required during the COVID-19 response period. It is conceivable that during the forthcoming months, there could be significant pressures on the nurse staffing levels due to the availability of the nursing workforce (in particular the registered workforce).

In response to this, the Chief Nursing Officer (CNO) for Wales issued a letter to all Executive Nurse Directors in Wales on 24<sup>th</sup> March 2020, in order to provide clarity on the COVID-19 disruption to the Nurse Staffing Levels (Wales) Act (Appendix 1).

This letter acknowledged that the pandemic could disrupt the business-as-usual processes of - and work-streams associated with - the Nurse Staffing Levels (Wales) Act 2016.

The letter also summarised the position of WG i.e. that the professional judgement of the designated person would remain a key determinant in ensuring staffing in all areas where

nursing care is either provided or commissioned would be managed as appropriately as possible during this extraordinarily difficult time.

On behalf of the Executive Director of Nursing, Quality and Patient Experience, HDdUHB issued detailed guidance to the operational Heads of Nursing outlining the implications and actions to be taken as a consequence of the CNO's letter. These actions included:

- Suspending the usual biannual review and recalculation of nurse staffing levels which had been due in spring 2020, in order to free up additional time/effort to focus on COVID-19 planning/clinical work.
- Continuing to take 'all reasonable steps' to maintain the agreed nurse staffing level for the S.25B wards, and recording the circumstances if/when the planned nurse staffing levels cannot be achieved.
- Setting and maintaining nurse staffing levels for 'repurposed' COVID-19 wards. (The CNO letter confirms that such wards do not meet the definition for wards that fall under Sections 25B/C of the Act; reflecting this, the full triangulated methodology cannot be applied. However, the principles from the Act which are stated above will be applied to the initial calculation of the nurse staffing levels for the repurposed COVID-19 wards and these will be kept under review as a greater understanding of the nursing care needs of patients emerges).
- Establishing more robust data capture / record keeping systems regarding ward purpose and nurse staffing levels for both Section 25B/C wards and for other nursing services, in order that the narrative of the pandemic situation as it applies to nurse staffing levels can be properly and fully reflected in the three yearly report which will be required to be submitted to WG in 2021.
- Reviewing (by the designated person) of any changes to nurse staffing levels made as part of each nursing services response to the pandemic.
- Suspending the plans currently underway to prepare the paediatric in-patient services for an extension to the Act which was originally planned for April 2021. (The CNO letter makes it clear that the commencement of the Act for this clinical service will be delayed beyond this date, with the exact date to be advised later in 2020).

### Asesiad / Assessment

- 1. Number of adult inpatient wards:** The table below provides a breakdown of the number of adult inpatient wards within the Health Board falling under each main section of the Act for each week commencing 16<sup>th</sup> March 2020 (the date from which the wards started to be repurposed as COVID-19 wards).

Date	16/03/2020	23/03/2020	30/03/2020	06/04/2020	13/04/2020	20/04/2020	27/04/2020	04/05/2020	11/05/2020	18/05/2020	25/05/2020	01/06/2020	08/06/2020
Number of S25B wards	26	23	19	17	17	17	17	18	18	22	22	24	28
Number of S25B wards repurposed as covid wards	4	7	11	13	13	13	13	12	12	9	9	7	3
Number of S25A wards repurposed as covid	4	4	4	4	4	4	4	6	6	6	6	7	7
Number of additional S25A inpatient wards*	12	12	11	10	9	10	10	10	10	10	10	10	10

- 2. Actions taken in relation to calculating the nurse staffing level on S25A and S25B wards.**

As previously stated, the principles that underpin calculating the nurse staffing levels of any nursing service include:

- *Exercising professional judgement;*
- *Taking into account the average ratio of nurses to patients appropriate to provide care to patients that meet all reasonable requirements, estimated for a specified period using evidence based workfare planning tools; and*
- *Considering the extent to which patients' well-being is known to be particularly sensitive to the provision of care by nurses.*

(NSLWA: Section 25C, 1a and 1b(i)(ii))

Where relevant data existed and which reflected the functionality of any of the adult in-patient wards during this period, this data has been used to underpin the review and decision making relating to setting the nurse staffing levels. However, where no historical quality of acuity data has been available for the repurposed ward function, the nurse staffing levels have been set based largely on professional judgement. These will be reviewed regularly as acuity and quality data become available to enable a triangulated approach to be taken to setting the nurse staffing levels.

