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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Nurse Staffing Levels (Wales) Act 2016 – Revised Statutory Guidance

Amendments made to the statutory guidance to include paediatric inpatient wards

Date of issue: 16 September 2020
Action required: Responses by 16 December 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

This consultation seeks your views on a revised draft of statutory guidance required by section 25D of the NHS (Wales) Act 2006, as amended by the Nurse Staffing Levels (Wales) Act 2016.

The guidance relates to sections 25B and 25C of the 2006 Act; the duties to calculate and take steps to maintain nurse staffing levels, and to the method of calculation.

The guidance has been amended to include references to paediatric inpatient wards, to which sections 25B and 25C will be applied from October 2021.

How to respond

This consultation will close on 16 December 2020.

You are encouraged to respond online, however you may also respond by email or post.

Online

Follow the instructions of the online form on our consultations webpage.

Email

Please complete the consultation response form at Annex 1 (available as a Word document on our consultation web page) and send it to:

OCNOMailbox@wales.gsi.gov.uk

Post

Please complete the consultation response form at Annex 1 (available as a Word document on our consultation web page) and send it to:

Office of the Chief Nursing Officer
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Nurse Staffing Levels (Wales) Act 2016
<https://www.legislation.gov.uk/anaw/2016/5/enacted>

Contact details

For further information:

Email: OCNOMailbox@wales.gsi.gov.uk

Telephone: 03000251436

**Also available in
Welsh at:**

llyw.cymru/ymgyngoriadau

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk/>

What are the main issues?

1. Sections 25B and 25C of the NHS (Wales) Act 2006, as inserted by the Nurse Staffing Levels (Wales) Act 2016, place duties on Local Health Boards (LHBs) and NHS trusts (Trusts) in Wales to calculate and maintain the nurse staffing levels for adult acute medical inpatient wards and adult acute surgical inpatient wards. The rationale for applying the duties only in these settings was that section 25C mandates the use of an evidence-based workforce planning tool for the calculation process, and in 2016, adult acute medical and surgical inpatient wards were the only settings with a sufficiently developed evidence-base to create such a tool (the Welsh Levels of Care).
2. However, since the duties came into force within those settings, the All Wales Paediatric Nursing Group has spearheaded the development and testing of a Welsh Levels of Care tool for paediatric inpatient settings. Following this work, the Welsh Government has therefore decided to extend the duties in sections 25B and 25C to paediatric inpatient wards. Individual work-streams of the All Wales Nurse Staffing Group are working to develop similar tools for other nurse settings, and the potential to extend these duties to those settings will remain under review.
3. Section 25D requires the Welsh Ministers to issue guidance about the duties under sections 25B and 25C, to which LHBs and Trusts must have regard when exercising their duties under those sections. Statutory guidance was originally published in November 2017, applying only to adult medical and surgical inpatient wards.
4. This consultation relates to the minor changes to that statutory guidance, necessary in light of the decision to extend the duties to paediatric inpatient wards.
5. Areas not covered within the guidance, such as reporting and monitoring may be included in future, non-statutory guidance.

Where are we now?

6. The COVID 19 pandemic inevitably caused significant disruption both to the work of the All Wales Nurse Staffing Group (which oversees the development of the evidence-based workforce planning tools required by the Act), and to LHBs' own preparations for the extension of the duties into paediatrics.
7. Consequently, in March 2020, the Minister for Health and Social Services made the decision to postpone this consultation, from the summer months as planned, enabling the NHS to focus on the pandemic response.
8. Similarly, the Minister has agreed to a flexibility on the coming-into-force date of the regulations necessary to extend the duties (originally envisaged for April 2021), to allow time for services to overcome the unforeseen delay to preparations. October 2021 is now the target coming-into-force date, however, this may be subject to further necessary change.

9. At present these regulations, to be made under section 25B(3)(c), are scheduled for debate by the Senedd in February 2021.

Amendments to the statutory guidance

10. The revised statutory guidance is included at Annex 2, with all amendments clearly tracked. The changes broadly fall into three categories:
- a) Inclusion of a definition for paediatric inpatient wards and corresponding alterations to the existing definitions of adult medical and surgical inpatient wards (paragraphs 28 – 30);
 - b) The addition of a list of care settings that would be excluded under the definition of paediatric inpatient wards (paragraph 30); and
 - c) Amendments to the general narrative, to reflect the updated position of sections 25B and 25C applying to these additional settings.

There are also minor typographical or formatting alterations to the original document (throughout). Specific instances are further explained by comments where appropriate.

Responding to this consultation

11. This consultation provides an opportunity to share any views you may have on the amendments to the statutory guidance, detailed at Annex 2.
12. Please use the online response form on our consultations web page.
13. Alternatively, you may use the response form at Annex 1 (available as a Word document on the consultation web page), which contains the same consultation questions, and submit it to us as per the instructions on the cover sheet of this document.

Consultation Response Form

Your name:

Organisation (if applicable):

Email / telephone number:

Your address:

I am a/an <i>(please select one from the following)</i>	Patient / Family member or carer of a patient	
	Member of the public	
	Member of NHS staff	
	Local Health Board / NHS Trust	
	Organisation with an interest in the health service	
	Voluntary sector representative (community group, volunteer group, self-help group, cooperative, enterprise, religious group, not-for-profit organisation)	
	Other group not listed above	

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

1) Do you think the definitions of 'paediatric inpatient wards', 'adult acute medical inpatient wards' and 'adult acute surgical inpatient wards', within paragraphs 28 to 30 of the statutory guidance, are suitably clear and easy to understand?

If not, how do you think they could be made clearer?

Your answer here

2) Is the list of excluded care settings (settings not considered to fall within the definition of a paediatric inpatient ward) at paragraph 30 of the statutory guidance, appropriate? If not, why not?

Your answer here

3) Do you have any observations on the general amendments made to the statutory guidance, to reflect the inclusion of paediatric inpatient wards within the duties under sections 25B and 25C?

Your answer here

4) We have asked a number of specific questions about the amendments made to the statutory guidance. If there are any related issues that we have not specifically addressed, please raise them here.

Your answer here

5) We would like to know your views on the effects that the guidance would have on the Welsh language, specifically on:

- i) opportunities for people to use Welsh; and**
- ii) treating the Welsh language no less favourably than English.**

Your answer here

6) Please also explain how you believe the guidance could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language; and**
- ii) 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.**

Your answer here

7) We would like to know your views on the impact that the guidance would have on groups with protected characteristics.

Protected characteristics are: age, disability, gender reassignment, marriage & civil partnership, pregnancy & maternity, race, religion & belief, sex, and sexual orientation.

- i) Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?**
- ii) Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?**

Your answer here