

## Y Pwyllgor Iechyd a Gofal Cymdeithasol

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Lleoliad:

**Ystafell Bwyllgora 3 – Senedd**

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Dyddiad:

**Dydd Iau, 19 Mawrth 2015**

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Amser:

**09.00**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



I gael rhagor o wybodaeth, cysylltwch â:

**Llinos Madeley**

Clerc y Pwyllgor

0300 200 6565

[Seneddlechyd@Cynulliad.Cymru](mailto:Seneddlechyd@Cynulliad.Cymru)

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### Agenda – Dogfennau Ategol

Bil Lefelau Diogel Staff Nyrsio (Cymru): gwybodaeth ychwanegol a ofynnwyd amdani yng nghyfarfod y Pwyllgor ar 5 Mawrth

Noder bod y dogfennau a ganlyn yn ychwanegol i'r dogfennau a gyhoeddwyd yn y prif becyn Agenda ac Adroddiadau ar gyfer y cyfarfod hwn

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**6 Y Bil Lefelau Diogel Staff Nyrsio (Cymru): trafod y dystiolaeth a ddaeth i law (12.25 – 12.30) (Tudalennau 1 – 27)**



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 Welsh Independent Healthcare Association - SNSL AI 11 / Tystiolaeth gan Cymdeithas Gofal Iechyd Annibynnol Cymru - SNSL AI 11

## **Safe Nurse Staffing Levels (Wales) Bill WIHA's second written submission to the Health and Social Care Committee**

### **Introduction**

1. Further to the Welsh Independent Healthcare Association's (WIHA) response to the Call for Evidence on this Bill, WIHA is pleased to submit this further response to two questions posed by the Health and Social Care Committee.
2. WIHA is the representative association of the majority of independent acute and mental health hospitals in Wales. Please find attached the latest WIHA Credentials document which provides an overview of the independent healthcare sector in Wales.

### **Applying the provisions of the Bill to independent healthcare settings**

3. *Question 1 - Why, in your view, the Bill should include provisions that apply to independent healthcare settings - the WIHA's written evidence states: "The WIHA is very pleased to have had the opportunity to comment on a possible amendment for the Safe Nurse Staffing Levels Bill to include the independent healthcare sector and it is important that should the Bill be extended that it will include all of the Independent Sector not just NHS funded care within the Sector."*
4. The independent healthcare sector serves to provide safe quality healthcare to patients who choose to self-pay or use private medical insurance. The sector also provides some additional capacity to the NHS in periods of extreme pressure on NHS services. Safe staffing is a key aspect of independent healthcare quality standards in order to protect **all patients (whether NHS or privately-funded)** and to supply safe care in a dignified manner. Therefore inclusion in the Bill allows the independent sector to reflect their support of safe staffing for all the patients they treat.



5. The independent healthcare sector is, of course, already reviewed for safe practise by Healthcare Inspectorate Wales. However the additional provision of standards via this Bill would support this function and provide clear guidance to the regulator and providers.
6. WIHA members treat a mixture of NHS and privately-funded (private medical insurance and self-pay) patients alongside each other; there is no distinction between patients on the basis of their funding source. Indeed nursing staff would not necessarily know the funding means of a particular patient. Were the Bill to only apply to NHS-funded patients it could lead to a discriminatory system between the two groups of patients which may cause confusion and care lapses.

#### **Nurse staffing ratios in the independent healthcare sector**

7. *Question 2 - Whether the industry adheres to any staffing ratios at the moment and, if so, what those ratios are, to what extent compliance is monitored and by whom, and what the rates of compliance are.*
8. *Does the sector adhere to any staffing ratios at the moment?*
9. Staffing ratios are assessed using the clinical judgement and expertise of the clinical leaders as a recognised tool. Acuity of patients, skill mix of staff, category of surgery and local factors are all used to establish safe staffing. Staffing ratios are assessed as a minimum 24 hours in advance, and as a continuous measure. The aim is to meet patient need at the time and in order to do so the system requires flexibility. The actual ratios may be slightly different dependant on the WIHA member and indicate minimum safe staffing levels rather than a maximum.
10. WIHA members also take cognisance of relevant guidance in this area, for example:
  - NICE guideline *Safe staffing for nurses on adult inpatient wards in acute hospitals*, which has application in Wales.
  - Royal College of Nursing publications such as *Guidance on Safe Nurse Staffing Levels in the UK*.
11. WIHA values the bi-annual meetings held with Chief Nursing Officer (CNO) for Wales, Dr Jean White, and her inclusive approach to WIHA members. The CNO communicates developments in this area to WIHA members.
12. *If so, what are these ratios?*



13. As per paragraph 9 above, nursing staff ratios vary for a number of reasons. It is essential that professional judgement is used throughout the planning process.

14. Ratios in WIHA member hospitals also reflect the abilities of our Healthcare Assistants (HCAs) who having gained an NVQ Level Three are able to participate more fully in providing care.

*15. To what extent is compliance monitored?*

16. Any unsafe levels of staffing are escalated via clinical leaders to senior nursing management under the WIHA member's clinical governance structures. Compliance is also monitored via audit at clinical reviews, and is part of the complaints and any adverse incident investigations. Comprehensive Whistleblowing policies are in place to protect the staff member should there be an issue which an individual feels is necessary to escalate.

17. Healthcare Inspectorate Wales have also discussed safe staffing at recent inspection visits of certain WIHA member hospitals.

*18. By whom is compliance monitored?*

19. Compliance is monitored by clinical leaders and shift coordinators within the organisation. As stated above this is also monitored periodically through the internal clinical audit process and externally by Healthcare Inspectorate Wales.

*20. What are the rates of compliance?*

21. WIHA members achieve 100% compliance as there is a zero tolerance approach to unsafe staffing. Bank and agency staff are used to fill any staffing shortages.

**Particular points to consider in the independent healthcare sector context**

**22.** Should this Bill be enacted, robust workforce planning strategies will be needed to ensure that there are sufficient nursing staff numbers to ensure compliance. WIHA members are beginning to be included in formal workforce planning structures for Wales and this would need to be continued. Nursing staff can and do work across the NHS and independent sector and it is therefore helpful to consider workforce planning in the widest sense to encompass the entire healthcare sector.