Professional judgement is defined in the Operational Guidance issued by WG (2018) in support of the implementation of the Act) as referring to the application of:

*.....'knowledge, skills and experience in a way that is informed by professional standards, law and ethical principles to develop a decision on the factors that influence clinical decision making in relation to patient safety'.*

The statutory guidance which accompanies the Act describes some of the considerations that may be taken into account when exercising professional judgement, which includes:

- The qualifications, competencies, skills and experience of the nurses providing care to patients.
- The effect of temporary staff on the nurse staffing level.
- The effect of a nurse's considerations of a patient's cultural needs.
- Conditions of a multi-professional team dynamic.
- The potential impact on nursing care of a ward's physical condition and layout.
- The turnover of patients receiving care and the overall bed occupancy.
- Care provided to patients by other staff or health professionals, such as health care support workers.
- Any requirements set by a regulator to support students and learners.
- The extent to which nurses providing care are required to undertake administrative functions.
- The complexity of the patients' needs in addition to their medical or surgical nursing needs, such as patients with learning disabilities.
- Delivering the active offer of providing a service in Welsh without someone having to ask for it.

Professional judgement is used by registered nurses all day and every day and is applied throughout the processes of calculating and maintaining nurse staffing levels. The decisions made are both complex and contextual.

It should be noted that due to the ongoing and significant re - designation of wards and clinical areas taking place across the Health Board's services in response to the implementation of the 2 metre social distancing requirements within ward areas, a further nurse staffing level calculation cycle is currently being undertaken, the outcome of which will be presented to QSEAC in the near future.

In addition, a system of weekly reviews with Heads of Nursing of the ongoing appropriateness of the planned nurse staffing levels is now in place. This process is intended to support the

operational teams in the earliest possible identification of care quality issues, changes to patient acuity, challenges to achieving the planned nurse staffing levels, etc.

3. **S25B wards:** In line with the CNO letter of 24<sup>th</sup> March 2020, the Spring 2020 nurse staffing level review and recalculation cycle was suspended in its usual format, and instead, a 'table-top' review of the quality indicator and acuity data for the previous 6 months for the wards that continued to be defined as falling under Section 25B has been undertaken in May 2020. The outcome of this table top review has been discussed and agreed with the Executive Director of Nursing, Quality and Patient Experience and the areas of concern emerging for a small number of wards from this review process were followed up with the relevant Head of Nursing; the actions required as a result of these discussions have been agreed.

It should be noted that of those wards which have continued to fall under S.25B of the Act during the previous 12 weeks, several have nevertheless seen a change in function/specialty/patient pathway as part of the HDUHB's COVID-19 response. For example:

