

Health Education and Improvement Wales,  
Ty Dysgu,  
Cefn Coed,  
Nantgarw,  
CF15 7QQ.

18<sup>th</sup> July 2023

Mr. Russell George MS  
Chair, Health and Social Care Committee  
Welsh Parliament  
Cardiff  
CF99 1SN

(By email only)

Dear Mr. George,

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

Health Education and Improvement Wales welcomes the opportunity to contribute to this important consultation on the Nurse Staffing Levels (Wales) Act 2016. We would also like to thank you for giving us an extension to July 20<sup>th</sup> to respond.

This submission is provided to the Health and Social Care Committee on behalf of Health Education and Improvement Wales (HEIW) and covers the four areas provided within the Terms of Reference of the consultation.

### **Introduction**

Health Education and Improvement Wales (HEIW) is the national strategic workforce body for NHS Wales. Workforce is the key strategic issue at the heart of the service and one of the key quality challenges affecting health and care in Wales. As an organisation, we have a unique contribution to make in addressing strategic and specialist workforce issues through our statutory functions and play a lead role in the development of strategic workforce plans supporting the development of the current and future shape of the workforce.

Our purpose is, as part of the NHS, to work with system partners to plan, develop, educate, train, and sustain the current and future NHS workforce. Our key functions are:

- Education and training – planning, commissioning, delivering, and evaluating.
- Leadership development
- Workforce strategy, planning, and intelligence.
- Workforce development and transformation
- Professional support for workforce and organisational development
- Quality improvement
- Careers and widening access
- Workforce retention

### **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.**

As the strategic workforce body for NHS Wales, it is HEIW's view that The Nurse Staffing Levels (Wales) Act 2016 has raised the profile of nursing in Wales and highlighted that maintaining nurse staffing levels ensures safe care is provided to patients. The Statutory Guidance (Welsh Government 2016), provides the detail on how to calculate, maintain and inform patients of the

nurse staffing levels on adult acute medical and surgical inpatient and paediatric inpatient wards, using a triangulated methodology ensuring a consistent approach across Wales, that is informed by nurses.

Research has demonstrated that nurse staffing levels can impact on patient morbidity and mortality (Rafferty et al 2006, Akine et al 2021, Griffiths and Rafferty 2021). The link between nurse staffing and patient outcomes was highlighted 10 years ago in the Report of the Mid Staffordshire Hospital NHS Trust (2013). The Statutory Guidance (Welsh Government 2016) highlights the need to consider where patient well-being is particularly sensitive to care provided by a nurse, and specifies that data relating to patient falls, medication errors and pressure ulcers is analysed. In NHS Wales, this data is collected through the national incident reporting system, where nurse staffing levels and is considered in terms of whether the nurse staffing level was maintained at the time, or whether failure to maintain the nurse staffing level contributed to the incident or to any patient harm. This data is captured and reported to Welsh Government on a three yearly basis. This consistent approach to data collection and scrutiny, increases health board accountability, highlighting patient outcomes and the correlation with staffing levels.

The impact on nurse retention and recruitment is harder to gauge. Increased workload, progressively stressful work and staff shortages are the three (out of 21) most selected reasons for individuals leaving the Nursing and Midwifery Council's register (NMC 2022). While the Act may support nurse recruitment and retention, other variables impact on this too, including pay and conditions, organisational leadership and culture, health and wellbeing of the workforce, continual professional development, flexible working etc. This has also been compounded by the lasting effects of the pandemic, the changing health needs of the population and the increase in health service demands.

Current substantive nursing workforce recruitment and retention challenges, levels of sickness, absence and vacancies make it more challenging for health boards to fully implement the duties of the Act, which may result in a reliance on the use of supplementary staffing. The Statutory Guidance articulates the reasonable steps required at national, strategic, and operational levels to maintain the nurse staffing level, strengthening health board accountability for workforce planning, active recruitment and local retention and wellbeing strategies. The use of supplementary staffing is acknowledged as an operational step to maintain the staffing level. However, supplementary staffing potentially impacts on the provision of continuity of care to patients and is expensive.

The Act currently adopts an uni-professional methodology, which is somewhat limiting. As health and care services continue to develop and evolve in response to the changing health and care needs of the Welsh population, the workforce is also transforming and recognising the skills and valuable contribution of others in the multi-professional team to deliver patient centred care.