23. The proposed Bill makes mention of registered nurse ratios and the ratio of healthcare support workers to registered nurses but makes no specific recommendation on the HCA role nor on minimum numbers for these important members of staff. WIHA members have invested in the training of their HCA staff who consequently play a significant role in the provision of essential nursing care. It would seem prudent that their role is recognised within this Bill.
24. Independent healthcare providers tend to deliver care using a holistic approach based on a multi-disciplinary team. Different professions have more scope to deliver care that might not traditionally be delivered by their profession in a different setting. For example, the boundaries between nurses and occupational therapists may be more blurred in parts - focusing solely on nurse staffing ratios could have adverse effects on such allied health professions.
25. Models of effective healthcare delivery are continually evolving and due to their nature independent healthcare providers are able to respond quickly to such changes. There is a real danger that any inflexible legislation could become outdated as care delivery models change and new evidence bases develop.
26. The independent healthcare sector has a significant provision of the mental health and learning disabilities services in Wales and WIHA would be interested to know whether such settings would also be brought under the auspices of the Bill.

### **Conclusion**

27. Nurse staffing ratios are a highly complex issue. Should the Bill's remit be extended beyond the NHS, sufficient flexibility would need to be built into its provisions to ensure that it allows the differing structures within the independent sector to meet the terms.
28. In order for Committee members to gain a broader understanding of the independent healthcare sector, WIHA would like to formally invite them to visit their local WIHA member hospital. This will enable members to see the hospital in operation and speak directly to the lead nurse on the issue of safe staffing levels.

*11 March 2015*

1. Whether standard contracts are used for such arrangements;
  - There is no standard contract across NHS Wales with care home providers for NHS Funded nursing care of for the provision of Continuing Healthcare in care homes. Some Health Boards will have joint contracts with their Local Authorities. This work being led by WG and the National Commissioning Board on the development of model terms and conditions for the sector.
2. How health boards monitor compliance with the contracts/agreements that are in place for the delivery of care they have commissioned.
  - In CT we have nurse assessors who will monitor the patients care delivery against the assessed needs, we also monitor the contract jointly with the local authorities.
3. The Committee would also welcome an indication of health boards' views on the inclusion of such a provision in the Bill.
  - It would be unwise to include within the bill given the need to use professional judgement of patients assessed needs.

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[Safe Nurse Staffing Levels \(Wales\) Bill / Bil Lefelau Diogel Staff Nyrsio \(Cymru\)](#)  
Evidence from Hywel Dda University Health Board - SNSL AI 13 / Tystiolaeth gan  
Bwrdd Iechyd Prifysgol Hywel Dda - SNSL AI 13

### **Contractual arrangements**

Adults who require joint funding by the both the LA and the NHS, in the Care Home setting i.e. NHS Funded Nursing Care, the Local Authority is often the lead commissioner and Hywel Dda University Health Board (in common with the process developed across Wales), utilises LA procurement/contracting services to enter into joint funding arrangements. As such there is a joint contract signed by both organisations for all the Nursing Homes within the Health Board community. These contracts include standard terms and conditions, but also a service specification for the provision of services for adults in care homes which are based on the National Minimum Standards for Care Homes for Older People.

For patients who are fully funded by the NHS, 'spot purchasing' and individual contracts are utilised. These are used in conjunction with the standard contracts as above.

Prior to admission to a Care facility however, the provider will be expected to assess the individual and confirm that their needs can be fully met within that facility. This assessment will form the basis of the Care Plan that the provider is expected to put in place and which will be scrutinised as part of the ongoing monitoring and review of the individual concerned.

In relation to looked after children, each Local Authority has a Complex Needs/Out of Area placement panel who consider applications for children and younger people whose needs cannot be met in county. Currently the Local Authority is often the lead commissioner and Hywel Dda makes use of their procurement/contracting services to enter into joint funding arrangements.

### **Information within contracts**

Hywel Dda University Health Board (HDUHB) has a number of processes in place to ensure the appropriate selection of Providers. All placements are supported by a contract devised and signed by both HDUHB and the 3 Local Authorities within the region.

This contract covers a number of key elements as listed below:

- Commencement and duration
- Complete Agreement
- The Service
- Care Management
- Nursing Care Assessment
- Standards of Service
- Liaison and Access Arrangements
- Information and Communication
- Trial Period
- Review of this contract and individual placement agreements
- Absence from Residence
- Emergencies
- Inability to meet terms of contract

- Termination
- Termination of Individual Placement Agreement
- Monitoring and Evaluation
- Protection of Vulnerable Adults and Children
- Complaints
- Confidentiality and Data Protection
- Freedom of Information and openness
- Legislative Requirements
- Equal Opportunities
- Welsh Language Act 1993
- Health and Safety
- Staffing
- Criminal Records Bureau/Protection of Vulnerable Adults
- Care Standards Authorities
- Insurance and Indemnity
- Assignment and Sub Contracting
- Agency
- Resolving complaints and Disputes
- Default
- Declaration of Interest
- Waiver
- Severance

The Service Specification sets out the Providers duty of care to provide appropriate services at an acceptable standard of quality to individuals, irrespective of the care setting and within the regulations of the CSSIW. Work is currently being undertaken to develop a further service specification based on the 12 aspects of care outlined within the Welsh Governments Fundamentals of Care – Quality of Care for Adults 2004.

Additionally, the current service specification sets out the providers obligations for safeguarding, admission and discharge, access, medication management, accidents, health and safety, records management, staffing and training.

Contact is made with the Provider if issues are identified following any complaint or incident. This would include requests for written evidence that regulatory breaches have been actioned.

Inspection Reports are reviewed. Generally these are accessed via the Regulator sites on the internet and also up to date reports are routinely forwarded to the Funded Nursing Care Department. These reviews aim to:

- Confirm the care category registration e.g. care home with nursing, residential care, domiciliary care etc.
- Determine whether there are any regulatory breaches or any other areas of concern
- Identify any concerns that might impact on the individual to be placed e.g. concerns around staff training, any clinical, care planning, risk assessment concerns etc.
- Written evidence required to support that actions have been taken/risks mitigated.

