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Welsh Government

Consultation – summary of response

Nurse Staffing Levels (Wales) Act 2016

Consultation on statutory guidance

August 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

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Nurse Staffing Levels (Wales) Act 2016 – Consultation on Statutory Guidance

1. Introduction

1.1 The Welsh Government's consultation on the statutory guidance for the Nurse Staffing Levels (Wales) Act 2016 was conducted over a 16 week period, from 7 December 2016 to 7 April 2017. The consultation attracted interest from a range of different stakeholders. Officials met with a number of patient, staff and stakeholder groups to discuss the guidance during the consultation period. The consultation documents and draft guidance were published bilingually.

1.2 The Nurse Staffing Levels (Wales) Act 2016 inserted sections 25A to 25E into the NHS (Wales) Act 2006. The consultation sought views on the draft statutory guidance, which is required by section 25D of the NHS (Wales) Act 2006 . The guidance is intended to support the implementation of section 25B and section 25C of that Act.

1.3 The Nurse Staffing Levels (Wales) Act, which received Royal Assent on 21 March 2016, places an overarching duty on Health Boards and NHS Trusts that provide nursing services to have regard, when they are planning the provision of those services, to the importance of providing sufficient nurses to allow the nurses to have time to care sensitively for their patients. The Act also codifies current best practice for determining nurse staffing levels, requiring LHBs and NHS Trusts in Wales to calculate and maintain staffing levels in specific clinical areas.

1.4 As required by the Act, this statutory guidance covers two areas.

- The duty in section 25B to calculate and maintain the nurse staffing level
- The method of calculation set out in section 25C

1.5 The consultation also sought views on future statutory guidance relating to workforce planning that local Health Boards and NHS Trusts may undertake in order to enable them to comply with their duties under sections 25B and 25C.

Consideration is being given to providing non statutory guidance to those areas not covered in this statutory guidance.

2. Overview of responses

2.1 In total 59 responses to the consultation were received from a range of stakeholders, as well as individual members of the public. 53 of these responses were received using the online questionnaire tool, with a number of further responses returning the form by email or post. A number of consultation responses were received that discussed the general themes of the guidance without responding to the questions directly. These have been considered in the general themes section of this consultation summary report.

2.2 Of the responses that answered the set consultation format, 21 responses were from members of NHS staff, 14 from organisations with an interest in the health service, 12 from local Health Boards / NHS trusts / affiliated bodies, three from members of the public and three from other organisations not listed above.

2.3 The respondents had opportunity to provide feedback on each section of the guidance. A number of respondents provided comments only on particular sections of interest, meaning that there are fewer than 53 responses to a number of the questions.

2.3 Respondents were also asked to rate how helpful each section was on a scale of 1-5, where 1 was not helpful at all and 5 was very helpful. The average scores for these questions are provided in the individual question analysis.

2.6 An annex of the responses is provided at annex A of this document (with personal details redacted where respondents expressly stated that they did not want these to be published).

3. Responses to the specific consultation questions in the Consultation

Overall approach

3.1 Respondents were asked to evaluate the overall approach taken within the guidance. On a scale of 1 to 5 where 1 was not helpful at all and 5 was very helpful, the overall approach received an average score of 3.53. The spread of results is shown in the table below.

Overall approach		Response Percent	Response Total
1	1	2.1%	1
2	2	10.6%	5
3	3	27.7%	13
4	4	53.2%	25
5	5	4.3%	2
6	Don't know	2.1%	1

Analysis							answered	47
	Mean:	3.53	Std. Deviation:	0.9	Satisfaction Rate:	50.64		
	Variance:	0.8	Std. Error:	0.13				

3.2 The most common response was that the guidance was clear and easy to understand, with this view being reflected by **NHS staff, Local Health Boards / NHS Trusts and organisations with an interest in the health service**. However NHS staff and organisations with an interest in the health service also stated that the guidance would be difficult for a non medical professional to understand.

3.3 29% of **NHS Staff** commented that the guidance was too vague and 24% commented that it would be difficult for a non medical professional to understand. However, 24% of staff felt the guidance was clear and easy to understand. The same proportion commented that a greater focus on staff on the ground was needed. 19% of staff raised concerns that staffing levels could be interpreted as maximum staffing levels. 10% of NHS staff commented that the guidance was too legislation focussed.

