

Nurse Staffing Levels (Wales) Act 2016

Operating Framework

Swansea Bay University Health Board in order to meet its obligations under the Nurse Staffing (Wales) Act 2016 is required to have a robust set of corporate governance structures in place. The Nurse Staffing (Wales) Act 2016 received Royal Assent in March 2016 and made law the duty of Local Health Boards to provide sufficient nurses to care for patients. The Bill requires the setting of a minimum staffing level.

This document provides an overview of the statutory duties, responsible officers and reporting mechanisms. Underpinning this structure delegated officers will have responsibility for ensuring the operating framework, escalation and business continuity plans within their Service Delivery areas of responsibility are reflective of the Act.

The purpose of this Framework is to support Health Board staff in the calculation and maintenance of the nurse staffing levels in accordance with the Nurse Staffing Levels (Wales) Act 2016.

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This framework should be read in conjunction with the Nurse Staffing Levels (Wales) Act 2016 & the Statutory Guidance issued by Welsh Government.

Aims and Objectives of the Act

The Nurse Staffing Levels (Wales) Act 2016 became law in March 2016, with a phased commencement. The Act requires Health Boards to make provision for appropriate nurse staffing levels, and ensure that they are providing sufficient nurses to allow the nurses' time to care for patients sensitively. The Health Board has an overarching responsibility which came into effect in April 2017, requiring them to ensure they had robust workforce plans, recruitment strategies, structures and processes in place to ensure appropriate nurse staffing levels across their organisations.

Calculating the Nurse Staffing Levels

The Health Board must calculate the number of nurses - and those staff undertaking nursing duties under the supervision of or delegated to by a registered nurse - required to provide patient centred care and to meet the holistic needs of patients, in every adult acute medical and surgical ward.

A triangulated approach is used for this calculation, utilising three sources of information to determine the required nurse staffing level. In this situation the information triangulated is both qualitative and quantitative in nature. The triangulated approach must include:

- **Professional judgement** – of the Unit Nurse Director using their knowledge of the clinical area plus the evidence available to make an informed decision.
- **Patient acuity** - using the evidence-based workforce planning tool to determine the nurse staffing level that will meet all reasonable requirements of care. The tool used determine the acuity of each patient is the Welsh Levels of Care.

Level 5	One to One Care - the patient requires at least one to one continuous nursing supervision and observation for 24 hours a day
Level 4	Urgent Care - The patient is in a highly unstable and unpredictable condition either related to their primary problem or an exacerbation of other related factors.
Level 3	Complex Care - The patient may have a number of identified problems, some of which interact, making it more difficult to predict the outcome of any individual treatment
Level 2	Care Pathways - The patient has a clearly defined problem but there may be a small number of additional factors that affect how treatment is provided.
Level 1	Routine Care - The patient has a clearly identified problem, with minimal other complicating factors.

- **Quality indicators** - consider the extent to which patients' well-being is known to be sensitive to the provision of care by a nurse. Part of the triangulated approach involves considering those quality indicators that are particularly sensitive to care provided by a nurse. To reduce the burden of measurement, quality indicators that have an established data source should be used and the Act advises the designated person to consider the

following quality indicators as these have been shown to have an association with low staffing levels:

- **Patient falls** - any fall that a patient has experienced whilst on the ward;
- **Pressure ulcers** - total number of hospital acquired pressure ulcers judged to have developed while a patient on the ward; and
- **Medication errors** - any error in the preparation, administration or omission of medication by nursing staff (this includes medication related never events).

The Act also advises that complaints about care provided to patients by nurses made in accordance with the Complaints Regulations, may also be considered. However a decision has been made by Nurse Directors and the Chief Nursing Officer that this information is not required as part of the method for calculation for the 2018/19 period as further work is being undertaken to clearly define the indicator to ensure consistency across Wales. Each health board/trust will be required to use the indicator from the beginning of the 2019/20 period onwards.

In addition to the quality indicators listed above, other quality indicators that are sensitive to the nurse staffing level may be deemed appropriate. The statutory guidance suggests that: patient feedback; unmet care needs; failure to respond to patient deterioration; staff wellbeing; staff ability to take annual leave; staff compliance with mandatory training; and staff compliance with performance development reviews can all be considered as potentially relevant.