Compliance with the Act is reliant on the recording, collating and interpretation of data relating to staffing and the triangulated methodology. In order that nursing staff can utilise their skills appropriately, efficiently and effectively, it is essential that the correct national and integrated IT infrastructure, with training for staff, is in place to support this.

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

Further action, investment and collaborative working across NHS Wales, Social Care, education providers and Welsh Government is needed to ensure a sustainable supply of nursing staff to meet population health needs and the requirements of the legislation going forward.

This will require a multi-faceted approach which is at the heart of HEIW's Strategic Nursing Workforce Plan due to completed by the end of 23/24. . HEIW's focus is on the development and implementation of co-ordinated plans for attraction, recruitment, retention, education and training, workforce transformation, developmental and career opportunities and pathways, and the wellbeing of the workforce. The Nursing Workforce Retention Plan is due to be launched in August 2023 and reflects the views and evidence from across the UK. We also recognise that action is needed to

address current pay and working conditions, in particular flexible approaches to working, to ensure a sustainable supply of nursing staff.

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

The interim nurse staffing principles for health visiting, mental health nursing and district nursing have been developed, to provide Health Boards/Trusts with guidance to assist them with workforce planning. The principles can be adopted by health boards and support a consistent approach to workforce planning in these areas.

Tools have been developed and have undergone various levels of testing, evaluation, and analysis to refine and build the evidence base that is required to underpin them. Further work needs to be undertaken to strengthen the evidence base to ensure that it contains an objective assessment of added value and impact measures.

Prior to any change to the legislation, the development of a national IT system with digital solutions and data analytical support is needed to ensure the effective and efficient collation and utilisation of data at a local and national level. With the correct IT infrastructure, data can be easily recorded, collated, and analysed enabling the evidence base to be developed, providing opportunities for benchmarking and to inform decision making and workforce planning.

Extensive work has been undertaken by HEIW in collaboration with stakeholders to develop a range of workforce planning tools to support Health Boards and Trusts.

### **4. 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.**

Since the writing and the introduction of the Act, service developments and improvements across the health and social care sector reflect the philosophy of multi-professional working, to ensure care is delivered by the right person with the right skills at the right time. As the Act matures, it is important for the sustainability and affordability of the health and care system that a multi-professional and multidisciplinary delivery of service provision is recognised and taken into account.

As digital technologies develop and population health needs change, this will impact on the models of care delivery and the shape and supply of the workforce. The Act therefore needs to be considered in terms of the wider workforce agenda, including workforce transformation, models, and design, especially in light of the workforce challenges, experienced by health and social care.

There is a risk that in restricting the second duty of the Act to adult inpatient medical and surgical wards and paediatric inpatient wards, scarce resources might be prioritised for these areas because they have a statutory duty for nurse staffing levels (25b areas) to be reported to Welsh Government. This might be at the expense of other areas where care is appropriately delivered by other professions. This also limits the Act’s ability to ensure the needs of the whole population are met.

HEIW as part of NHS Wales is responsible for the planning, development, education, and training of the current and future workforce, with a focus on multi-professional learning and working to deliver safe and skilled care to patients. HEIW will continue to work with NHS Wales and Welsh Government to invest in the needs of the workforce, including compliance with the Act.

### **Additional Comments**

We wonder about the timing and value of reviewing the legislation following the pandemic. The disruption caused during the pandemic understandably impacted significantly on the capacity and ability of organisations to implement the legislation.

It needs to be recognised; the introduction of the Quality Act now places the improvement of patient safety at the heart of the NHS in Wales .

As an organisation, our work on the development of strategic workforce plans is aimed at ensuring we develop a workforce to provide safe and quality care to patients. Overall, we believe that any initiative to improve patient safety, whether legislation or otherwise, must be based on evidence that demonstrates the best results for patients

In conclusion, we trust that the views submitted on these issues will be helpful to you. In line with our Welsh Language Scheme, we will also be submitting a Welsh language translation of this response.

Thank you again for the opportunity to contribute to this important consultation on the Nurse Staffing Levels (Wales) Act 2016.

If there is anything more you need, then please get in touch.

Yours sincerely

A handwritten signature in black ink that reads "Lisa Llewelyn". The signature is written in a cursive style with a large initial 'L'.

*Lisa Llewelyn*

*Cyfarwyddwr Gweithredol Addysg Nyrsio a Gweithwyr Iechyd Proffesiynol*  
*Executive Director of Nurse and Health Professional Education*

*Addysg a Gwella Iechyd Cymru*

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