3.4 25% of **Health Boards / NHS Trusts** also reflected this view that the guidance was too legislation focussed. There were also two comments that the guidance was too vague. A number of drafting recommendations were made, such as reordering paragraphs and adding “clinical” before “setting” each time the word is used.

3.5 29% of **organisations with an interest in the health service** commented that more operational guidance was needed. However, they felt the guidance

was of an appropriate length. The Royal College of Nursing raised concerns about the guidance, stating the guidance should contain the CNO and Nurse Directors' staffing principles.

3.6 Two **members of the public** responded to this question, with one stating the guidance was easy to read and one stating the format was off-putting.

Section 25B – Duty to calculate and maintain nurse staffing levels

3.7 Respondents were then asked for their views on Section 25B of the Act, with particular focus on:

- How the designated person should be selected and how they should fit within the local Health Board's governance framework;
- What the reasonable requirements that must be met are;
- How the nurse staffing level is defined;
- Who is responsible for ensuring that reasonable steps are taken to maintain the nurse staffing level;
- How patients should be informed of the nurse staffing level; and
- The definitions for situations where section 25B applies.

Designated Person

3.8 The average score for the section of the guidance relating to the designated person was 3.67, with the spread of scores shown in the table below.

Designated person			Response Percent	Response Total
1	1		0.0%	0
2	2		10.2%	5
3	3		28.6%	14
4	4		46.9%	23
5	5		12.2%	6
6	Don't know		2.0%	1
Analysis	Mean: 3.67	Std. Deviation: 0.89	Satisfaction Rate: 53.47	answered 49
	Variance: 0.79	Std. Error: 0.13		

3.9 67% of **NHS staff** commented that the designated person would need to have an acute understanding of the issues on the ground. A majority of these respondents felt that a mechanism needed to be provided for ward managers to provide input to the decision making process and to support information flow to the designated person. 10% of NHS staff felt the Executive Director of Nursing would be too far removed from the ward to be able to perform this role. The need for a mechanism to provide information to the designated

person was also amongst the most common responses for LHBs / NHS Trusts and organisations with an interest in the health service.

3.10 A large number of **NHS staff, LHBs / NHS Trusts and organisations with an interest in the health service** were pleased that the guidance stipulated a requirement for the designated person to be registered with the NMC.

3.11 24% of **NHS staff** felt the role of designated person could not be performed by one person and that a team of individuals should fulfil the role. 19% of staff indicated that this section of the guidance was clear.

3.12 25% of **Health Boards / NHS Trusts** felt the guidance should state that the designated person must be the Executive Director of Nursing. The same proportion were positive that the role would be placed within the Board's governance framework.

3.13 14% of **organisations with an interest in the health service**, including an academic institution, considered there should be a requirement for training in the workforce planning tool for the designated person.

3.14 A **member of the public** stated a concern that the designated person would need to have sufficient seniority and independence to resist financial pressures from the Board.

Reasonable requirements

3.15 The average score for this section was 3.37, with the spread of scores shown in the table below.

Reasonable requirements			Response Percent	Response Total
1	1		4.1%	2
2	2		16.3%	8
3	3		36.7%	18
4	4		28.6%	14
5	5		10.2%	5
6	Don't know		4.1%	2
Analysis	Mean: 3.37	Std. Deviation: 1.12	Satisfaction Rate: 47.35	answered 49
	Variance: 1.25	Std. Error: 0.16		

3.16 A wide range of views were presented on this section of the guidance. There were concerns around how robust the guidance was, with 24% of NHS staff commenting that the section was too ambiguous or subjective, and 58% of

Health Boards / NHS trusts suggesting the wording needed strengthening as it was not adequately defined. Another common comment, made by NHS staff, organisations with an interest in the health service and members of the public was that the guidance should recognise that needs on a ward are constantly changing. Health Boards, organisations with an interest in the health service and NHS staff also commented that there should be reference made to the involvement of the wider clinical team in the decision making process. These respondents additionally raised concerns over the skill mix requirements on wards.

3.17 25% of **Health Boards / NHS Trusts** felt that this section should make reference to a number of further factors, including;

- The acuity dependency tool
- Health Board Assurance Framework and audits
- Fundamentals of care reports
- Feedback from other quality indicators
- Guiding principles

3.18 A number of further points were raised by individual respondents, including suggestions that minimum nurse numbers should be stated, that decisions made by the nursing team should be made by staff registered with the NMC and that there should be a requirement for training in the workforce planning tool for the designated person.

