

National Assembly for Wales
Health and Social Care Committee

Safe Nurse Staffing Levels (Wales)
Bill: Stage 1 Committee Report

May 2015

Cynulliad
Cenedlaethol
Cymru

National
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Wales



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The Health and Social Care Committee

The Committee was established on 22 June 2011 with a remit to examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing: the physical, mental and public health of the people of Wales, including the social care system.

Current Committee membership:



David Rees (Chair)
Welsh Labour
Aberavon



Alun Davies
Welsh Labour
Blaenau Gwent



Janet Finch-Saunders
Welsh Conservatives
Aberconwy



John Griffiths
Welsh Labour
Newport East



Elin Jones
Plaid Cymru
Ceredigion



Darren Millar
Welsh Conservatives
Clwyd West



Lynne Neagle
Welsh Labour
Torfaen



Gwyn R Price
Welsh Labour
Islwyn



Lindsay Whittle
Plaid Cymru
South Wales East



Kirsty Williams*
Welsh Liberal Democrats
Brecon and Radnorshire

*The Bill was proposed by Kirsty Williams AM, and she therefore absented herself from meetings at which the Bill was discussed.

In accordance with Standing Order 17.48, Peter Black AM substituted for Kirsty Williams AM for the duration of the Committee's Stage 1 consideration of the Bill.



Peter Black
Welsh Liberal Democrats
South Wales West

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Chair's foreword

The pivotal role of nurses in the delivery of high quality, effective care for patients is widely acknowledged. A number of recent high-profile reports on the performance of the NHS in England and Wales have drawn attention to the importance of nurse staffing levels for patient outcomes.

As a Committee we welcome the opportunity to scrutinise Kirsty Williams AM's Safe Nurse Staffing Levels (Wales) Bill, which seeks to ensure that nurses are deployed in sufficient numbers to ensure safe nursing care for patients at all times. We have given detailed consideration to the evidence received, and we would like to thank all those who contributed to our Stage 1 scrutiny. We are particularly grateful to members of the public and health professionals who took the time to share their views with us.

The evidence presented led us to conclude that primary legislation on safe nurse staffing levels could be beneficial in order to build on the Minister's existing tools and powers in this area. Nevertheless, this conclusion is not unconditional: we believe that a number of amendments are required before this legislation is passed, not least to mitigate some of the potentially significant unintended consequences that could be created by the Bill as currently drafted.

The key areas in which we believe further work is needed are listed in our 19 recommendations. Our report also seeks to summarise the detailed evidence that has informed our conclusions; we hope that this will be a useful tool for Assembly Members when considering their views on the general principles of the Bill.



David Rees AM
Chair of the Health and Social Care Committee
May 2015

The Committee's recommendations

The Committee's recommendations are listed below, in the order that they appear in this Report. Please refer to the relevant pages of the report to see the supporting evidence and conclusions.

The Committee recommends:

Recommendation 1: That, subject to the amendments proposed in this report, the Assembly agree the general principles of the Bill on the basis that primary legislation could be beneficial in order to build on the Minister's existing tools and powers in this area. (Page 37)

Recommendation 2: That, if the general principles of the Bill are not agreed, the Minister commit to:

- using his powers of direction under the National Health Service (Wales) Act 2006 to ensure that relevant health service bodies are required to use the validated acuity tool and recommended staffing ratios to deliver safe nurse staffing levels in Wales; and
- consulting the Assembly fully in advance of issuing any guidance or making any regulations for this purpose under his powers of direction. (Page 37)

Recommendation 3: That the Member in charge retain the concept of staffing ratios on the face of the Bill, but table amendments to replace the word "minimum" with a more appropriate term, for example "safe", to reflect the evidence received at Stage 1. (Page 38)

Recommendation 4: That the Minister for Health and Social Services ensure that the requisite guidance places particular emphasis on ensuring that health bodies' compliance with staffing ratios in "adult inpatient wards in acute hospitals" does not have an adverse effect on nurse staffing levels in other NHS settings in Wales. The Committee believes that this should be reflected in new section 10A(5) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill. (Page 55)