Significantly, from a Mental Health and Learning Disability perspective most out of county placements are delivered within locked rehabilitation units or seldom, low security hospitals. Locked rehabilitation hospitals are currently spot purchased however the low secure facilities are



commissioned within the National Secure Service Framework which was introduced on February 1<sup>st</sup> 2012. Phase 2 of the project will next include all non-NHS rehabilitation units.

The National Secure Services Framework provides a collaborative procurement programme to acquire Secure Services for NHS Wales. The project was in part financed by the Welsh Government Invest to Save funding.

The objectives are to:

- Improve service quality
- Improve value for money for NHS Wales
- Improve compliance i.e. governance arrangements for such services.
- The project organized effective governance arrangements which included a Quality Assurance group with local health Board chairmanship and multi-agency membership; and a project Board with LHB Chairmanship and Health Boards/WHSSC Executive representation.

It was identified that there were enormous variations partially explained by clinical factors but other factors were evident:

- Commercial approaches e.g. contracts, service specifications and procurement expertise
- Control of care pathway – no incentive to rehabilitate patients, reviews of the clinical outcomes and interventions
- Risk management – historical approaches.

The Framework has enabled the following –

- An approved list of suitably qualified, financially viable providers to meet NHS Wales's quality service and cost criteria.
- Establishment of NHS standard contract terms/conditions and a transparent pricing framework.
- Improvement in relationships and communication with the Independent Sector.
- Establishment of Key Performance Indicators (KPI's), access to management information and the provision of clear and consistent patient level data underpin a performance management framework.
- Introduction of patient focused outcome measures in accordance with the NHS Wales minimum service standards/specification.
- Consistent and sustainable high quality service provision and improved patient outcomes.

In respect of residential, nursing homes and domiciliary care agencies, the contract leads tend to sit with the Local Authorities. Contract monitoring and provider performance meetings are held monthly, attended by health professionals/commissioners.

The Regional Commissioning process consists of a consortium of preferred providers offering residential care. These outcomes are scrutinised at the monthly multi-agency Commissioning panels taking into account of any concerns raised at the performance meetings.

### **Monitoring arrangements**

#### **For patients with physical needs**

HDUHB has a number of processes in place to ensure the maintenance of adequate standards of care and clinical/contractual monitoring.

In line with the Statutory guidance set out in WHC (2004)024, individuals in receipt of NHS Funded Nursing care, are assessed within a time period of no more than 3 months following admission by a Nurse Assessor employed by the NHS and following that, are then assessed or reviewed on an annual basis or more frequently should the needs of the individual change.

For patients in receipt of NHS Funded Continuing Care, the individual patient reviews and assessments are undertaken with a frequency that reflects the arrangements for NHS Funded Nursing Care albeit at times the assessments will be more frequent in response to the fluctuation in care needs that may occur in patients whose needs may be both complex and unstable. The assessments are recorded on comprehensive documentation and held within the patient's record. Details of all individuals funded by the Health Board are recorded on a confidential password protected database which not only assists the Health board in the patient management and review but also performance management arrangements with the respective Care facility. Patients and their relatives are fully engaged with the assessment process and in line with good practice; patients are expected to confirm their participation in the process on the relevant documentation.

A Nurse Assessor is allocated to every Nursing Home across Hywel Dda, which enables a constructive relationship to be developed between the Care Home Registered manager and the Health Board, providing the basis for development and support. However, the Nurse Assessor not only has the role of reviewing patients within the homes, but is also responsible for monitoring and reporting any issues identified in relation to general care within that specific Home. As patients, relatives and staff become used to the Nurse Assessor being present in their Home on a regular basis, this has led to a greater openness and confidence in sharing any concerns and issues that they may have. For patients who are subject to sectioning under the Mental Health Act, there are regular CPA reviews, which are undertaken in addition to assessments undertaken by Nurse Assessors.

#### **For individuals with Mental Health or Learning disabilities in non NHS settings**

The monitoring and review of the individual and placements will be undertaken via a number of methods including the following:-

A The nurse assessor will link with care co-ordinator and clinical team to make the necessary review arrangements

- Care Programme Approach (CPA) meetings are attended by care co-ordinators, other members of the clinical team and where necessary nurse assessors or commissioning representatives.
- Routine checks of CSSIW or HIW inspection reports are undertaken by the commissioning team.
- Multi disciplinary team recommendations in respect of specific placements are considered, pre visits are undertaken and discussion with families.
- Local Authority contract / provider meetings are held with health representation.
- Close working relationships exist with the regional low secure service team and regular meetings are held to review caseloads, database and consider any information available.
- The Learning Disability "Placement, Planning and Provision" team, have a specialist remit for the development of future provision and identification of individuals future needs. They visit providers and develop considerable intelligence in relation to these services.

HDUHBs expectations with regard to use of physical restraint entail the following:-

- A Multidisciplinary agreement to the Care Plan and Risk Assessments.
- Full review of needs to rule out other reasons of behaviours that challenge.
- Regular training by BILD accredited Positive Behaviour management.
- Monitoring and Evaluation of Positive Behaviour Plan.
- Safeguarding training/procedures for all staff.
- Whistle blowing policy/procedures.
- Communication between Health Boards, Local Authority, Quality Care Commission, Health Inspectorate Wales and respective Safeguarding to highlight outstanding conditions, embargos, highlight patterns of concern, how recorded, how reported, how communicated, 2:1/1;1 monitoring.

### **Joint Monitoring**

Robust joint monitoring arrangements are in place with all three Local authorities within the Hywel Dda community.

In Carmarthenshire a Provider Performance Monitoring Group has been established within the Carmarthenshire division of Hywel Dda, in which any issues identified in care homes, however small, are discussed and consequently monitored. Should the need arise within a nursing home a joint team including the nurse assessors from the Health Board and Social Care staff will work with the Care Home in a remedial and supportive manner to assist the organisation to address the areas of concern and meet the standards of service expected in line with WAG-issued guidance, 'Escalating concerns with, and Closure of Care Homes providing Services for Adults' (2009). Support will include more frequent visits by the Health Board and Local Authority, holding the Provider to account through the development of an Action plan by the Provider to address the issues of concern, and where appropriate a review of individual clients, with the aim of preventing the escalation of the issues of concern and achieving a return to the appropriate standard of service quality.