Nurse Staffing Level

3.19 The average score for this section was 3.43, with the spread of scores shown in the table below.

Nurse staffing level		Response Percent	Response Total
1	1	6.1%	3
2	2	16.3%	8
3	3	22.4%	11
4	4	42.9%	21
5	5	8.2%	4
6	Don't know	4.1%	2

Analysis							
	Mean:	3.43	Std. Deviation:	1.16	Satisfaction Rate:	48.57	answered 49
	Variance:	1.35	Std. Error:	0.17			

3.20 The most common comment on this section of the guidance was that the nurse staffing level should be calculated more frequently than every six months.

This was the most frequent response from both NHS staff and organisations with an interest in the health service.

3.21 19% of **NHS staff** also commented that there should be a recommended ratio of patients to staff. Less common responses from NHS staff included that there should be one tool identified within the guidance for use across Wales and satisfaction that the calculation can be revisited where there is a change of use / service. This comment on revisiting the calculation was reiterated by some Health Boards and organisations with an interest in the health service. However, 25% of **Health Boards / NHS Trusts** also called for more detail on what was meant by a change of use / service. The same proportion of Health Boards / NHS Trusts questioned whether each change to the nurse staffing level made as a result of a change of use / service needed to be reported to the board, and suggested that reporting these instances to the executive team may be sufficient.

3.22 33% of **Health Boards / NHS Trusts** indicated they were pleased that the guidance stipulates that revenue allocation should take into consideration the wages of the staff employed and not be set at the mean point of the scale. 17% of these respondents did seek further clarification that funding would be set for the required establishment and not only the posts that are filled. In relation to the required establishment, 17% of Health Boards / NHS Trusts stated that a reference to the 26.9% uplift should be included in this section of the guidance, and that it should be made clear that resource to cover staff absences should include maternity leave.

3.23 33% of **Health boards / NHS Trusts** felt that a more robust explanation of tool data was needed in terms of the All Wales Acuity Dependency Tool. There was also one response which indicated the CNOs and Executive Nurse Directors' principles for nurse staffing should be referenced here.

3.24 10% of **organisations with an interest in the health service** commented that it was unclear what Health Boards must do when they are unable to recruit sufficient nurses to meet the nurse staffing level. All other comments were one off comments made by individual respondents, including a suggestion there should be a mechanism for front line staff to raise concerns and that the guidance should mandate the supervisory role of the nurse in charge.

Reasonable steps

3.25 The average score for this section was 3.47, with the spread of scores shown in the table below.

Reasonable steps		Response Percent	Response Total
1	1	2.0%	1
2	2	14.3%	7
3	3	32.7%	16
4	4	38.8%	19
5	5	10.2%	5
6	Don't know	2.0%	1

Analysis							
	Mean:	3.47	Std. Deviation:	0.99	Satisfaction Rate:	49.39	answered 49
	Variance:	0.98	Std. Error:	0.14			

3.26 The most common response from **NHS staff**, made by 14% of respondents was that the criteria given in this section of the guidance are too subjective. Concerns were also raised by 10% of respondents over the use of health care support workers to fulfil nursing duties. All other comments were made by single respondents only, and included comments that there should be better training for bank and agency staff, that the use of bank staff does not give continuity of care for patients, that the replacement of departing staff should be more prompt and that the datex system should be used to report when the nurse staffing level is not met.

3.27 A number of views were reflected by a number of **Health Boards / NHS trusts**. These included comments from 25% that references to the escalation policy should be more specific and include a standardised escalation process, and that operational steps should include reviewing the skill mix on wards. 17% of respondents also felt the guidance should set out that use of agency staff is essential to staffing wards. Whilst 17% of respondents were pleased that the guidance specifically references overall board responsibility for meeting the duty, 25% felt that it should be stated that workforce planning responsibilities are discharged within the context of a Wales planning system with responsibility for action, including the Welsh Government and education commissioning providers. This view was also reflected by some organisations with an interest in the health service.

3.28 17% of **Health Boards / NHS Trusts** asked for clarification on which staff are included in calculations due to differences in the definitions used in this section of the guidance and under reasonable requirements.

