



# Nurse Staffing Levels (Wales) Act 2016

## Operating Framework

Swansea Bay University Health Board (SBUHB) 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 Adult in patients in acute medical and surgical wards. From October 1<sup>st</sup> 2021, The Act will be extended to include paediatric in-patient wards. This operating framework will cover all elements of the Nurse Staffing Levels (Wales) Act 2016 and the 2021 extension of the Act into paediatrics. The Act 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 Group areas of responsibility are reflective of the Act.

This framework should be read in conjunction with the Nurse Staffing Levels (Wales) Act 2016, the Statutory Guidance, version 2, issued by Welsh Government in March 2021 and HEIW Nurse Staffing Levels (Wales) Act 2016: Operational Guidance, version 2, April 2021.

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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## 1. Aims and Objectives of the Act

The Nurse Staffing Levels (Wales) Act 2016 became law in March 2016, the second duty of the Act is extended to Paediatrics in-patient wards on October 1<sup>st</sup> 2021. 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 requiring them to ensure they have robust workforce plans, recruitment strategies, structures and processes in place to ensure appropriate nurse staffing levels across their organisations.

## 2. 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 and paediatric acute in-patient 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.

## Adult and Paediatric Welsh Levels of Care

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

In order for nurses to accurately assign their patients to a Welsh Levels of Care, the levels are broken down into categories with increasing specificity:

**Lay Descriptors** – describe in simple terms the typical patient and types of care

**Clinical Descriptors** – more detail including professional considerations at each level

**Nursing Themes** – technical detail about the condition and interventions required at each level

Full details of the Welsh Levels of Care can be found in NHS Wales: Welsh Levels of Care Document

<https://heiw.nhs.wales/files/all-wales-nurse-staffing-programme/welsh-levels-of-care-edition-1/#:~:text=The Welsh Levels of Care,predictable%2C requiring routine nursing care.>

- **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:

On <b>all wards to which sections 25B - 25E of the Act pertain</b> , this consideration should include analysis of the data for the relevant care situation on the following quality indicators:
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| <ol style="list-style-type: none"> <li>a. <b>Pressure ulcers</b> - the designated person should consider any pressure ulcers a patient has developed and/or shown deterioration whilst receiving inpatient care.</li> <li>b. <b>Medication administration errors</b> - the designated person should consider any error in the preparation, administration or omission of medication by nursing staff.</li> </ol> |
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On <b>adult acute medical and surgical inpatient wards</b> , this consideration should also include:
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| <ol style="list-style-type: none"> <li>c. <b>Patient falls</b> - the designated person should consider any fall that a patient has experienced</li> </ol> |
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On <b>paediatric inpatient wards</b> , this consideration should also include:
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| <ol style="list-style-type: none"> <li>d. <b>Infiltration/extravasation injuries</b> – the designated person should consider any injury experienced by a patient during an intravenous infiltration</li> </ol> |
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In each case, consideration of the data relating to (a)-(d) above should include a review of whether the nurse staffing level was maintained at the relevant time, and if not, whether the failure to maintain the nurse staffing level contributed to the fall, ulcer, or error and to any harm suffered by the patient

- **Formal complaints**

The Act also advises that formal complaints about care provided to patients by nurses made in accordance with the Complaints Regulations, may also be considered.

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.

### **3. 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 compliance with the Act.

#### **The 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. In order, to assist with its decision making in relation to calculating and maintaining the nurse staffing level in both adult and paediatric acute medical and surgical in-patient wards, where Section 25B applies.

The Board is required to:

- Designate a person to be responsible for calculating the nurse staffing level in settings where Section 25B of the Act applies. In SBUHB, this person is the Director of Nursing and Patient Experience.
- Determine which ward areas that meet the definitions within Section 25B, which from 1<sup>st</sup> October 2021, includes all adult and paediatric acute medical and surgical inpatient wards.
- Receive and agree written reports from the designated person on the nurse staffing level for each Section 25B wards 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, which support any 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 following the All Wales Template.

Quality and Safety Committee is the delegated committee on behalf of the Board

**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.

**Chief Operating Officer** is responsible for developing, implementing and reviewing the Health Boards operational framework, that describes 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 revenue allocation and that it takes into account the actual salary points of staff employed on the wards where section 25B applies.
- Ensure Section 25A wards have sufficient nurse staffing funding to allow for delivery of safe sensitive care.
- Involvement in writing of the required Health Board NSA reports, including the annual reports in May and November and the three yearly reports to Welsh Government.
- Input into any additional reports to meet the requirements of 'the Act'.

**The Director of Nursing & Patient Experience** (Designated person) is authorised within the health board's governance framework to calculate the nurse staffing level for each acute medical and surgical inpatient ward, Section 25B wards, within the health board 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.