The triangulated evidence should be reviewed independently and then interpreted to arrive at an informed decision on the nurse staffing levels/planned roster for each ward:

- Firstly apply a sense check to the information outlined in the triangulation. Are there any obvious inaccuracies or omissions?
- Look at the quantitative and qualitative information and decide what the data tells you about the workload of the ward and the skill mix of the staff that is needed.
- Use the three source of information – professional judgement, Quality indicators and Patient Acuity to determine the correct & safe planned roster for the clinical area.
- The designated person must be provided with the rationale behind the calculation.

Duties and responsibilities of staff

The responsibility for meeting the requirements of the Act applies to staff at all levels from the ward to the Board, with the Board and Chief Executive Officer being ultimately responsible for ensuring the health boards'/trusts' compliance with the Act.

Board

When exercising their responsibilities, the Board must consider and have due regard to the duty on them under section 25A of the Act to have sufficient nurses to allow the nurses time to care for patients sensitively wherever nursing services are provided.

In addition, specific members of the Board - the Executive Directors of Nursing, Workforce & Organisational Development, Finance and Operation - are required under sections 25B and 25C of the Act to provide evidence and professional opinion to the Board to assist with its decision making in relation to calculating and maintaining the nurse staffing level in adult acute medical and surgical in-patient wards.

The Board is required to:

- Designate a person (or a description of a person) to be responsible for calculating the nurse staffing level in settings where section 25B of the Act applies.
- Determine which ward areas meet the definitions of the adult acute medical and surgical inpatient wards.
- Receive and agree written reports from the designated person on the nurse staffing level for each adult acute medical and surgical inpatient ward at a public board on an annual basis and at any other time when the designated person deems this to be required.
- Ensure that systems are in place to record and review every occasion when the number of nurses deployed varies from the planned roster.
- Agree the operating framework which will:
 - Ensure there are systems and processes in place and specify the decisions in relation to maintaining the nurse staffing level.
 - Specify the actions to be taken, and by whom, to ensure that all reasonable steps are taken to maintain the nurse staffing level on both a long term and a shift-by-shift basis.
 - Specify the arrangements for informing patients of the nurse staffing level on each ward along with the date this was agreed by the Board. The information should be set out in an easily accessible format and must comply with requirements under the Welsh Language Standards.

The **Director of Workforce and Organisational Development (OD)** is required to ensure that:

- An effective system of workforce planning, based on the Welsh Planning System, is in place in order to deliver a continuous supply of the required numbers of staff.
- There are systems to ensure active and timely staff recruitment (at both a local, regional national and international level).
- There are effective staff well-being and retention strategies in place that take account of the NHS Wales Staff Survey.

The **Director of Operations** is responsible for developing, implementing and reviewing the organisation's operational framework that will need to describe the processes that are required to:

- Enable the use of appropriately skilled, temporary (bank or agency) nursing.
- Effectively manage the temporary use of staff from other areas within the organisation.
- Effectively manage the temporary closure of beds.
- Provide guidance on when changes to the patient pathway as a means to maintaining nurse staffing levels might be considered and deemed appropriate.

The **Director of Finance** is responsible for:

- Ensuring that the nurse staffing level is funded from the health board's/trust's revenue allocation and that it takes into account the actual salary points of staff employed on the wards where section 25B applies.

The **Director of Nursing & Patient Experience** (Designated person) is authorised within the health board's/trust's governance framework to calculate the nurse staffing level for each adult acute medical and surgical inpatient ward within the health board/trust on behalf of the Chief Executive Officer.

The designated person will be registered with the Nursing and Midwifery Council; understand the complexities of setting clinical nurse staffing levels; and be sufficiently senior within the health board/trust.

The designated person is responsible for:

- Establishing the processes and timetable for the annual cycle required within their health board/trust, supported by appropriate professional nursing, finance, operational and workforce personnel, to facilitate the biannual (re)calculation of the nurse staffing level.
- Calculating the number of registered nurses - and those staff undertaking nursing duties under the supervision of or delegated to by a registered nurse - appropriate to provide person-centred care that meets all reasonable requirements in adult acute medical and surgical inpatient wards. This is to be undertaken by exercising professional judgement when applying the triangulated approach.
- Undertaking and recording the rationale for the calculation. This will be done every 6 months as a minimum or more frequently if there is a change in the use/service which is likely to alter the nurse staffing level, or if they deem it necessary.
- Formally presenting the nurse staffing level for each ward to their Board on an annual basis and in addition provides a written update to the Board at any time if they deem it necessary to change the nurse staffing level for any reason.