- In Bronglais General Hospital (BGH), the acute stroke pathway is usually based on Ystwyth Ward, however this ward has been repurposed as a COVID-19 ward for the period, with the acute stroke pathway being relocated to Dyfi ward during this time. Similarly, in Prince Philip Hospital (PPH), the acute stroke pathway is usually based on Ward 9, however this ward has been repurposed as a COVID-19 ward for the period, with the acute stroke pathway being relocated to Ward 5 during this time.
  - In BGH, the gynaecology surgical pathway ward is usually Rhiannon Ward, however this ward has been repurposed as a COVID-19 ward and therefore the gynaecology surgical pathway has relocated to Ceredig Ward.
  - In Withybush General Hospital (WGH) the trauma and orthopaedic pathway ward is usually WGH Ward 1, since this ward has been repurposed as a -19 ward, the trauma and orthopaedic pathway has relocated to WGH Ward 3. Similarly, Teifi ward - the trauma and orthopaedic ward in Glangwili General Hospital (GGH) - has been repurposed as a COVID-19 ward and trauma/orthopaedic patients have been relocated to Derwen and Cleddau Wards.
  - In PPH, Ward 6 is normally a surgical ward taking elective orthopaedic patients, however this has been repurposed as a medical ward during the previous 12 weeks
  - In addition, it should be noted that the primary purpose of Ward 9 in WGH - a previously decommissioned ward – caused it to fall under Section 25B of the Act for several weeks, during which the nurse staffing levels were calculated based largely on professional judgement (in the absence of available acuity and quality data).
4. **COVID-19 repurposed wards:** an initial calculation of the nurse staffing levels for each of the repurposed COVID-19 wards has also been undertaken and agreed with the Executive Director of Nursing, Quality and Patient Experience (the designated person). The nurse staffing levels agreed are initially based on professional judgement, however will be reviewed regularly as acuity and quality data becomes available and will be taken into consideration.

The qualifications, competencies, skills and experience of the nurses providing care to the patients on the repurposed wards have been taken into account when calculating the nurse staffing levels, and appropriate training has been provided to enable nursing staff to provide the care that they are required to provide. For example, the teams on repurposed COVID -19 wards have received training on the care of patients requiring continuous positive airway pressure (CPAP).

**5. Section 25A adult inpatient wards/departments:** As with the repurposed COVID-19 wards, an initial calculation of the nurse staffing levels for each S25A adult inpatient wards has been conducted and agreed with the Executive Director of Nursing, Quality and Patient Experience (the designated person). These wards/departments include the community hospitals and rehabilitation in-patient wards

It should be noted that, as part of the COVID-19 response, one decommissioned ward (Dewi Ward, GGH) has been reopened and two day units (WGH, Day Surgical Unit (DSU) and South Pembrokeshire Health and Social Care Facility, Cleddau Ward) have been repurposed as inpatient wards.

**6. Informing patients:** The Act requires that the nurse staffing level for all Section 25B wards is made available to patients. The statutory and operational guidance documents issued by WG provide details of how this should be achieved in a consistent manner across NHS Wales i.e. through the display of posters containing the planned roster and nurse staffing establishments for each ward falling under Section 25B of the Act.

The posters are in the process of being updated for Section 25B wards, in line with the requirements, and consideration is also being given to the possibility of providing this information via Health Board websites

## **7. Maintaining the Nurse Staffing Levels**

Section 25B(1)(b) (of the Act) requires LHBs and Trusts to take all reasonable steps to maintain the nurse staffing level. *“Maintaining (the nurse staffing level) means having the number of registered nurses the required establishment and its planned roster require”* (Paragraph 13 of the Statutory Guidance).

In Paragraph 14 of the Statutory Guidance it is *“recognised that the clinical environment is complex and therefore the planned roster may, on rare occasions, be appropriately varied to respond to patients’ dependency and acuity across the system”*.

The Senior Sister/Charge Nurse is responsible for planning, in advance, a staffing roster which aims to ensure that the number of staff scheduled to be on duty reflects the planned roster which has been agreed with the ‘Designated Person’. The Senior Sister/Charge Nurse is also responsible for liaising with the nurse manager in order to address any anticipated or unexpected gaps in the nurse staffing level. On occasions however, as described above, the planned roster **may** be changed in response to an assessment of the actual patient need that exists at the time. Such a change would be based on the professional judgement of the nursing leadership team.