Within Ceredigion and Pembrokeshire whilst the meeting arrangements differ, there is a sound working relationship between the organisations and any issues, are shared immediately and joint monitoring arrangements are put in action.

In all three Counties of the Health Board, however where concerns are of a serious nature, a performance monitoring meeting will be organised by the Local Authority as the statutory lead for the Protection of Vulnerable Adults and a decision taken where necessary to implement a more formal process in line with the 'escalating concerns' etc guidance, which may result in the temporary embargo on any new admissions to the Care facility until the issues of concern have been addressed, and commissioners are satisfied that the quality and standard of care provided is satisfactory. In these situations all individuals funded by the NHS are assessed immediately to ensure that they have not been adversely affected by the cause for concern. Within the review process the care of individuals will be paramount and whilst the majority of situations would be normally managed through the remedial arrangements set out above however where appropriate a decision would be taken to move individuals to an alternative Care setting.

Children's Complex Needs Panel receives regular updates regarding children's placements and feedback from the Social Worker/Independent Reviewing Officer (for LAC) or the Education Co-ordinators for those who are not LAC but are in a specialist school/college. Where issues are raised the action required is agreed by the Panel.

## **Liaison with Inspectors**

All HDHB professionals engaged in the monitoring of clinical placements and / or contracts with non NHS providers are aware of the need to alert the CSSIW of care concerns. Liaison is proactive and borne out of the need to ensure the protection of vulnerable adults is safeguarded in registered provider premises or through domiciliary care agencies supporting NHS funded care packages in the community.

The issue of liaison with CSSIW would benefit from further debate. There is indeed a lack of clarity between the roles of the Regulatory Bodies and the roles of statutory organisations that place individuals in registered care settings with care being delivered by non NHS professionals. Previous discussions with the Health and Safety Executive (HSE), CSSIW and legal services have provided some clarity on the statutory duty of Health Boards.

Care and Social Services Inspectorate Wales (CSSIW) undertake regular inspections of all homes within the Hywel Dda community and these reports are shared with the Health Board. Prior to the commissioning of new placements the Inspection reports will be scrutinised by the Health Board and made available to the patient/ family to inform their decision regarding future accommodation. All homes that are used by the Health Board are expected to meet the required National Minimum Standards and will be expected to have a satisfactory report. Should issues have been identified whilst patients are residing within the homes, processes and procedures will be put in place in accordance with the WAG guidance 'Escalating Concerns With, and Closures of, Care Homes Providing Services for Adults (2009).

Representatives of the Health Board meet with CSSIW on a regular basis at which time all Care Homes within the geographical area are discussed, CSSIW works with both Health and Social care commissioning organisations with the aim of ensuring together that arrangements are in place to ensure that all individuals funded by the Health Board in non NHS settings are receiving safe and effective care.

## **Staffing**

With regard to staffing levels within the Nursing Homes this is regulated through CSSIW. Staffing levels currently are based on the dependency of the individuals being cared for in any particular setting. If it is highlighted to the Nurse Assessor by the Nursing Home staff that there are inadequate staffing levels to meet the needs of individuals within the home the Nurse Assessors would report this to CSSIW and the LA".

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[Safe Nurse Staffing Levels \(Wales\) Bill / Bil Lefelau Diogel Staff Nyrsio \(Cymru\)](#)  
Evidence from Abertawe Bro Morgannwg University Health Board - SNSL AI 14 / Tystiolaeth gan Bwrdd Iechyd Prifysgol Abertawe Bro Morgannwg - SNSL AI 14

### **Additional Information for Health & Social Care Committee - Safer Staffing Levels regarding Health Board Commissioned care- ABM University Health Board**

The Health Board only commissions beds within the independent sector for those individuals eligible for Continuing NHS Healthcare: Continuing NHS Care placements in nursing homes

Commissioning involves a set of activities by which services are planned and organised to best meet the health needs of service users.

Within the Health Board the process involves assessment of need, consultation with the provider, their agreement that they are able to meet the needs of the patient and monitoring of the service provision as outlined under the 2014 CHC Framework guidance.

However for those placed in nursing home beds commissioned by the Local Authority, the Health Board contributes towards the cost via the Funded Nursing care process. Funded nursing care (FNC) is the funding provided by the NHS to care homes providing nursing, to support the provision of nursing care by a registered nurse for individuals assessed as requiring nursing care.

The responsibility for the accommodation and social care costs are the responsibility of either the Local Authority (LA) and/or the individual. Contracts with providers are arranged by the LAs.

Care & Social Services in Wales (CSSIW) or the Care Quality Commission (CQC) reports for out of county providers provide information in respect of dignity of care and regulatory compliance based on the standards.

#### **Staffing Levels**

While the Chief Nursing Officer for Wales has given direction on safe staffing levels within acute care hospital wards there is currently no such clarity on staffing numbers to patient ratio within the independent sector.

In relation to staffing levels the regulator within Wales – CSSIW, under the Care Home Regulations 2002 require the provider (taking account of the size of the care home, the statement of purpose and the number and needs of service users) to:-

(a)ensure that at all times suitably qualified, competent, skilled and experienced persons are working at the care home in such numbers as are appropriate for the health and welfare of service users;

(b)ensure that at all times a suitably qualified registered nurse is working at the care home.

### Contracts

Currently there is no one Continuing NHS Healthcare Contract across Wales, however this is currently being worked on at a Welsh Government level. Within ABMU we have a variation in contracts which all adhere to the CSSIW requirements, but do not currently stipulate safe staffing levels.

The focus is rather on quality assurance and the monitoring of the contract is based on this premise. A standard review template is used which is based on the *National Minimum Standards for Care Homes for Older People* and the *Fundamentals of Care* issued by the Welsh Government.