Nursing management structure

The opinions of the nursing management structure for each adult medical and surgical inpatient ward should be considered by the designated person when they are calculating the nurse staffing level. This should include providing the information required to enable the designated person to exercise their professional judgement when calculating the nurse staffing level.

On the rare occasions when the planned roster varies in response to the clinical situation across the system, the ward sister/charge nurse - along with other identified members of the nursing management structure - should continuously assess the situation and keep the designated person appraised.

Named roles within the health board/trust nursing management structure will be responsible for ensuring the consistent use of the system put in place to review and record every occasion when the number of nurses deployed varies from the planned roster.

The recording system should include a mechanism for recording the use of temporary staff, including bank and agency staff; and also the occasions when nursing staff are temporarily moved from other clinical areas/duties within the organisation in order to support the nurse staffing level within a ward.

The **Assistant Director of Nursing and Patient Experience** must:

- Provide professional leadership and guidance in the calculation of the Nurse Staffing Levels based upon the requirements set out in section 25B & 25C of the Act.
- Contribute to calculating the nursing staff levels for the situations where 25B applies every six months at minimum, and when there is a change in service/use which is likely to change the nurse staffing levels and on an annual basis for all other areas.
- Be responsible for monitoring the professional standards in relation to the nurse staffing level at operational level and agreeing the nurse staffing levels for acute services.

Unit Nurse Directors must:

- Ensure own knowledge of this policy, the Act and the statutory guidance.
- Ensure systems are in place within Directorates/services to ensure that the nurse staffing level is calculated as per the requirements of the statutory guidance for the situations where Section 25B of the Act applies and annual for all other areas, including budget setting.
- Ensure that this policy, the Act and statutory guidance are applied to hospital site management decision making both in and out of hours.
- Ensure that systems are in place to enable any required multi-disciplinary team learning from individual as well as collated nurse-staffing related Datix reports within the service, ensuring trends identified and acted upon.
- Ensure that service planning (e.g. those within IMTP) takes account of the requirements set out in the Nurse Staffing Levels (Wales) Act. Ensure efficient and effective vacancy approval processes are in place within the Directorate/service to minimise delays within recruitment processes and escalate any delays that are outside the control of the operational team.

The Operational Head of Nursing must:

- Contribute to calculating the nursing staff levels for the situations where 25B applies every six months at minimum, and when there is a change in service/use which is likely to change the nurse staffing levels and on an annual basis for all other areas.
- Review the patient acuity and quality indicator data and provide information that enables the Director of Nursing to exercise professional judgement when calculating the nurse staffing levels.
- Ensure that when the planned roster varies in response to the clinical situation, the ward sister/charge nurse and senior nurse are continuously assessing the situation and keep the “designated person” appraised.
- Ensure that the systems in place to review, record and report every occasion when the number of nurses deployed varies from the planned roster are utilised.
- Ensure that all “reasonable steps” are undertaken to maintain the nurse staffing level.
- Ensure any staffing risks or concerns are managed appropriately and timely and that patient care and safety and that nurses are not compromised over Nurse Staffing Levels. Identify all risks that require a corporate management or professional intervention must be escalated to the appropriate Executive leaders within the organisation.
- Ensure adequate operational management capacity is in place to enable appropriate response to escalating staffing concerns both in and out of hours.

Corporate Matrons must:

- Provide professional leadership and guidance in the calculation of the Nurse Staffing Levels based upon the requirements set out in section 25B & 25C of the Act.
- Assist with the collection of patient acuity data.
- Support service delivery units with the production of 6 monthly establishment reviews.
- Contribute to All Wales staffing groups as the Health Board representative and disseminate information gathered via internal steering group meeting.

Operational Matrons must:

- Contribute to calculating the nursing staff levels for the situations where 25B applies every six months at minimum, and when there is a change in service/use which is likely to change the nurse staffing levels and on an annual basis for all other areas. They must:
- Support teams within their service area to undertake the bi-annual acuity audits (or more frequently if required) and is responsible for validating and confirming the acuity data collected.
- Ensure effective and efficient use of nurse staffing resources to support safe, effective and fair advance planning by signing off the planner roster.