The designated person is responsible for:

- Establishing the processes and timetable for the annual cycle required within their health board, 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 all Section 25B 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.
- Provide written assurance to the Board and formally present the nurse staffing level for each Section 25B ward on an annual basis, or at any time if deemed necessary to change the nurse staffing level for any reason.

### **The Nursing Management Structure**

The opinions of the nursing management structure for each Section 25B 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 within the Health Board, 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 nursing management structure will be responsible for ensuring that there is a consistent process 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 Deputy Director of Nursing / Assistant Director of Nursing** 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 the bi-annual calculation process where Section 25B applies, every six months as a minimum and when there is a change in service/use which is likely to change the nurse staffing levels and as required for all other areas.
- Chair the Health Boards monthly Nurse Staffing Act Steering Group.

**Service Group Nurse Directors** must:

- Ensure own knowledge of this policy, the Act and the statutory guidance.
- Ensure systems and processes are in place within Service Groups 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 the Act, statutory guidance and this operating framework 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 Service Group to minimise delays within recruitment processes and escalate any delays that are outside the control of the operational team.

**The Operational Heads 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, in order to maintain patient safety and high standards of patient care.
- Ensure that nurses are not compromised over Nurse Staffing Levels.
- Identify and ensure all risks that require a corporate management or professional intervention are 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.
- Provide details of Section 25A wards/areas that require review.

**The Corporate Head of Nursing and Corporate Matron 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.
- Support 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.
- Support the writing of Board and Welsh Government papers.

**The 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.
- 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.
- Operational Matrons, 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 Nurse Staffing Levels risk assessment is complete.
- Ensure that all “reasonable steps” are undertaken to maintain the nurse staffing levels 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 ensure that these are actioned and escalated appropriately.
- Ensure that the vacancy process is undertaken in a timely manner.

**Professional Lead Matron** working the hours of 5pm to 8pm Monday to Friday and 8am until 4pm on Saturday and Sunday, will:

- Undertake all roles related to the Operational Matrons above.

**The Ward Manager** is responsible for assessing the holistic nursing care needs of their patients and for categorising these under the Welsh Levels of Care (Adults or Paediatrics) descriptors as part of the evidence-based workforce planning tool process. They must:

- Demonstrate their professional judgement about the nurse staffing levels to the designated person when they are calculating the nurse staffing level for their area/ward.
- Ensure they utilise the system designated by the health boards 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.
- Escalate any concerns appropriately.

**The Clinical Site Manager** must:

- Ensure own knowledge of this operating framework, the Act and the statutory guidance.
- Maintain an overview of staffing and patient acuity across the site and be able to liaise across all sites of the Health board.
- At operational site meetings escalate staffing issues to the responsible Matron.
- 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 or commissioned.
- Ensure a Nurse Staffing Levels risk assessment is completed.
- Escalate concerns to the on call manager.

**The On-call Silver Manager** must:

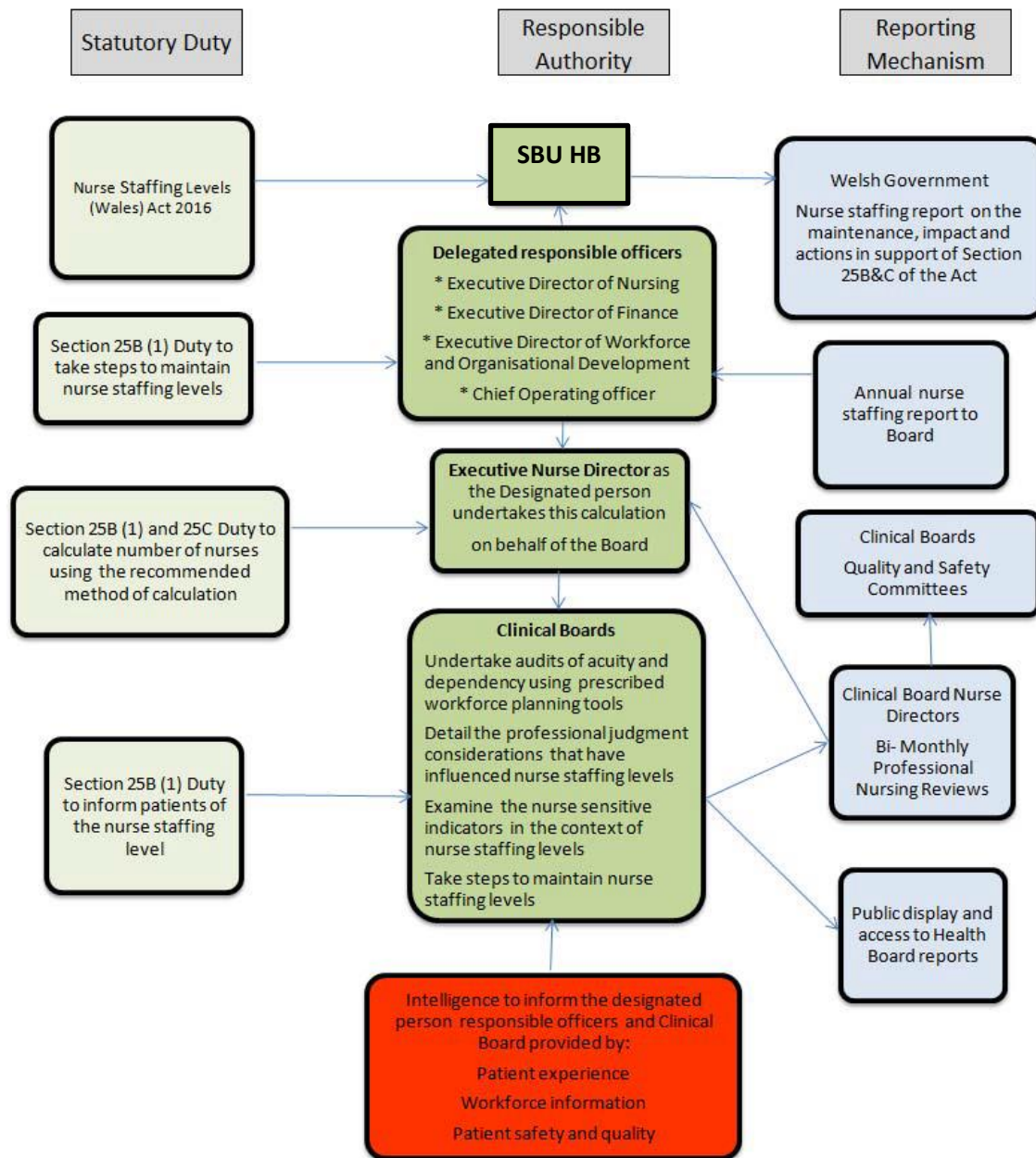
- Ensure own knowledge of this operating framework, the Act and the statutory guidance.