For the period 1st April 2020 – 31st May 2020, the Senior Sisters/Charge Nurses of the adult inpatient wards referenced in this report (both Section 25A and Section 25B wards) recorded that the number/skill mix of nursing staff on duty during the last 24 hours was as per the planned roster on 1495 occasions out of 1846 times that the assessment was made and recorded on the Health and Care Monitoring System (HCMS). During April and May 2020, 81% of the time, adult wards were staffed to exactly the number of staff specified within the planned roster.

In addition, on a further 218 occasions (12%) when the number/skill mix of nursing staff on duty was varied from the planned roster, this was an active and appropriate decision taken

by the Senior Sister/Charge Nurse and Senior Nurse Manager and was based on the needs of the patients in the ward at that time.

On 133 occasions (7 %) during April and May 2020, the number/skill mix of nursing staff on duty was not as per the planned roster. During these occasions, the narrative provided shows that the following mitigating steps have been taken:

- Use of temporary staff from either bank or agency,
- Temporary use of staff from other areas within the site, and
- The temporary closure of beds.

### 8. Section 25E (2b) Impact on care due to not maintaining the nurse staffing levels

Further to the quantitative data shown above, a review has taken place of the incidents and complaints which are reportable under the Act and which have occurred during the April and May 2020 period.

These reportable incidents/complaints are those which fall into the following categories and where failure to maintain the nurse staffing level was considered to have been a factor:

- 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.

The table below sets out the number of reportable serious incidents/complaints where failure to maintain the nurse staffing level was considered to have been a factor. Although there is only a requirement under the Act to report the above incidents for those wards where S.25B apply, in the interests of transparency and assurance, the table below includes the data for **ALL** the HDdUHB's in-patient adult wards (both S25A and S25B) during this 2 month period.

Patient harm incidents (i.e. nurse-sensitive Serious Incidents /Complaints)	S.25B wards		S.25A wards/departments	
	Total number of serious incidents/complaints during <u>current</u> reporting period.	Number of serious incidents/complaints where failure to maintain the nurse staffing level was considered to have been a factor	Total number of serious incidents/complaints during <u>current</u> reporting period.	Number of serious incidents/complaints where failure to maintain the nurse staffing level was considered to have been a factor
Hospital acquired pressure damage (grade 3, 4 and unstageable).	1	0	0	NA
Falls resulting in serious harm or death (i.e. level 4 and 5 incidents).	4	0*	0	NA
Medication related never events.	0	NA	0	NA
Complaints about nursing care	2	0	2	0

\*For one of these, Falls incidents, the judgement made is based on an initial review of facts and judgement made during the investigation process – this incident remains subject to final review and 'sign off' by Senior Nurse/Head of Nursing.

### Argymhelliad / Recommendation

QSEAC is asked to discuss the content of the report and receive an assurance from the actions taken to maintain nurse staffing levels.

<b>Amcanion: (rhaid cwblhau)</b> <b>Objectives: (must be completed)</b>	
Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	5.1 Monitor progress of and assure the Board in relation to its compliance with relevant healthcare standards, national practice and mandatory guidance.
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Corporate risk register 647
Safon(au) Gofal ac Iechyd: Health and Care Standard(s):	2. Safe Care 4. Dignified Care 7. Staff and Resources
Nodau Gwella Ansawdd: Quality Improvement Goal(s):	Protect Patients From Avoidable Harm From care
Amcanion Strategol y BIP: UHB Strategic Objectives:	4. Improve the productivity and quality of our services using the principles of prudent health care and the opportunities to innovate and work with partners. 5. Deliver, as a minimum requirement, outcome and delivery framework work targets and specifically eliminate the need for unnecessary travel & waiting times, as well as return the organisation to a sound financial footing over the lifetime of this plan
Amcanion Llesiant BIP: UHB Well-being Objectives: <a href="#">Hyperlink to HDdUHB Well-being Objectives Annual Report 2018-2019</a>	2. Develop a skilled and flexible workforce to meet the changing needs of the modern NHS