- In accordance with paragraph 14 of the statutory guidance the Senior Nurse, along with the Ward Manager, should continuously assess the clinical environment and keep the Head of Nursing formally appraised of the situation.
- Proactively manage daily workforce planning across areas of responsibility to ensure staff are distributed according to clinical need.
- Ensure risk assessment is complete.
- Ensure that all “reasonable steps” are undertaken to maintain the nurse staffing level and escalate any concerns.
- Escalate to relevant professional heads of nursing areas of concern or inability to fill shift.
- Should ensure that on occasions when the nurse staffing level is not maintained that these occasions are reported as a Datix incident.
- Review, record and report every occasion when the number of nurses deployed varies from the planned roster, and ensure the mitigating actions are sufficient to maintain a safe service to both service users and staff.
- Review all Datix reports and undertake final grading of all investigations and identify any trends or issues that arise and that these are actioned.
- Ensure that the vacancy process is undertaken in a timely manner.

The **Ward Sister/Charge Nurse** is responsible for assessing the holistic nursing care needs of the patients and for categorising these under the Welsh Levels of Care descriptors as part of the evidence-based workforce planning tool process. They should also:

- Make available their professional judgement about the nurse staffing levels to the designated person when they are calculating the nurse staffing level.
- Ensure they utilise the system designated by the health boards/trust to review and record every occasion when the number of nurses deployed varies from the planned roster, and maintain the system for informing patients of the nurse staffing level.

The **Clinical Site Manager** must:

- Ensure own knowledge of this policy, the Act and the statutory guidance.
- Maintain an overview of staffing and patient acuity across the site.
- At operational site meetings escalate staffing issues to the responsible Senior Nurse.
- Out of hours: ensure that all “reasonable steps” are taken to maintain nurse staffing levels including adjusting the nurse staffing levels to match the patient workload or changing the workload to match the nurse staffing level and step down of any surged beds (Clinical Site Managers should consider and take due regard of the duty placed upon the organisation in section 25A to have sufficient nurses to allow the nurses time to care sensitively for patients wherever nursing services are provided.
- Ensure a risk assessment is completed.
- Escalate concerns to the on call manager.

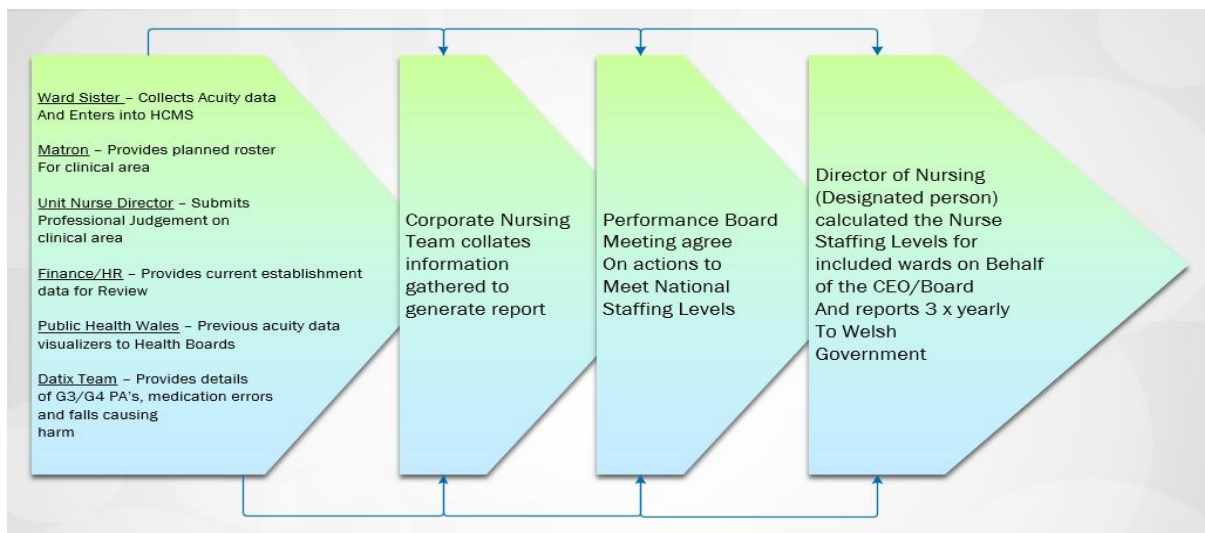
The **On-call Manager** must:

- Ensure own knowledge of this policy, the Act and the statutory guidance.