Recommendation 5: That the Minister for Health and Social Services ensure that the requisite guidance, and any future regulations, reflect his careful consideration of—and guard against—the possible unintended consequences arising from this legislation. (Page 57)

Recommendation 6: That the Minister for Health and Social Services ensure that the requisite guidance places particular emphasis on health bodies achieving a reasonable balance of permanent and agency/bank nursing staff when complying with the statutory staffing ratios. The Committee believes that this should be reflected in new section 10A(5) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill. (Page 58)

Recommendation 7: That the Member in charge:

- explore the statutory provision for workforce planning that exists in Scotland;
- consider, in light of this work, including reference to arrangements for comprehensive workforce planning on the face of the Bill, to ensure that sufficient numbers of trained nurses are available across public and independent sectors. (Page 66)

Recommendation 8: That the Bill be amended to provide clarity about the particular settings to which it is intended to apply at commencement. (Page 77)

Recommendation 9: That the Member in charge review, as a matter of urgency, whether there will be a sufficient evidence base for staffing ratios within additional Welsh NHS settings to be included on the face of the Bill prior to its being passed, or for the Bill’s provisions to be extended to those settings, by regulation, shortly after commencement. (Page 79)

Recommendation 10: That the Bill be amended to include a requirement for the Welsh Ministers to issue additional guidance in respect of the wider duty for health service bodies to have regard to the importance of safe nurse staffing levels in exercising all their functions. The Bill should specify that this additional guidance should include information about how health service bodies should give due regard to safe nurse staffing when making arrangements to commission and/or fund care in non-Welsh-NHS settings, including monitoring and reporting arrangements. (Page 80)

Recommendation 11: That the Member in charge give consideration to the evidence received from the independent sector regarding the benefits of legislating to ensure safe nurse staffing levels for independently funded care provided in independent settings. (Page 81)

Recommendation 12: That the Member in charge review the Bill's reporting requirements to ensure that they:

- do not create additional bureaucracy, in particular for nursing staff; and
- are aligned with the frequency and structure of existing reporting requirements. (Page 92)

Recommendation 13: That the Member in charge give consideration to strengthening the Bill's provisions in relation to addressing non-compliance. (Page 92)

Recommendation 14: That the Member in charge review the indicators currently listed on the face of the Bill, taking into account the evidence heard during Stage 1 proceedings, to ensure that those listed provide the appropriate framework within which to assess the impact of this Bill. (Page 93)

Recommendation 15: That the Minister for Health and Social Services, when drafting the requisite guidance for health bodies, place particular emphasis on the provision of transparent, timely and meaningful information to patients. (Page 93)

Recommendation 16: That the Member in charge undertake further analysis of the potential increases in expenditure on agency/bank nursing staff that could occur in the short term as a consequence of the Bill's implementation. This information should be used to inform a revised Explanatory Memorandum. (Page 101)

Recommendation 17: That the Bill be amended to include definitions of key terms on its face. (Page 106)

Recommendation 18: That the Bill's commencement provisions be amended to:

- clarify that the duty to maintain staffing ratios is not to apply in the absence of the guidance required by new section 10A(4) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill;
- allow reasonable time for the recruitment of nurses to the level necessary to meet the Bill's requirements. (Page 108)

Recommendation 19: That the Member in charge consider whether a sunrise clause may be a more realistic alternative to commencement on Royal Assent as:

- effective guidance will be required by new section 10A(4) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill; and
- consideration will need to be given to the issues outlined in Chapter 5 of this report about the possible barriers to the Bill’s implementation.

(Page 108)

1. Introduction

1. Kirsty Williams AM was successful in the Members' legislative ballot held on 11 December 2013, and was given leave to proceed with her Bill by the Assembly on 5 March 2014. On 1 December 2014, in her capacity as Member in charge of the Bill, Kirsty Williams ("the Member in charge"), introduced the [Safe Nurse Staffing Levels \(Wales\) Bill](#) ("the Bill") and the accompanying [Explanatory Memorandum](#) ("the EM"). Kirsty Williams made a [statement](#) on the Bill in Plenary on 3 December 2014.