3.29 29% of o**rganisations with an interest in the health service** felt that this section of the guidance was clear. A number of recommendations were made to improve the section included stating that the use of agency staff should be a last resort and clarifying that bank and agency work includes provision of healthcare

support workers. Issues raised by single respondents included concerns over the unintended consequences for community care should staff be moved to other clinical areas and concerns over the closure of beds on wards.

Informing patients

3.30 The average score for this section was 3.47, with the spread of scores shown in the table below.

Informing patients			Response Percent	Response Total
1	1		8.2%	4
2	2		22.4%	11
3	3		28.6%	14
4	4		26.5%	13
5	5		12.2%	6
6	Don't know		2.0%	1
Analysis	Mean: 3.18 / Std. Deviation: 1.21 / Satisfaction Rate: 43.67 / Variance: 1.46 / Std. Error: 0.17		answered	49

3.31 A high number of respondents stated there needed to be a consistent standardised approach across Health Boards. This view was the most common response from Health Boards / NHS Trusts and organisations with an interest in the health service. Respondents felt this was necessary to achieve consistency and to reassure patients receiving care across health boards. Some responses considered a template for providing this information would assist with achieving consistency.

3.32 The most frequent comment from **NHS staff** was that the guidance should make provision for a complaints procedure, making clear to patients how they can raise concerns around the nurse staffing level, with this view reflected by 24% of staff. 14% of staff felt that this was a vital part of the guidance but that more clarity was needed. 10% of staff also raised concerns over whose role it would be to inform patients.

3.33 25% of **Health Boards / NHS Trusts** felt that greater clarity was needed on why patients are being informed, and therefore what information would be provided. Given the nature of the information being shared, one respondent felt the guidance should consider the potential for patients / families to be distressed by the information provided. There were differing views as to whether the nurse staffing level was sufficient information for patients, or if the number of staff on

duty should be reported, with 17% of responses asking for greater clarity on this distinction.

3.34 A large number of different responses were made by **organisations with an interest in the health service**, asking for a number of different aspects to be referenced in this section. This included more detail as to what constituted an "accessible format" for information giving, a mechanism for patients, visitors and staff to raise concerns, and a requirement for training on providing this information to be given to NHS staff. One response considered that patients should be informed of the staffing level of Welsh speaking staff.

3.35 Members of the public considered more detail should be provided as to what was meant by an "accessible format", and that stronger reference should be made to the Welsh Language Standards.

Situations where section 25B applies

3.36 The average score for this section was 3.82, with the spread of scores shown in the table below. This was the highest scored section within the guidance.

Situations where section 25B applies			Response Percent	Response Total
1	1		2.0%	1
2	2		10.2%	5
3	3		26.5%	13
4	4		34.7%	17
5	5		18.4%	9
6	Don't know		8.2%	4
Analysis	Mean: 3.82	Std. Deviation: 1.15	Satisfaction Rate: 56.33	answered 49
	Variance: 1.33	Std. Error: 0.16		

3.37 A number of respondents, including NHS staff and organisations with an interest in the health service felt that this section of the guidance was particularly clear.

3.38 The most common questions raised were operational questions as to the criteria for determining whether wards should be included or not. The criteria that respondents, across all groups, sought more clarity on included the presence of children on adults wards and young adults on children's wards, the meaning of active treatment, what should be done when there are clinical outliers and the status of a wards with a mix of acute and non acute care. A number of respondents also asked for more clarity on the status of continuing

health care wards and those wards which are predominantly day care but have some inpatient beds.

3.39 Aside from these operational comments, some respondents discussed whether the Act itself had been applied to the right clinical areas but there were mixed views on this. A number of respondents stated they were keen for other clinical areas to be included in the future.

Introduction to 25C

3.40 The average score for this section was 3.23, with the spread of scores shown in the table below. This was the joint lowest scored section within the guidance.

Introduction to section 25C			Response Percent	Response Total
1	1		2.1%	1
2	2		25.0%	12
3	3		35.4%	17
4	4		25.0%	12
5	5		10.4%	5
6	Don't know		2.1%	1
Analysis	Mean: 3.23	Std. Deviation: 1.07	Satisfaction Rate: 44.58	answered	48
	Variance: 1.13	Std. Error: 0.15		

3.41 14% of **NHS staff** felt that this section of the guidance was informative and easy to read. However the same proportion thought the guidance should stipulate the need for the designated person to meet ward staff to identify needs, with recommendations that this should happen on either a weekly or a monthly basis. All other views from NHS staff were raised by single respondents, and included requests for more detail, that a workforce planning tool should be identified within the guidance and clarification on whether the ratio could change on a daily basis.