<b>Gwybodaeth Ychwanegol:</b> <b>Further Information:</b>	
Ar sail tystiolaeth: Evidence Base:	The evidence underpinning the effectiveness of the maintenance of nurse staffing levels in ensuring the delivery of safe care has been articulated through the working papers of the All Wales Nurse Staffing Group over the past three years.
Rhestr Termiau: Glossary of Terms:	Contained with the body of the report
Partion / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Ansawdd, Diogelwch a Sicrhau Profiod: Parties / Committees consulted prior to Quality, Safety and Experience Assurance Committee:	None

<b>Effaith: (rhaid cwblhau)</b> <b>Impact: (must be completed)</b>	
<b>Ariannol / Gwerth am Arian:</b> <b>Financial / Service:</b>	The financial impact of the nurse staffing levels over the last two years has been significant with investments made both in the registered nurse and health care support worker workforce. Nurse staffing levels are currently being impacted on by the additional staffing requirements imposed by the additional COVID-19 Infection prevention and control requirements. The extent to which this will become a permanent situation has not yet been possible to assess
<b>Ansawdd / Gofal Claf:</b> <b>Quality / Patient Care:</b>	The intention underpinning the Act is to ensure safe, effective and quality patient care. One of the key requirements of the Act is to monitor the impact of nurse staffing levels on care quality; therefore, this metric will be carefully monitored as part of the work to implement the Act.
<b>Gweithlu:</b> <b>Workforce:</b>	This paper relates to the nurse staffing levels across all adult in-patient wards as the staff working across all these areas are affected by the impact of the changes that responding to COVID-19 has caused.
<b>Risg:</b> <b>Risk:</b>	Risk of non-compliance with the Nurse Staffing Levels (Wales) Act 2016
<b>Cyfreithiol:</b> <b>Legal:</b>	Risk of non-compliance with the Nurse Staffing Levels (Wales) Act 2016
<b>Enw Da:</b> <b>Reputational:</b>	The reputation of the nursing services of the Health Board stands to be enhanced in light of the detailed review and scrutiny being given to monitoring and reviewing the nurse staffing levels and care quality issues during this challenging period.
<b>Gyfrinachedd:</b> <b>Privacy:</b>	Currently no impact in relation to privacy identifiable within this work
<b>Cydraddoldeb:</b> <b>Equality:</b>	No negative EqIA impacts identified.



To: NHS Executive Nurse Directors

24 March 2020

Dear Colleagues,

### **Clarity on COVID19 disruption to Nurse Staffing Levels (Wales) Act 2016**

As COVID19 has become an established and significant epidemic across the UK, NHS Wales' staff and services are coming under increasingly extreme pressure. Welsh Government is fully aware that any sense of "business-as-usual" is becoming increasingly untenable.

I want to provide you with clarity and assurances around how I expect these additional pressures will disrupt the business-as-usual processes of - and work-streams associated with - the Nurse Staffing Levels (Wales) Act 2016 (*the Act*).

It will be helpful to consider the effects of the COVID19 pressures under two headings: firstly the ongoing work to extend the Act's second duty to paediatric inpatient wards; and secondly, compliance with and reporting against the existing duties under the Act.

#### **Extending the second duty to Paediatrics**

Thus far, the provisional schedule for this work has been as follows:

- June to August 2020: 3 month public consultation on the draft regulations and amended statutory guidance;
- November 2020: regulations laid before the Senedd;
- December 2020: Senedd debate and presumptive passing of regs;
- April 2021: Coming-into-force date of regulations on paediatric inpatient wards.

The timetable of those processes is now clearly compromised. In terms of the legislative steps, the capacity to undertake the drafting requirements is still available within Welsh Government. We intend to reschedule the plenary debate to February 2021, allowing the consultation to take place later in 2020, several months after the projected peak of COVID19 activity.

