

NMC response: Welsh Government consultation on Nurse staffing levels statutory guidance

About us

- 1 The Nursing and Midwifery Council (NMC) is the professional regulator for nurses and midwives practising in the UK. We exist to protect the public. We do this by holding and controlling access to the register of qualified nurses and midwives and setting standards of education, training, conduct and performance. If an allegation is made that a registered nurse or midwife is not fit to practise, we also have a duty to investigate and, where necessary, take action to protect the public.

Our view on the draft statutory guidance

- 2 We welcome the opportunity to respond to the Welsh Government consultation¹ on nurse staffing levels statutory guidance. We note the proposal in paragraph 7 of the draft guidance that the 'Designated Person' under Section 25B(1)(a) of the Nurse Staffing Levels (Wales) Act 2016 should be registered with us and be a person of sufficient seniority within an organisation.
- 3 As set out in our position statement² on safe staffing guidelines, it is not our role as a professional regulator to set or assure standards related to appropriate staffing. Our role is set out above; it is for organisations to appropriately deploy those on our register. However, staffing does have a bearing on what we do in a number of ways. We would therefore encourage the Welsh Government to take account of this in developing their statutory guidance, and encourage organisations to take account of this in deploying registered professionals appropriately.

Education and training

- 4 We set and monitor standards for the education of nurses and midwives. Pressures on staffing and requirements such as safe staffing levels can have an impact on practice placement settings for those on an education programme. Both could make it harder for registered professionals to dedicate time to supporting students. We require education providers to monitor and mitigate risks to practice placements, this includes requiring sufficient staff and support to be able to provide a safe training environment. If we have evidence that staffing levels may be affecting the training environment, we may ask education providers to investigate and provide assurance. We also require students to be supernumerary, so students should not be used or considered as staff.

¹ <https://consultations.gov.wales/consultations/nurse-staffing-levels>

² <https://www.nmc.org.uk/about-us/policy/position-statements/safe-staffing-guidelines/>

Upholding the Code and revalidation

- 5 When registered, all nurses and midwives, regardless of their seniority and scope of practice, are required to uphold our Code³. It sets out the required professional standards of practice and behavior. The Nurse Staffing Levels Act and any accompanying statutory guidance are likely to interact with the high level provisions of the Code, particularly for the 'Designated Person'. For example, compliance with any statutory guidance could be one of a number of means of being able to demonstrate Code requirements such as:

Preserve safety

You make sure that patient and public safety is protected. You work within the limits of your competence, exercising your professional 'duty of candour' and raising concerns immediately whenever you come across situations that put patients or public safety at risk. You take necessary action to deal with any concerns where appropriate.

13 Recognise and work within the limits of your competence

To achieve this, you must:

- 13.1 accurately assess signs of normal or worsening physical and mental health in the person receiving care
- 13.2 make a timely and appropriate referral to another practitioner when it is in the best interests of the individual needing any action, care or treatment
- 13.3 ask for help from a suitably qualified and experienced healthcare professional to carry out any action or procedure that is beyond the limits of your competence
- 13.4 take account of your own personal safety as well as the safety of people in your care, and
- 13.5 complete the necessary training before carrying out a new role.

25 Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the healthcare system

To achieve this, you must:

- 25.1 identify priorities, manage time, staff and resources effectively and deal with risk to make sure that the quality of care or service you deliver is maintained and improved, putting the needs of those receiving care or services first, and
- 25.2 support any staff you may be responsible for to follow the Code at all times. They must have the knowledge, skills and competence for safe practice; and understand how to raise any concerns linked to any circumstances where the Code has, or could be, broken.

- 6 Every three years, a nurse or midwife on our register is required to revalidate⁴ with us in order to maintain their registration. Revalidation requirements include five pieces of practice related feedback, five written reflective accounts, and a

³ <https://www.nmc.org.uk/standards/code/>

⁴ <http://revalidation.nmc.org.uk/>

reflective discussion with another NMC registrant on the reflective accounts / another experience and how this relates to the Code. The Nurse Staffing Levels Act and any accompanying statutory guidance could therefore interact with the revalidation process, such as forming a part of the reflective requirements.

Raising concerns and fitness to practise

- 7 Our Code requires nurses and midwives to raise concerns in order to preserve safety. This could be within an organisation or to us or another regulator. Equally, other employees, employers, patients and the public may raise concerns with us. We have produced a range of information and guidance on raising concerns⁵. A nurse or midwife's failure to raise concerns could result in a fitness to practise referral to us. Our raising concerns guidance for nurses and midwives⁶ contains a list of examples of concerns that should be raised, including:

5.4 Issues to do with care in general, such as concerns over resources, products, people, staffing or the organisation as a whole.

- 8 Individuals on our register may therefore raise concerns with us or others where there is a concern about staffing levels. Or, they may find themselves subject to a referral to us about their fitness to practice for not having raised that concern or for not complying with the requirements of the Nurse Staffing Levels Act and any accompanying statutory guidance.

Working with others

- 9 In our role, we may identify concerns that fall within the remit of others. For example, as part of a Fitness to Practice referral, the information may show a concern about the staffing levels in a particular practice setting which is covered by the Nurse Staffing Levels Act and any accompanying statutory guidance. In this case, we would inform the relevant system regulator of the concerns through our memoranda of understanding⁷ (MoU) so they may consider it and take any appropriate action. Equally, a system regulator may raise concerns or information relevant to us during the course of their work through the MoU's, for example about a registrant not upholding the Code or meeting the requirements in the Nurse Staffing Levels Act and any accompanying statutory guidance.

⁵ <https://www.nmc.org.uk/concerns-nurses-midwives/>

⁶ <https://www.nmc.org.uk/standards/guidance/raising-concerns-guidance-for-nurses-and-midwives/>

⁷ <https://www.nmc.org.uk/about-us/who-we-work-with/mous/>