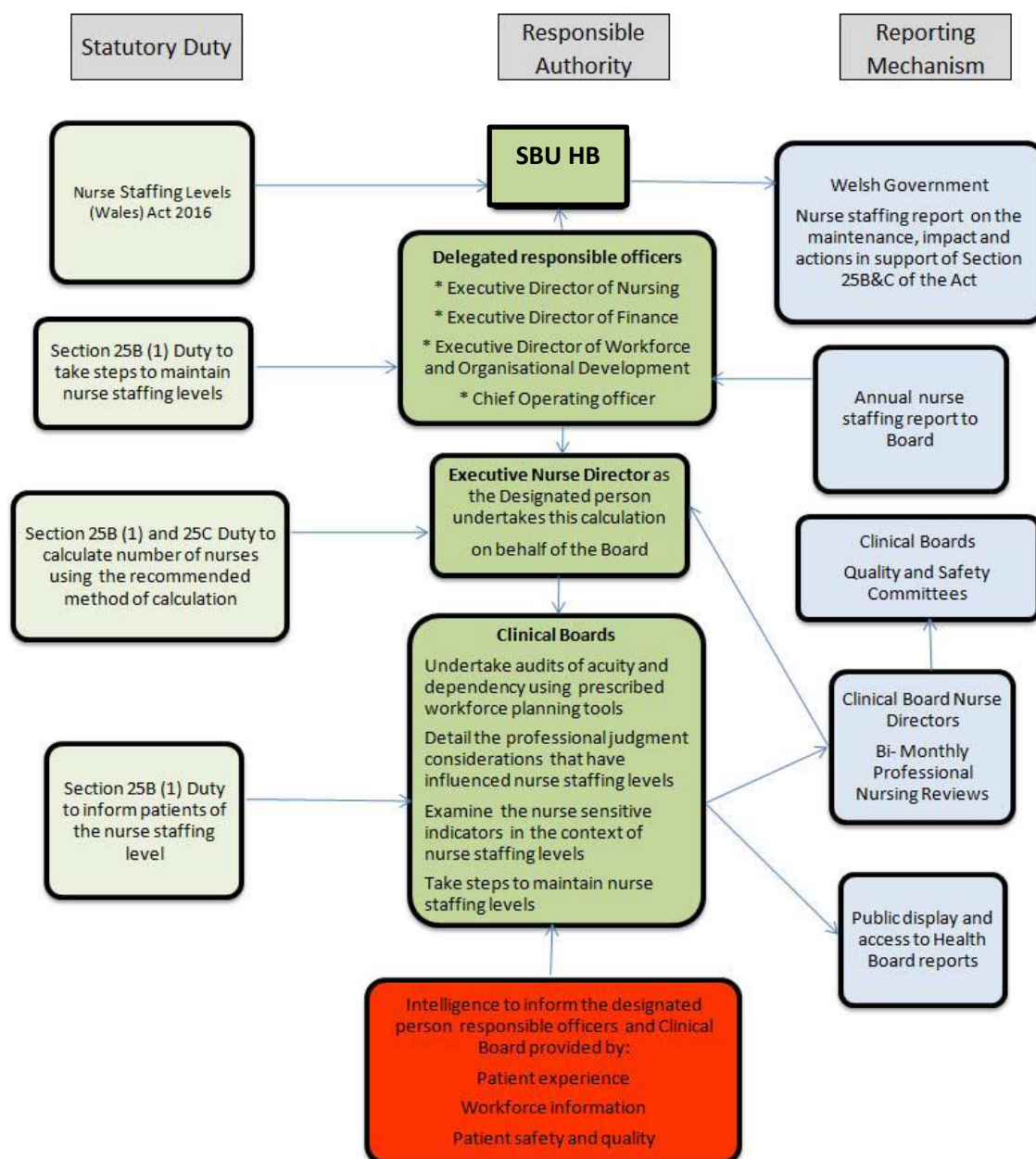
- Ensure that all “reasonable steps” are taken to maintain nurse staffing levels including adjusting the nurse staffing levels to match the patient workload or changing the workload to match the nurse staffing level and step down of any surged beds (the on call managers should consider and take due regard of the duty placed upon the organisation in section 25A to have sufficient nurses to allow the nurses time to care sensitively for patients wherever nursing services are provided).
- Ensure a risk assessment is completed.
- Escalate concerns to the on call executive