The remaining issue is the capacity within the health boards to take the necessary actions to prepare their wards and staff for the introduction of the new regulations. April 2021 now appears to be entirely unfeasible as a coming-into-force date. Given the current timescales, it is a fair assumption that health boards will require approximately 12 months of preparation time under normal circumstances before the regulations could come into force. In the context of this work stream, I consider *normal circumstances* to be suspended.



However a final decision on a coming-into-force date won't need to be made until the regulations are laid before the Senedd in early 2021. We will of course be monitoring the COVID19 pressures intently in the coming weeks and months, and it is my intention that the 12 month countdown on necessary preparation time for health boards will not resume until pressures have subsided significantly enough to allow this work-stream to continue. For example, if by October 2020 we have returned to what could be considered more "normal circumstances", we would then target a coming-into-force date of October 2021.

This approach is of course based on the best currently available evidence and projection, and is subject to change if and when the situation evolves. Should our approach change in any way, I will of course update you immediately.

Also linked to the extension to paediatric inpatients, I am conscious that our second planned data capture around compliance with the interim paediatrics principles is due this coming May. For obvious reasons I have taken the decision to postpone this until November, pending any further developments.

### **Summary**

- Welsh Government will proceed with the legislative steps that will allow extension of the Act's second duty within this government term as committed.
- This will be achieved through delaying the public consultation to late 2020 and the plenary debate to early 2021.
- The planned April 2021 coming-into-force date will be postponed based on at what point health boards have returned to normal enough circumstances to reasonably proceed with the necessary preparations for extension of the Act's second duty into paediatric inpatient wards.

### **Compliance with and reporting against the existing duties under the Act**

Broadly, the duties on health boards currently under the Act are as follows:

- to calculate nurse staffing levels for adult medical and surgical wards using a prescribed triangulated methodology;
- to take all reasonable steps to maintain those calculated nurse staffing levels;
- to produce a three-yearly report to Welsh Ministers (May 2021) on the extent to which nurse staffing levels have been maintained and the impact not maintaining them has had on care.
- to have regard to providing sufficient nurses wherever nursing care is provided or commissioned;

### **Calculation**

The wording of the statutory guidance is that health boards *should* undertake a recalculation every six months rather than *must*. There is an important legal distinction between the two. If "must" had been used, the biannual calculation schedule would be absolutely mandatory, and we would either need to consider suspending that guidance or accept that all health boards would be non-compliant with the Act. However, "should" allows for more discretion and flexibility in extraordinary circumstances. With the next biannual calculation due imminently, you will need to ask serious questions about whether the resource that goes in those calculations is better used elsewhere.

Further, there is a question around on which wards the health boards would actually be using that triangulated calculating methodology given that we expect ward purposes to change dramatically, and at a rapid pace. On the Executive Nurse Directors Skype meeting on Wednesday last week, you were united in your view that by the peak of the Covid19 pressures, it is likely that all of your currently designated adult medical and surgical wards

will have become “*Covid wards*”. Those wards would technically be considered medical in nature, however given that they will be entirely novel, the lack of quality indicator information alone would make it impossible for you to perform the triangulated calculation as prescribed. There is also a fundamental question of whether the *Welsh Levels of Care* evidence-based workforce planning tool could be applied in those wards given that they will be significantly different environments to the business-as-usual medical and surgical wards where the tool was tested for 2 years.

### Maintaining Nurse Staffing Levels

It is safe to say that during the additional Covid19 pressures, maintaining the nurse staffing levels that have been calculated on your adult medical and surgical wards will become an impossible challenge. Your workforces are likely to be reduced by sickness, and significant numbers of the available nursing staff will be redeployed to Covid19 response out of necessity.

However, we must bear in mind that varying from the nurse staffing level does not constitute a lack of compliance with the Act. As long as a ward remains designated as an adult medical or surgical ward, you will still be actively applying your professional judgement and taking all reasonable steps to mitigate the risk to patients on those wards. Indeed, closing those wards entirely is a reasonable step available to you if you deem it necessary. It is not a step we envisaged being commonly implemented when writing the legislation, but this public health crisis is in essence the most extreme test of the flexibility built into the Act.