### Monitoring

The Health Board depends upon nurse assessors to report any issues relating to patient safety or quality of care whilst they undertake individual care management reviews within commissioned care homes.

In addition the commissioning areas obtain assurances regarding patient safety through the reviewing of CSSIW/ CQC reports and also liaising with Local Authority commissioners.

Joint contract monitoring reviews are also undertaken by the Localities and LA. These are undertaken on an annual basis. All joint monitoring includes the review of both Continuing Healthcare and Funded Nursing Care providers. Nurse assessors would undertake the reviews on behalf of the Health Board, whilst a contract monitoring officer would undertake the reviews for the Local Authority.

In light of the Older Person's Commissioners report and Operation Jasmine outcomes, there is a need to ensure that the independent commissioned sector is considered when improvements are being driven for healthcare which is the aim of this bill. However should this sector be included as part of the Bill, there is a need to consider the Funded Nursing Care element, the accountability of the Local Authority, and independent providers.

**Professor Adam Cairns**  
**Chief Executive**

12 March 2015

Nesta Lloyd-Jones  
Welsh NHS Confederation  
Ty Phoenix  
8 Cathedral Road  
Cardiff  
CF11 9LJ

Dear Nesta

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

Further to your email of 5 March 2015 please see below the responses from Cardiff and Vale UHB to the questions you have raised:

**1. Whether standard contracts are used for such arrangements:**

- We use standard contracts with nursing homes.
- C&V UHB is currently in the process of moving to a framework for the contracting of nursing home care but this is not currently in place
- The framework will move to a structured pricing framework and is based on an outcomes-focussed service specification.

**2. How health boards monitor compliance with the contracts/agreements that are in place for the delivery of care they have commissioned:**

- Currently nurse assessors go to homes where patients are placed and will monitor the care being provided to patients, this includes appropriate staffing and quality of care for the patients who are funded by health
- The health board takes clinical responsibility for the care that is commissioned from a health perspective
- The local authorities lead on the overall commissioning of nursing homes and routinely check standards and staffing levels in home
- CSSIW routinely inspect homes and the health board only places patients in approved facilities
- If concerns are raised about standards or staffing in care homes, then the UHB will support and input to any investigation led by the local authority of facilities where health patients are placed.
- The new framework will include pass/fail criteria for homes to be used for the placement of CHC patients
- It will include the minimum standards required and include the requirement for site visits to check standards

- These site visits will be undertaken by clinical staff from the Primary, Community and Intermediate Care Clinical Board, Mental Health Clinical Board and Children and Women Clinical Board.
3. **An indication of health boards' views on the inclusion of such a provision in the Bill:**
- The UHB welcomes improvements and inclusions in legislation to improve the quality and safety of care provided to patients
  - However the inclusion of this provision in the bill should be mindful that it is not used as rationale to increase the cost of care.

Yours sincerely



**Professor Adam Cairns**  
**Chief Executive**



Vivienne Harpwood, Cadeirydd / Chair

Ffon / Phone: [REDACTED]

E-bost / Email: [REDACTED]

Carol Shilabeer, Y Prif Weithredwr Dros Dro /  
Interim Chief Executive

Ffon / Phone: [REDACTED]

E-bost / Email: [REDACTED]



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

Evidence from Powys Teaching Health Board - SNSL AI 16 / Tystiolaeth  
gan Bwrdd Iechyd Addysgu Powys - SNSL AI 16

Chair  
Health and Social Services Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

11 March 2015

Dear Chair

### **Request for further information regarding Safe Nurse Staffing Levels (Wales) Bill**

Thank you for your request for further information relating to the above Bill. In particular the Committee requested information on the following areas:

- whether standard contracts are used for such arrangements;
- how health boards monitor compliance with the contracts/agreements that are in place for the delivery of care they have commissioned.

The Committee would also welcome an indication of health boards' views on the inclusion of such a provision in the Bill.

Powys teaching Health Board has a significant commissioning role for its population with approximately 75% of care services commissioned from external bodies, including primary care. It commissions significant proportions of care in both the NHS sector in England and from the independent care sector (usually care homes and independent hospitals) both in England and Wales. The Bill therefore in relation to commissioned services is of particular concern and interest to Powys teaching Health Board.

Both Corfforedig (De)  
Neuadd Brycheiniog, Ffordd Cambrian,  
Aberhonddu, Powys LD3 7HR  
Ffôn: [REDACTED]



Corporate Hub (South)  
Neuadd Brycheiniog, Cambrian Way,  
Brecon, Powys LD3 7HR  
Tel: [REDACTED]

In relation to NHS contracts for English providers of services, there is in place a Long Term Agreement which specifies the services to be provided, the standards the provider is required to achieve, the cost and payment schedule, performance information that should be provided and a performance escalation process. The LTAs are subject to regular performance reviews (usually monthly). Furthermore, arrangements are in place that enables the Health Board to work with Clinical Commissioning Groups and Trusts in England in relation to service change and development and quality related matters.

Turning specifically to the Care Home sector and Independent Hospitals, there are contracts in place with each care provider that outline the standards required, the cost and payment schedule, and the information that should be provided for monitoring purposes. The teaching Health Board jointly with the Local Authority Social Services department (for Care Homes) monitors the performance of providers against the standards set out. There are performance escalation processes in place that also include where necessary the Care Inspectorate. In relation to independent hospitals, the Mental Health Medium Secure team for NHS Wales (where for Powys most contracts with independent hospitals are held) has in place a framework where preferred providers have been through a rigorous assessment in relation to the quality and cost effectiveness of their service. The contract monitoring is well developed.

Powys teaching Health Board recognises the importance of nurse staffing levels in the outcomes and experience of care. At a high level, nurse staffing levels are considered within the contracting and performance management process. In England for example the NICE guidance is the core standard that NHS Trusts are working toward and the requirement for publishing the staffing levels provides a level of information that is useful. There are some careful considerations should the Safe Nurse Staffing Level (Wales) Bill be considered in cross border contracts, including the differences in staffing levels with Wales working to the Chief Nursing Officer Principles which both pre-date and differ to the NICE guidance and the potential complexity for an English Trust to manage both sets purely based on residency of patients (England/Wales). Furthermore, there would need to be careful consideration as to the requirement for monitoring that the Bill might introduce, and the need to avoid bureaucracy and additional costs would be essential. This is particularly important as a Health board such as Powys has multiple contracts to manage in Wales, England, NHS and independent sector. Finally there would be a need to be clear regarding accountability for adherence to the legislation should the Bill include provision for commissioned services, both from the Commissioner and the Provider of services perspective.