The **On-call Executive** must:

- Ensure own knowledge of this policy, the Act and the statutory guidance.
- Ensure that all “reasonable steps” are taken to maintain nurse staffing levels including adjusting the nurse staffing levels to match the patient workload or changing the workload to match the nurse staffing level and step down of any surged beds (the on call managers should consider and take due regard of the duty placed upon the organisation in section 25A to have sufficient nurses to allow the nurses time to care sensitively for patients wherever nursing services are provided).
- Ensure a risk assessment is completed.



A diagrammatic representation of the responsible authority and reporting mechanism associated with the Nurse Staffing Act (Wales) 2016.



Reporting the Nurse Staffing levels

Each Service Delivery Group will submit a completed ward calculation template for each clinical area that is included within the Act (diagram below).

When is the information gathered and reported

January	Acuity audit undertaken	<p>Ongoing capture and monitoring of pertinent data relating to the agreed quality indicators and professional judgement criteria. Also, ongoing review and recording of any variation from planned rosters</p> <p>In addition the Executive Board should receive a written update of the nurse staffing level of each individual adult acute medical and surgical ward when there is a change of use/service that has resulted in a changed nurse staffing level, or if the designated person deems it necessary.</p>
February	Validation and sign-off of acuity data	
March	Re-calculate the Nurse staffing level using the triangulated approach	
April	Scrutiny Panel meet and finalise the agreed nurse staffing level.	
May	Health Boards present the annual report and bi-annual recalculation to the Executive Board meeting.	
June	Acuity audit undertaken	
July	Validation and sign-off of acuity data	
August	Re-calculate the Nurse staffing level using the triangulated approach	
September	Scrutiny Panel meet and finalise the agreed nurse staffing level.	
October		
November	Health Boards present the bi-annual recalculation to the Executive Board meeting.	
December		

Maintaining the Nurse Staffing levels

Ward Managers and Matrons have the responsibility of producing a roster that meets the needs of the patients within the clinical area. The planned roster that has been agreed at Board level is the aim. If the ward has vacancies, substantive staff must be distributed equally throughout the roster and efforts made to fill the gaps by moving staff from other areas if available, working overtime, utilising the Health Board Nurse Bank and in some cases using an external nursing agency. Efforts to fill vacant posts must be maximised during recruitment events/advertising. The senior nurse on duty must be informed that you have a shortfall in required nurses on duty and a Datix report must be completed if efforts made to resolve the shortage fail.

The Health Board is duty bound to ensure all 'reasonable steps' are taken to maintain the nurse staffing level in all areas. They will review, record and report every occasion when the number of nurses deployed varies from the planned roster and ensure reasonable steps are taken to maintain nurse staffing levels.

At a **strategic** level steps "reasonable steps" include:

- Workforce planning for a continued supply of required staff.
- Active recruitment in a timely manner at local, regional, national and international level.
- Retention strategies that includes consideration of the NHS Wales Staff Survey.
- Well-being at work strategies that support nurses in delivering their roles.

At an **operational** level "reasonable steps" include:

- Adjusting the nurse staffing levels to match the patient workload.

- Use of temporary staff from nurse bank or agency.
- Temporary use of staff from other areas within the organisation although when considering using staff from other areas within the organisation individuals should consider and take due regard of the duty placed upon the organisation to have sufficient nurses to allow the nurses time to care sensitively for patients wherever nursing services are provided. In addition, decisions about moving staff should take into consideration the staff member's competency and skills.
- Changing the workload to match the nurse staffing level
- Consideration to the temporary closure of beds.
- Changes to the patient pathway.
- Effective resource management, utilisation and deployment of staff e.g. appropriate allocation of annual leave and study leave, staff working overtime (within WTE), additional hours or use of hours owed;
- Use of a robust electronic rostering tool and strong governance systems to monitor and review the rosters and ensure effective utilisation of the nursing workforce (e.g. review the staffing roster on a day to day basis, explore with staff member rescheduling annual leave and/or change of shift, postponing staff training/ study leave);
- Ward sister/charge nurse to work within the planned roster;
- Other healthcare professionals (e.g. frailty workers, dietetic assistants, therapists) contributing to the delivery of nursing care;

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