### Reporting

I am aware that you are due to take annual reports to your boards in May. I am also mindful that those annual reports are a voluntary step that you as a group of peers agreed to on an all-Wales basis rather than something that is mandated within the Act or its statutory guidance. In usual circumstances it is eminently sensible to provide annual assurances to your Boards that can then be aggregated to create the 3-yearly reports to Welsh Government. However in these extraordinary circumstances, you need to decide whether the time and resource necessary to produce those reports would not be more valuably redirected elsewhere.

In terms of the 3 year report (due in May 2021) which is a statutory requirement, the disruption caused by this pandemic will inevitably have a dramatic impact on the contents of those reports. Thanks to the work of the All Wales Adult work-stream of the Nurse Staffing Programme, we now have a consistent approach to meeting the reporting requirements of the Act. However, a key part of that approach involves enhancements to the HCMS system, which will be impacted by the additional Covid19 pressures. The timescale for delivery was initially 1 April, though I understand that has slipped by a week according to our last update. Whether the enhancements are delivered in April or not, it does not seem reasonable to ask frontline nurses to adopt a new process during what will be a national staffing emergency.

What will be important during these coming months, is that careful records are kept of the steps that you take to manage this developing situation. In April 2021, the first 3-year reports will look significantly different to how we would have envisaged at the start of this year. However, you will still be required to recount the story of what happened on your wards, for example, on what date you closed particular medical and surgical wards to repurpose them as Covid19 wards.

### Overarching regard for providing sufficient nurses

Your duty under section 25A of the Act will remain an important factor in how you are deploying your nursing staff across the entirety of your health boards wherever nursing care is provided or commissioned. Even during a period where “providing sufficient nurses” will

seem like a foreign concept, your responsibility of minimising risk to patient safety through applying your professional judgement will remain.

### **Summary**

Under these exceptional circumstances, it is the Welsh Government's position that:

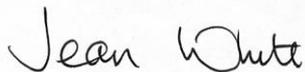
- it is within the health boards' respective discretion to proceed with or cease work on the imminently scheduled biannual re-calculation of adult medical and surgical wards;
- similarly it is within the health boards' respective discretion to indefinitely postpone the annual report to board, due May 2020;
- adult medical and surgical wards that have been repurposed as novel wards to deal with the Covid19 pandemic would be considered an exception under the definition of an adult medical ward, therefore would not be subject to the prescribed triangulated calculation methodology;
- as long as wards remain designated as adult medical and surgical wards, health boards will be expected to persist with taking all reasonable steps to maintain calculated nurse staffing levels and undertake the usual mitigating actions where possible;
- we acknowledge that those reasonable steps and mitigating actions are still likely to fall short of enabling health boards to maintain the Nurse Staffing Levels calculated during usual circumstances;
- health boards should ensure that they take whatever steps they deem necessary to record their actions taken over the coming months in order to adequately articulate within the first three-year report (due April 2021) the narrative of these extraordinary circumstances;
- health boards – through their executive nurse directors - ensure they are informed of actions being taken in other health boards, and that a consistent, collaborative approach is taken by all; and
- your professional judgement as designated persons will remain a key determinant in ensuring staffing in all areas where nursing care is either provided or commissioned is managed as appropriately as possible during an extraordinarily difficult time.

Finally, I feel I must stress the importance of remaining united as a peer group. Especially in such extraordinary times, there is clear value to a once-for-Wales approach to how health boards manage these immense pressures.

A hoffech gael yr wybodaeth hon yn  
Gymraeg, byddwch cystal â rhoi gwybod.

If you would like to receive this information in  
Welsh, please let me know.

Yours sincerely,



Professor Jean White CBE  
Chief Nursing Officer  
Nurse Director NHS Wales