In relation to the Care Home Sector, it is important to acknowledge the critical role this sector plays in Wales in the whole care system. Staffing levels both for

registered and non-registered staff are an important factor in the provision of high quality care, although there are other significant elements that influence effectiveness and care standards. There is currently no recognised tool in place to calculate the staffing levels for care homes in Wales, and this would need to be developed and tested in order to provide a sound evidence base for the setting of levels. Careful consideration is required in managing the attractiveness of Wales to the Care Home Sector and the legislative landscape could be an important element to this.

I hope this information is helpful to the Committee. Please do not hesitate to contact me should any further clarification be required.

Yours sincerely

A handwritten signature in cursive script that reads "Carol Shillabeer".

Carol Shillabeer.  
Interim Chief Executive



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

Evidence from Public Health Wales - SNSL AI 17 / Tystiolaeth gan Iechyd Cyhoeddus Cymru- SNSL AI 17

**Public Health Wales's Response to additional information requested by the Welsh Government's Health & Social Care Committee (on 5 March 2015) in relation to the consultation on the Safe Nurse Staffing Levels (Wales) Bill**

**March 2015**

**Background:**

Following the response submitted by Public Health Wales to the original consultation on the above Bill, an additional request was received from the Health and Social Care Committee, via the Welsh NHS Confederation. This requested the consideration of including provision within the Bill to cover care commissioned by the NHS but delivered in the independent sector and/or in England. The additional request covered both hospital and social care settings.

The Committee was seeking additional information from Health Boards in Wales about arrangements that they have in place to manage care commissioned this way. The Committee posed three new questions.

**Question 1: Whether standard contracts are used for such arrangements**

Public Health Wales does not commission care in the independent sector (either in hospital or the social care setting). Therefore, it does not have any relevant contracts in place.

**Question 2: How do Health Boards monitor compliance with the contracts/ agreements that are in place for the delivery of care they have commissioned?**

As above

**Question 3: An indication of the Health Boards' views on the inclusion of such a provision in the Bill?**

Whilst this potential provision within the Bill does not directly affect Public Health Wales it raises a number of issues which will need careful consideration.

Whilst ideally the NHS, if they commission beds in the private sector, should be able to stipulate the staffing levels of qualified nurses, these organisations are independent and already have difficulties recruiting qualified staff. This difficulty would be increased if more qualified staff were required.

Increasing the regulations in relation to staffing levels for private providers could also have a negative impact on the number of beds available – particularly in nursing homes, as providers who were not able to meet the requirements would need to reduce their bed numbers. This could adversely impact on the NHS acute sector.

The level of scrutiny and monitoring required to confirm compliance and quality of care is also another key issue. Whilst there are existing contract monitoring arrangements in place for commissioned care within Health Boards; it is widely acknowledged that the process to monitor the quality of care needs to be developed further. This is particularly difficult if care is provided out of county or in England. There also needs to be a means of ensuring consistency of both the contract monitoring and quality of care monitoring across all commissioned care.

Whilst the sentiment behind the proposed additional provision within the Bill is to be applauded, we would recommend that if the Bill is agreed, it is initially introduced into acute settings as originally planned. If this is successfully implemented then it could be incrementally rolled out to other areas such as the independent sector, when wider consultation has been undertaken and sufficient resources have been identified to ensure that its impact on the independent sector does not have a detrimental wider effect on the Welsh NHS and its citizens/ patients.



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Gwynedd LL57 2PW

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[Safe Nurse Staffing Levels \(Wales\) Bill / Bil Lefelau Diogel Staff Nyrsio \(Cymru\)](#)  
Evidence from Betsi Cadwaladr University Health Board - SNSL AI 18 / Tystiolaeth  
gan Bwrdd Iechyd Prifysgol Betsi Cadwaladr - SNSL AI 18

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Ms Nesta Lloyd-Jones  
Welsh NHS Confederation

Ein cyf / Our ref: AH/MM

Eich cyf / Your ref:

☎: [REDACTED]

Gofynnwch am / Ask for: Marina Marzelos

E-bost / Email: [REDACTED]

Dyddiad / Date: 12 March 2015

[REDACTED]  
Dear Nesta

**RE: Safe Nurse Staffing Levels (Wales) Bill**

**Purpose**

The purpose of this briefing is to provide the Health and Social Care Committee with additional information from Betsi Cadwaladr University Health Board (BCUHB) regarding arrangements the Health Board currently has in place to manage NHS commissioned care.

The briefing will provide an update on key developments related to improve and develop a more robust formal system of governance and accountability for commissioned services. Furthermore the briefing will consider the importance of strengthening the commissioning arrangements from within BCUHB in relation to the provision of NHS commissioned care within the independent sector and recognizes the associated key risks and statutory legislative requirements in line with the Health Act (2006).

The NHS is responsible for assessing, arranging and funding a wide range of services, both short and long term, to meet the health needs of the population. Continuing NHS Healthcare (CHC) is a package of care arranged and funded solely by the NHS where it has been assessed that the individual's primary need is a health need. This paper will consider;

- Whether standard contracts are used for such arrangements.
- How health boards monitor compliance with the contracts / agreements that are in place for the delivery of care they have commissioned.

**Continuing Health Care**

The review of the Continuing NHS Healthcare National Framework for Implementation (2014) across Wales has identified the requirement for Health Boards to strengthen



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commissioning arrangements for the delivery of NHS Continuing health care (CHC). The purpose of the Framework is to provide a consistent foundation for assessing, commissioning and procuring Continuing Health Care for adults across Wales. The legal framework for implementation of NHS Continuing Healthcare is provided through the National Health Service Act 2006, which requires the Secretary of State to provide comprehensive health services and, by the duties placed on Local Authorities, through Section 47 of the National Health Services and Community Care Act 1990, and Section 21 of the National Assistance Act.