- 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 Nurse Staffing Levels risk assessment is completed.
- Escalate concerns to the on call executive

**The On-call Gold Executive** must:

- Ensure own knowledge of this operating framework, 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 Gold Executive 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 Nurse Staffing Levels risk assessment is completed.
- Respond to escalated nurse staffing challenges from Service Groups.
- Respond to escalated nurse staffing deficits and make decisions surrounding authorisation of temporary staffing.

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





## 5. Annual plan for Nurse Staffing Levels (Wales) Act, 2016

<b>January</b>	Acuity audit undertaken	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 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.
<b>February</b>	Validation and sign-off of acuity data	
<b>March</b>	Re-calculate the Nurse staffing level using the triangulated approach	
<b>April</b>	Scrutiny Panel meet and finalise the agreed nurse staffing level.	
<b>May</b>	Health Boards present the annual report and bi-annual recalculation to the Executive Board meeting.	
<b>June</b>	Acuity audit undertaken	
<b>July</b>	Validation and sign-off of acuity data	
<b>August</b>	Re-calculate the Nurse staffing level using the triangulated approach	
<b>September</b>	Scrutiny Panel meet and finalise the agreed nurse staffing level.	
<b>October</b>		
<b>November</b>	Health Boards present the bi-annual recalculation to the Executive Board meeting.	
<b>December</b>		

## 6. 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 and mirrors the planned roster, that has been agreed at Board level. If the ward has vacancies, substantive staff must be distributed equally throughout the roster. Efforts must be made to fill the gaps by moving staff from other areas if available, for example: 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 in line with Health Board Workforce Planning. 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.

When undertaking these reasonable steps Health Board should consider and take due regard of the duty placed upon them in section 25A to have sufficient nurses to allow the nurses time to care sensitively for patients wherever nursing services are provided.

These reasonable steps and this operating framework should be included in the health board's escalation policy and business continuity plans.

## 7. Reasonable Steps

### Strategic Level

- 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.

### Operational Level

- Adjusting the nurse staffing levels to match the patient workload.
- Use of temporary staff from nurse bank or agency.
- When considering using temporary staff from other areas within the organisation, consideration should take due regard of the duty placed upon the organisation to have sufficient nurses in all areas. In order, for the nurse's to have time to care sensitively for patients wherever nursing services are provided or commissioned. 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.
- Consider the temporary closure of beds.
- Consider 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.
- Consider Ward sister/charge nurse to work within the planned roster.
- Consider other healthcare professionals e.g. frailty workers, dietetic assistants, therapists) contributing to the delivery of nursing care.

Updated: November 2021

Next Review: November 2022



## Swansea Bay University Health Board

### Authorisation Form for Publication onto COIN

PLEASE ENSURE THAT ALL QUESTIONS ARE ANSWERED – IF NOT APPLICABLE PLEASE PUT N/A

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(1) All policies need to comply with the Policy for the production, consultation, approval, publication and dissemination of strategies, policies, protocols, procedures and guidelines

(2) Relevant keywords will assist COIN users with searching for documents.