3.42 33% of **Health Boards / NHS Trusts** also requested that a workforce planning tool be identified within the guidance. 25% of these respondents also felt that the rationale for determining the staffing level should be presented to the Board, whilst requesting more information on where this information should be recorded. Single respondents within this category sought clarification on how this guidance would link with the empowering ward sisters programme, suggested that the most commonly occurring ratio should be used rather than

the average ratio and requested greater reference to professional standards, guidelines and professional judgment.

3.43 There were no recurrent views among **organisations with an interest in the health service** on this section of the guidance. Suggestions included recommendations that staff wellbeing, CPD, audit and research, leadership and Welsh language requirements should be taken into account when calculating the nurse staffing level. One respondent reflected the view that the most commonly occurring ratio should be used rather than the average ratio. Another respondent felt it should be stated that the guidance supersedes all previous guidance, such as the CNO and Nurse Directors' staffing principles.

3.44 The single response from a member of the public to this section of the guidance considered that this section was difficult to understand.

Professional judgement

3.45 The average score for this section was 3.5, with the spread of scores shown in the table below.

11.2. Professional judgement			**Response Percent**	**Response Total**
1	1		4.2%	2
2	2		10.4%	5
3	3		33.3%	16
4	4		37.5%	18
5	5		12.5%	6
6	Don't know		2.1%	1
Analysis	Mean: 3.5	Std. Deviation: 1.04	Satisfaction Rate: 50	answered 48
	Variance: 1.08	Std. Error: 0.15		

3.46 The most common response from **NHS staff** was similar to that reflected throughout the guidance, that professional judgement should include the views of ground level staff. This view was reflected by 24% of NHS staff. 14% of staff welcomed the inclusion of this section within the guidance whilst the same proportion recognised that there would be challenges in recruiting the required numbers of staff. A smaller proportion of respondents felt that this section placed too much responsibility on one individual, and that the role of designated person should be split. Other views reflected by single respondents included concern over the subjectivity of the approach, concern that the evidence for staff uplift

was outdated and would need reviewing and a comment that the terminology around triangulation was not user friendly.

3.47 25% of respondents in the **Health Boards / NHS Trusts** category wanted it to be clearly stated that it would be the designated person from the professional nursing structure from ward to board that advises on professional judgement. The same proportion also requested greater clarity on what was meant by a "flexible bed"

3.48 17% of **Health Boards / NHS Trusts** commented that this section of the guidance was helpful, whilst the same proportion felt that other ward functions such as cleaning and food service should be listed alongside administrative functions, and asked for clarity on how many times the 26.9% uplift figure should be applied. 17% of these respondents also commented that in the absence of a prescribed workforce planning tool, professional judgment alone would be less robust. Issues raised by single respondents in this category included a query as to whether the CNO and Nurse Directors staffing principles should be referenced in this section of the guidance.

3.49 14% of **organisations with an interest in the health service** commented that this section of the guidance was particularly helpful. All other responses were raised by single organisations. This included the comment made by a member of NHS staff that the 26.9% uplift figure should be reviewed. One respondent thought this section of the guidance should be strengthened by stating that the listed criteria must be included in the calculation, rather than can be included. A range of comments of amendments to the criteria were made, including containing more detail on the nature of administrative functions, stating that student nurses should be listed under health professional or other staff due to the time taken to supervise them and that the CNO and Nurse Directors' staffing principles should be referenced here. One respondent also commented that Welsh speakers should be included in the example given of the conditions relevant to the care given by a nurse.

Evidence Based Workforce Planning Tool

3.50 The average score for this section was 3.23, with the spread of scores shown in the table below. This was the joint lowest scored section within the guidance.

Evidence based workforce planning tool			Response Percent	Response Total
1	1		10.4%	5
2	2		10.4%	5
3	3		41.7%	20

Evidence based workforce planning tool			Response Percent	Response Total
4	4		27.1%	13
5	5		4.2%	2
6	Don't know		6.3%	3
Analysis	Mean: 3.23	Std. Deviation: 1.21	Satisfaction Rate: 44.58	answered 48
	Variance: 1.47	Std. Error: 0.17		

3.51 **NHS staff** sought clarification on how the tool would operate in practice, with 19% of respondents asking who would use the tool, with the same proportion querying how the tool would be validated. 14% of NHS staff felt that the tool should be identified within the guidance, whilst asking for more explanation on what the tool would determine.