Betsi Cadwaladr University Health Board (BCUHB) has a statutory duty under the Health and Safety at Work Act (HSWA) 1974 to protect the health, safety and wellbeing of NHS patients including where a provider is providing services on behalf of the NHS for example in care homes, independent hospitals and domiciliary care settings. A statutory duty is owed to individuals both by provider and NHS commissioning/funding body.

The review of the revised National framework (2014) promotes improving governance arrangements and promotes establishing outcome focused commissioning. The framework covers all areas where the NHS commissions care, driving improvements in clinical practice regardless of the care setting. This briefing presents a summary of the current approach being undertaken to both build capacity within existing CHC teams and Practice Development Teams and identifying areas for service development. The LHB has the responsibility to plan, specify outcomes procure services and manage demand and provider performance for all services that are required to meet the needs of individual's eligible for Continuing Health Care.

The revised framework places emphasis on the Health Boards to improve commissioning functions across all sectors in delivering contractual and procurement arrangements with independent providers. The guidance drives forward the effective delivery of Continuing Health Care as a key component of the Health Boards Business; that each Health Board identifies a named executive, at Director Level to drive forward performance management arrangements and build upon those systems already in place.

The delivery of quality commissioning needs to be at the forefront of service review; with the development of a governance framework for sustainability and continuous improvement and clinical effectiveness.

The North Wales Commissioning Hub has driven forward further integration between our partner agencies with the development of regional procedures for implementation of the proposed Pre-placement agreement and Escalating Concerns procedures. Whilst these developments have improved integration, this area remains a risk for the Health Board in ensuring that there are robust systems in place to deliver on the contract. Furthermore, there remains uncertainty with regards to the reporting mechanisms and the functions of the Commissioning Hub through to the Board.

During the past 12-18 months there have been increasing concerns raised within the Independent sector; these have been in relation to safeguarding and poor practice issues



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invoking the escalating concerns procedure across 19 care homes over the last 12 months within North Wales. This has placed an increasing workload on the existing Continuing Health Care and Practice development teams.

The Health Board recognises there is a requirement for a review of all current arrangements pertaining to commissioning services from Non-NHS providers; to develop a mechanism that considers the following:

- Corporate governance- risk management > performance management
- Clinical Governance> drive continuous improvements in Quality and outcomes
- Professional accountability> accountability/ practice development
- Financial Governance> financial risk management effective use of public funds
- Research Governance> innovation links to evidence based practice and clinical practice.

### **Current arrangements:**

The Continuing Health Care (CHC) teams are primarily responsible for the assessment and review of patient placements commissioned by the Health Board within non NHS providers; these include Low secure/ Independent hospitals, Nursing/Residential care homes and domiciliary care settings. The primary focus of the CHC team functions is to ensure patients receive care of a quality which meets best practice guidance and national standards. The team take a more proactive role in driving the Quality agenda forward within care homes and Independent hospitals; they will address quality issues in relation to evidenced based practice and standards of care with the provider through clinical review and escalating concerns procedures (WG guidance 2009). This includes the assessment of nurse staffing levels to deliver care.

The Practice development Team work alongside the CHC team and has developed within BCUHB a Quality Monitoring Tool (QMT) to identify the standard of quality of care with a focus on the fundamentals of care being delivered within Nursing homes. The aim of the QMT is to encourage improvement in the quality of healthcare provided to people residing in nursing homes across North Wales.

The QMT assesses Fundamentals of Nursing Care and best practice. This then generates a score and identifies key themes, which helps direct training and development within the home. Areas for improvement and structured recommendations are developed in the form of a joint action plan. This assessment includes a review of nurse staffing within the home. Regular feedback and on-going support is provided in the home to ensure improvements are evident. High standards are praised and areas of good practice are shared. To assist with training needs an annual rolling training programme has been developed.

**The Health Board recognises further consideration needs to be given to the following areas:**





- Enhanced robust contract management processes
- Developed comprehensive service specifications for CHC.
- Engagement with patients and carers with a focus on improving quality outcomes
- Development of a regional patient choice policy
- Analysis of the market and review current commissioning arrangements
- Assessment of current and model future demand and associated expenditure
- Securing best value through appropriate procurement processes
- Exploring mechanisms to limit expenditure thresholds
- Maximising integrated commissioning arrangements with Local Authorities

There have been some significant key achievements over the last 12 – 18 months within the Health Board;

- 1. Development of Clinical Management Group.** - This enables both the CHC teams and Practice development Team to drive forward improvements in healthcare within the Independent sector; a mechanism for sharing and reporting on concerns and developing joint action on how to best manage these homes. This group has been influential in developing key processes such as the communication escalation process and providing key reports to the executives on the status of the homes. This is a key vehicle to ensure joint internal BCUHB communications is managed in a proactive and consistent manner.
- 2. Functions of the Practice Development Team:** - The Practice Development team (PDT) have been providing additional training into care homes in supporting and maintaining standards of care. The Practice development team has made significant progress in strengthening the governance arrangements within the nursing home sector. The development and implementation of the Quality monitoring framework across all nursing homes has been instrumental with monitoring compliance with regards to Quality Care..
- 3. Functions of CHC Nurse Reviewers.** Primarily the functions of the Nurse reviewing team is to review and monitor the delivery of care commissioned by the Health Board; the reviewing team operate across 6 Local authority areas. The CHC teams are currently supporting a high level of care homes that are subject to Escalating Concerns procedures within the North Wales region; this requires a robust response with high levels of interventions and support in conjunction with Practice Development Team and Local Authorities. The demand on the CHC team has placed significant additional demands on CHC operations and constraints/limitations of the team to continue to effectively monitor the services across the provider sector. By default the CHC teams are undertaking contract monitoring functions due to the lack of designated performance management systems for commissioned services within the BCUHB at present.
- 4. Improved communications with the Local Authorities.** The teams regularly meet with the 6 local authorities to discuss and share intelligence on the independent sectors; however this is at present variable with no formal mechanism for accountability. Further work is underway on a Regional basis within the Commissioning Hub. Capacity within existing CHC teams continues to impact on



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the ability to manage a quality of care monitoring function and monitoring against the contract.

