

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 the Minister for Health and Social Services - SNSL AI 19 /
Tystiolaeth gan y Gweinidog Iechyd a Gofal Cymdeithasol- SNSL AI 19

Safe Nurse Staffing Levels (Wales) Bill

Further evidence from the Welsh Government in respect of using existing Ministerial powers to achieve the aims in the Bill

Background

1. The Bill's stated aim is to achieve safe nurse staffing levels in "*adult inpatient wards in acute hospitals*" by creating a legal requirement for local health boards "*to take all reasonable steps to maintain minimum registered nurse: patient ratios and minimum registered nurse:healthcare support workers ratios.*" There are no ratios on the face of the Bill, as it is intended that the ratios be set in guidance to be issued by the Welsh Ministers. The Bill also sets out a very prescriptive list of matters which must be included in the guidance.
2. During the Health and Social Care (HSC) Committee's evidence session on 5 March 2015, Assembly Members sought clarification on the acuity tool and its potential use to produce an appropriate number or ratio for the purposes of the Bill.
3. It is not possible to take the raw figure generated by the acuity tool for a defined period of time and use it unquestioningly as a minimum staffing figure from then on, because the situation in an acute ward changes so frequently. Local Health Boards (LHBs) therefore use the acuity tool as well as professional judgement and nurse-sensitive indicators (the triangulated approach) to determine nurse staffing levels.
4. When the acuity tool has completed its development and validation phase, the Minister will be in a position to mandate its use by LHBs in Wales. It is anticipated that this phase will be completed by summer 2015.

Relevant Ministerial powers

5. Section 12 of the National Health Service (Wales) Act 2006 (the 2006 Act) allows the Welsh Ministers to issue directions to local health boards about the exercise of any of their functions. Under section 204 of that Act, such directions may either be given in writing or may be prescribed in regulations.
6. The Minister may mandate the use of the acuity tool under these existing powers. In this case, the Minister considers that issuing directions in writing (for example, in the form of guidance) would be effective, as opposed to having to make regulations, given that all LHBs have already actively engaged with the acuity tool since its introduction in Wales. Any directions

which the Minister issues to LHBs about the exercise of their functions must be met in full by each LHB, and they are not able to use their own discretion to decide whether or not they wish to follow these.

7. The delivery of NHS functions is performance managed against the NHS Delivery Framework. If an LHB is ever considered to not be performing in one or more areas of service delivery, then the escalation arrangements contained within the NHS Delivery Framework will be instigated. If there is continued failure by an LHB to deliver, then the framework sets out that Welsh Ministers may make an intervention order under section 26 of the 2006 Act and remove any or all of the members of the applicable LHB board.
8. At the HSC Committee on 12 February, Lynne Neagle AM asked what LHBs would consider to be mandatory guidance. Paul Roberts, representing Abertawe Bro Morgannwg University LHB, said

“We account, as health boards, to Welsh Government, and, if Welsh Government tell us something is mandatory, then it is. That is what I would see as mandatory.”

Anne Phillimore, representing Aneurin Bevan LHB, agreed.

9. The Scottish Government has mandated the use of their acuity tool without resorting to legislation. In October 2013, NHS Scotland revised its workforce planning guidance and mandated that, from April 2014, all health boards must apply nursing and midwifery workforce planning tools, where available. To date, the Nursing and Midwifery Workforce Workload Planning Programme has facilitated local implementation within boards thereby assuring that the tools are applied systematically across the whole of the healthcare system in Scotland. This has been supported with the development of a Nursing and Midwifery Workload and Workforce Planning Toolkit. Their acuity tool is similar to that used in Wales:

“The Adult Inpatient tool determines nursing staffing levels using an acuity-dependency approach and is based on a staff to bed ratio and average bed occupancy (ABO) level, including a 22.5% predictable absence allowance.

‘The staff to bed ratio has been developed from specialty specific observational studies conducted in NHS England and validated in NHS Scotland. These studies monitor patient dependence and the volume of nursing resource allocated to a range of tasks including patient hygiene, vital signs, reporting, cleaning etc. Data from these studies is used to calculate the specialty specific staff to bed ratio.’

(Source: NHS Scotland Workforce Planning website)