3.52 41% of **Health Boards / NHS Trusts** requested that a specific workforce planning tool should be identified within the guidance. 10% of respondents commented that it should be made clear that different tools are required for different areas. Responses raised by single respondents included a request to strengthen the guidance by stating that the designated person will act on the results of the tool, not consider them. There was also a comment that greater consistency was required throughout the document when referring to the workforce planning tool.

3.53 An **organisation with an interest in the health service** also felt there was a need for a specific workforce planning tool be identified within the guidance. Other views raised by respondents in this category included a recommendation that the tool take into account the need to plan for a bilingual workforce and that other clinical areas and specialist needs should be incorporated into the tool. One respondent recognised the issues with validating these tools and highlighted the need for the processes for determining an evidence base to be robust.

3.54 The views raised by **members of the public** included a request for greater explanation of what the tool was, and an assertion that evidence from the patient was important and should be taken into account by the tool.

Patient Wellbeing particularly sensitive to care by a nurse

3.55 The average score for this section was 3.32, with the spread of scores shown in the table below.

Patient wellbeing is particularly sensitive to care provided by a nurse	Response Percent	Response Total

Patient wellbeing is particularly sensitive to care provided by a nurse			Response Percent	Response Total
1	1		10.6%	5
2	2		10.6%	5
3	3		29.8%	14
4	4		36.2%	17
5	5		10.6%	5
6	Don't know		2.1%	1
Analysis	Mean: 3.32 / Variance: 1.41	Std. Deviation: 1.19 / Std. Error: 0.17	Satisfaction Rate: 46.38	answered 47

3.56 Respondents in all categories made suggestions of additional criteria that should be included in this section of the guidance. 14% of NHS staff made recommendations of further indicators that should be specified, including staff illness and morale, mental health, hygiene and toileting. 17% of Health Boards / NHS Trusts suggested that a patient indicator be included with a further Trust recommending that acute deterioration be listed as an indicator. Including acute deterioration was also recommended by an organisation with an interest in the health service, along with staff illness. A member of the public felt that reasonable adjustments for vulnerable persons with a learning disability should be reflected here. However, there was also a recognition that the guidance allows Health Boards to identify and utilise their own indicators for this aspect of the triangulated approach. A number of respondents, including 21% of organisations with an interest in the health service, felt that greater clarity could be provided on the kind of other indicators that could be considered, with examples potentially offered.

3.57 10% of **NHS Staff** noted the difficulty in predicting future pressures and demands. The same percentage felt that the staffing ratio needed to take into account sensitive areas of care. 10% of staff also commented that nurses often do not have the time to treat patients with sufficient sensitivity. A further respondent raised a concern that the indicators listed in the guidance are most prominent in the elderly frail population, who may not be on wards covered by this section of the Act.

3.58 25% of **Health Boards / NHS Trusts** recommended that the term “pressure ulcer” was replaced with “pressure damage”. The same percentage also felt that further definition of the terms “sensitive” and “harm” were necessary. 17% queried whether any fall, pressure ulcer or medication error should be considered or just those that cause harm. The difference between the terminology here and in the reporting section of the Act was highlighted. 17% of respondents in this category stated the guidance needed to be clear that the

designated person could override the outputs of the workforce planning tool. One respondent suggested the guidance include references for the evidence base to support the inclusion of these indicators.

3.59 21% of **organisations with an interest in the health service** commented that this section of the guidance was positive and helped implementation of the Act. One respondent echoed the query made by Health Boards as to whether all falls / pressure ulcers / medication errors should be considered or just those that result in harm. However, another respondent commented that it was right not to limit cases to those that result in harm, as those that do not result in harm could still be brought about by staffing shortages.

3.60 A **member of the public** responded that falls are dependant on the nature of a ward, and as such would not be a good indicator of staffing needs.

Effect of the guidance on the Welsh Language

3.61 There were two questions relating to the Welsh Language in the consultation. The first question asked for the effects the guidance would have on opportunities for people to use Welsh, and on treating the Welsh language no less favourably than English. The second question asked how the guidance could be changed so as to have increased positive effects and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language. In analysing responses to these questions, some comments have been considered with responses to the alternative question, to allow better grouping of feedback.