- 5. Improved communications with the Independent sector and BCUHB.** All teams regularly meet informally or formally through relevant forums with the independent sector providing a vehicle for the Independent sector staff to raise concerns and or issues and ensure its fed back into the relevant BCUHB service. Provider meetings are established in some areas with Local authority partners.

### **Next steps**

The key principals for the development of a commissioning strategy/ joint strategic needs analysis with Local authority partners is to approach the market collaboratively in order to increase consistency in pricing and expectations around quality with the development of service specifications and agreed collaborative approaches to procuring services. Involvement from NHS Wales Shared Service partnerships to manage the procurement of non- NHS services within legislative procurement framework is essential.

The Health Board is required to develop a governance framework for care homes which needs to integrate NHS Healthcare Standards and Fundamentals of Care. This will include the review of nurse staffing levels. The Governance framework will provide a strategic direction in the monitoring and performance management of services commissioning by the Health Board. However there is presently a lack of resource/system to performance manage the market and assure patient safety and care in terms of staffing levels; this remains a risk factor in the overall management of our commissioned care with the independent sector Within care homes in North Wales there appears to be a growing reliance on the Escalating concerns procedures (WG 2009) as opposed to proactive quality assurance mechanisms with the development of key performance indicators such as Nurse Staffing Levels as a potential for default on an NHS contract. The trend for the number of homes under escalating concerns is increasing and homes are becoming more fragile. When an embargo is placed on the home it impacts both on the home itself as well as the Health Board. One of the key themes identified is concerns regarding staffing levels with insufficient Registered nurses and poor skill mix.

### **Performance management and Contract monitoring Functions**

Currently there is no designated formal contract monitoring functions being undertaken by the Health Board. The Health Board recognises it is not a sustainable option to solely rely on the Clinical monitoring function of the CHC team or the Quality Monitoring from Practice Development Team. Designated performance management systems need to be explored; these would need to be incorporated into the Pre-Placement agreement and monitoring of Key performance indicators. The implementation of the Pre - Placement agreement is an opportunity for the Health Board to review its functions and current arrangement for performance management and contract monitoring including monitoring staffing levels. As with all service contracts, BCUHB are responsible for monitoring quality, safety, access and patient experiences within the context of provider performance.



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The Health Board welcomes the inclusion of nurse staffing levels for commissioned care within the Bill as a clear positive step forward recognising the importance nurse staffing levels to drive quality care within the independent NHS commissioned care sector. Whilst significant progress has been recently made within the Health Board in streamlining and improving systems at an operational level to monitor quality care, the Health Board needs to further consider providing additional resource to strengthen the commissioning arrangements for contract monitoring in the care home sector. The Health Board plans to develop a Commissioning strategy for Continuing NHS health care which will drive identify current models and drive forward improvements and sustainable services with patient and public engagement at the core of it business.

The Health Board Quality Assurance Executive Meeting has also recently considered the Health Boards monitoring of commissioned services with regards to quality of care from outside of Wales. This followed an Internal Audit Report review of Commissioning & Contract Management - Purchaser Review.

In May 2014, it was recognised that the BCUHB contract review group had no assurance with regard to the quality of the care that was being received by our patients where treatment is commissioned from outside organisations (England). The Director of Nursing and Midwifery Services was approached and the Quality and Standards Manager was co-opted onto the Group to assist in this assurance process.

Since summer 2014 the Quality and Standards Manager has attended meetings with regards to the commissioning of patient care. There are currently three groups that meet on a monthly basis; the first group is the BCUHB Commissioning Contracts Review Meeting which is an internal group that discusses finance, performance and quality issues with regards to our providers. The remaining two meetings are held separately with two of our providers, namely Robert Jones Agnes Hunt (RJAH) and the Countess of Chester. These 2 Trusts account for approximately 75% of the English contracts that are managed directly by the Health Board.

#### Robert Jones Agnes Hunt (RJAH)

The Quality and Standards Manager has met with the Clinical Governance Manager for RJAH and receives monthly copies of their performance reports that includes a wide range of key quality indicators (See Appendix 1). In addition, to the report the Clinical Governance Manager is able to identify any of the issues that involved Welsh patients should further follow up be required. To date, one Serious Incident has been reported relating to the x-ray of wrong toe.

#### Countess of Chester Hospital (COCH)

The Quality and Standards Manager has met with the Deputy Director of Nursing to discuss reporting on quality and safety. The COCH currently provide the Quality and Standards Manager with a copy of their monthly report which includes some elements of quality. In addition, COCH have a web page [Open and Honest, safer staffing](#) that provides



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up to date information for public on a range of quality metrics. To date, the COCH have been unable identify specific incidents that relate to our patients but work is in progress to achieve this. No specific issues of concern have been raised with regard to quality issues.

#### Further work

During January 2015 contact has been made with Wirral University Trust and University Hospitals of North Midlands and reports are now being forwarded for review purposes and any further action required.

#### Conclusions/Next steps

##### Welsh Health Specialised Service Committee (WHSSC)

WHSSC was established in 2010 by the seven Local Health Boards in order to lead on the planning of specialised and tertiary services for the population of Wales.

WHSSC are currently in the process of developing a Quality Framework which will strengthen the quality focus for their contracts. Once this framework is agreed by WHSSC the same framework will be adopted by the Health Board in order to ensure consistent data is captured and provided by our direct providers.

#### Internal Processes

Contact will be made with other existing providers to ensure that routine data is collected and monitored.

Complaints raised directly to the Health Board regarding care provided via cross border arrangements are currently answered by either the Planning Lead or Performance lead as these tend to relate to waiting times. Currently the process does not include sharing of these complaints with the quality and Standards Manager. This process will be reviewed to ensure that the organisation has an over view of all issues.

Kind regards

**Angela Hopkins**  
**Executive Director of Nursing & Midwifery**

CC: [REDACTED]