3.62 24% of **NHS Staff** commented on the challenge of providing bilingual services with current staffing establishments, due both to the numbers of staff overall and the numbers of Welsh speaking staff. 10% of staff felt that the approach to Welsh language provision should be determined at a local level, due to regional differences in the numbers of Welsh speaking patients. One respondent raised a positive example of Welsh being used in their clinical area, stating that Welsh speaking staff are clearly identified on the ward and the use of the Welsh language is encouraged. Another respondent was concerned that a requirement to recruit a specified number of Welsh speakers would have an adverse effect on recruitment.

3.63 In terms of changes that could be made to the guidance, 29% of **NHS Staff** felt the guidance should state that training opportunities should be provided to enable staff to learn or improve their Welsh language skills. 10% of staff responded that the guidance should stipulate that Health Boards should recruit

greater numbers of bilingual staff. One member of staff responded that the guidance should include direction on how best to deploy Welsh speaking staff.

3.64 25% of **Health Boards / NHS Trusts** commented that the guidance did not have any adverse effect on the Welsh language. No respondents in this category stated the guidance would have an adverse effect on the Welsh language. 42% of **Health Boards / NHS Trusts** raised concerns that stipulating a requirement to recruit a specified number of Welsh speakers would have an adverse effect on recruitment. 33% of respondents in this category stated that the guidance would need to be provided bilingually.

3.65 17% of **Health Boards / NHS Trusts** responded that the guidance should provide greater detail on how to inform patients of the staffing level in both Welsh and English, and that the guidance could provide creative solutions that would benefit both Welsh and English speakers.

3.66 21% of **organisations with an interest in the health service** commented that reference should be made to the obligation to actively offer the provision of services in Welsh, as set out in the *"More than Just Words" strategy*. 21% of organisations responded that the guidance should include the requirement that when calculating the nurse staffing level, the designated person should take into account the number of Welsh speaking staff required. There were also comments that the guidance and any other public information should be provided bilingually.

3.67 **A member of the public** commented that there was no need for further detail within this guidance as the *More than Just Words* strategy was already in place. Health Boards should demonstrate compliance with this strategy, alongside compliance with the Welsh Language Standards. Another member of the public commented that Welsh language skills should be a consideration in University recruitment.

Further statutory guidance on workforce planning

3.68 The guidance may make provision about workforce planning that Local Health Boards and NHS Trusts may undertake in order to enable them to comply with their duty to calculate and maintain nurse staffing levels. The consultation asked whether such guidance would be beneficial, and what sort of information should be included in any such guidance. 51% of all respondents felt that further guidance would be beneficial. However, a number of these responses did not set out specific issues to be included, or suggested that non statutory guidance would be beneficial.

3.69 67% of **NHS Staff** wanted to see additional guidance on workforce planning provided, with 24% asking for additional explanation of workforce planning tools. 19% of NHS staff wanted additional guidance on staff sickness and the work related factors that contribute to this. 10% of staff wanted specific workforce planning guidance on staffing issues relating to winter pressures. Other recommendations included further explanation of the triangulated approach, guidance on the use of agency staff and direction on access to training / study leave. 10% of staff wanted guidance to be issued which set out the CNO and Nurse Directors' staffing principles, including a staffing ratio.

3.70 58% of **Health Boards / NHS Trusts** responded that additional guidance on workforce planning would be helpful, 17% stating it was not required. A number of the recommendations for further guidance made by these respondents would not require specific statutory guidance. 25% requested step by step tools for workforce planning, including online tools for use by staff. The same proportion stated that explicit guidance would need to be included in the IMTP planning cycle. 25% of respondents felt that guidance providing more detail on the workforce planning tool would be beneficial, whilst 17% felt that guidance should be issued in relation to educational commissioning.

3.71 43% of **organisations with an interest in the health service** felt that additional guidance on workforce planning would be beneficial. 21% responded that additional guidance was not required as guidance on workforce planning is already available. A wide range of recommendations were made for issues that could be included in further guidance. These included accounting and reporting mechanisms for Health Boards, educational commissioning and more detail on the workforce planning tool. One response commented that the CNO and Nurse Directors' staffing principles should be included in workforce planning guidance. Another response commented that guidance should be issued setting out red flag indicators for staffing, such as sickness absence, working hours over those contracted and missed break information. A number of responses made comments on Welsh language provision, including how to provide the active offer of services in the medium of Welsh and how to recruit more Welsh speaking staff.

Related issues

3.72 The consultation asked respondents to detail any related issues that had not been specifically raised elsewhere in the consultation document. A wide range of issues were raised, some of which have been dealt with elsewhere in the report.

3.73 The most common comment, made by 33% of Health Boards / NHS Trusts and an organisation with an interest in the health service, was that guidance should be provided on the monitoring and reporting duties set out in the Act. Respondents commented that non statutory guidance may be the most appropriate vehicle for this information.

3.74 Another frequent issue, raised by 25% of Health Boards / NHS Trusts and an organisation with an interest in the health, concerned how the designated person or Health Board would be held accountable for the staffing levels, and how they could be sanctioned for non compliance with the Act.

3.75 14% of organisations with an interest in the health service queried the role of Nursing Associates under the Act, noting that the Nursing and Midwifery Council has agreed to regulate the role of Nursing Associates.

3.76 This issue of skill mix on wards was raised by a number of respondents, with one respondent recommending that staffing levels of all staff should be provided to Local Partnership Forums on a quarterly basis. This concern was also reflected by bodies representing other medical professions.

3.77 Respondents also reiterated the importance of the Act not having unintended consequences for clinical areas not covered by the legislation. This was a point raised throughout the consultation. One Health Board suggested that guidance on the overarching duty contained within the Act to ensure there are sufficient nurses to allow time to care sensitively for patients would help to reduce the risk of this unintended consequence.

3.78 In relation to this issue, it was recommended that the Act be extended to other clinical areas, such as paediatric settings and community inpatient settings.

3.79 A number of respondents, including members of staff, Health Boards / NHS Trusts and organisations with an interest in the health service stated that increased funding to Health Boards would be necessary to support compliance. It was particularly noted that funding should be provided to support the implementation of the electronic systems required by the method.

3.80 The CNO and Nurse Directors' staffing principles were raised by an organisation with an interest in the health service. It was stated that these principles should be explicitly referenced in the guidance. Particular attention was drawn to the inclusion of the 7:1 patient to nurse ratio and the supernumerary role of the Ward Sister. This view was also reflected by a number of postcards received outside the consultation window. These postcards were prepared by the Royal College of Nursing Wales and stated that the CNO's

principles should be included in the statutory guidance. Respondents were then invited to state why they believe safe nurse staffing is important.121 of these postcards were received. The majority of these comments recognised the importance of appropriate staffing for patient safety.

3.81 10% of NHS staff commented that encouragement must be given to staff to report unsafe staffing levels, and also suggested that patients must be made aware of how to raise concerns.

3.82 An organisation with an interest in the health service raised a concern that given the requirement for workforce planning tools to be validated for use in a Welsh context, this could mean that Wales could be slower to adopt new tools.

3.83 A number of responses that did not respond directly to the questions in the consultation set out how the Act and the guidance related to their organisation, and the impact the Act was likely to have. The NMC emphasised how the guidance would need to interact with the NMC Code.

3.84 Reiterating comments made elsewhere in the consultation, a number of respondents raised concerns that while the Act and the guidance were positive in their intent, they were concerned that implementation could be difficult given current recruitment challenges.

3.85 Despite this, a number of respondents highlighted the importance of the legislation given its potential to help patients and staff. This view was also reflected in a number of the responses that did not respond specifically to the questions set out in the consultation. Respondents highlighted the impact that staffing levels have on staff wellbeing.

4 Next Steps

5.1 The analysis of responses included within this document is forming the basis of the redrafting of statutory guidance to support the Nurse Staffing Levels (Wales) Act. Whilst it will not be possible to incorporate all views, particularly where there is divergence of opinion amongst respondents or where the powers under the Act do not enable us to incorporate the amendments suggested, the guidance will reflect the views offered by the consultation where possible.

5.2 The statutory guidance will be published in Welsh and English on the Welsh Government website. It is expected that this guidance will be published in autumn 2017.

5.3 The commencement of the remaining sections in the Act, 25B, 25C and 25E, will come into force on 6 April 2018. There will be opportunity for further non statutory guidance to be provided on section 25E ahead of this commencement date.