2. At its meeting on 18 November 2014, the Assembly's Business Committee agreed to refer the Bill to the Health and Social Care Committee ("the Committee") for consideration of the general principles (Stage 1), in accordance with Standing Order 26.9. The Business Committee agreed that the Committee should report to the Assembly by 10 April 2015.¹ At the Committee's request, this deadline was subsequently extended to 8 May 2015 in order to allow sufficient time to consider the evidence received.²

Terms of reference

3. The Committee agreed the following framework for its scrutiny of the general principles of the Bill:

To consider:

- whether the provisions in the Bill are the best way of achieving its overall purpose as set out in Part 1;
- potential barriers to the implementation of these provisions and whether the Bill takes account of them;
- whether there are any unintended consequences arising from the Bill;
- the financial implications of the Bill as set out in the Regulatory Impact Assessment within the EM; and
- the appropriateness of the power in the Bill for the Welsh Ministers to make subordinate legislation and to issue guidance.

¹ National Assembly for Wales, Business Committee, [Minutes](#), 18 November 2014

² Ibid, [Minutes](#), 5 March 2015

The Committee's approach

4. The Committee issued a general call for evidence and a targeted written consultation of key stakeholders. A list of those who responded is provided in Annex B. The Committee also took oral evidence from a range of organisations and individuals, all of whom are listed in Annex A. The Committee is grateful to all who contributed to its work.

5. This report sets out the conclusions reached by the Committee on the basis of the evidence received during the course of its work, and makes 19 recommendations.

2. Background

Legislative competence

6. The EM that accompanies the Bill states that the Assembly has the legislative competence to make the provisions in the [Safe Nurse Staffing Levels \(Wales\) Bill](#) by virtue of Schedule 7, subject 9 (health and health services) of the [Government of Wales Act 2006](#).

7. The Presiding Officer issued a [statement](#) on 1 December 2014 outlining her opinion that the Bill as introduced would be within the legislative competence of the Assembly.

The Bill's purpose and intended effect

8. The Bill's stated purpose is:

“to ensure that nurses are deployed in sufficient numbers to:

- (a) enable the provision of safe nursing care to patients at all times;
- (b) improve working conditions for nursing and other staff; and
- (c) strengthen accountability for the safety, quality and efficacy of workforce planning and management.”³

9. In her oral statement to introduce the Bill, Kirsty Williams said:

“The purpose of this Bill is to ensure that nurse staffing levels within the Welsh NHS are sufficient to provide safe, effective and quality nursing care to all patients, at all times. It is about providing nurses with the time to provide compassionate care. This Bill is about transforming the quality of care provided within the Welsh NHS, with the ambition of putting it among world leaders in this field [...] The premise of this Bill is simple: nurses with fewer patients to care for can spend more time with each patient, and, as a result, they can provide better care. They have more opportunity to identify and address potential problems with a patient's care, and can play a preventative, rather than simply a reactive, role.”⁴

³ Section 1 of the Safe Nurse Staffing Levels (Wales) Bill

⁴ National Assembly for Wales, Plenary, [RoP](#), 3 December 2014

10. The EM states that the Bill will seek to ensure that nurse staffing levels within the NHS in Wales are sufficient to provide safe, effective and quality nursing care to patients at all times by:

- placing a duty on health service bodies in Wales to have regard to the importance of ensuring an appropriate level of nurse staffing wherever NHS nursing care is provided;
- placing a duty on health service bodies to “take all reasonable” steps to maintain staffing ratios, initially in “adult inpatient wards in acute hospitals”,⁵ for:
 - minimum registered nurse to patient ratios; and
 - minimum registered nurse to healthcare support workers ratios

(there is provision for the Welsh Ministers to extend this duty, by regulations, to other healthcare settings within the NHS in Wales at a future date);

- requiring the Welsh Government to issue guidance setting out the methods/processes by which NHS organisations will be expected to determine nurse staffing levels that are locally appropriate and at all times safe. The guidance will apply initially to “adult inpatient wards in acute hospitals” and will set out the minimum staffing ratios and staff skills mix for these settings;
- ensuring that, when determining nurse staffing levels, certain roles (ward sisters for example) are regarded as supernumerary, and factors such as staff training and development needs and planned/unplanned leave are properly taken into account;
- placing a duty on health service bodies in Wales to monitor their compliance with the safe nurse staffing requirements and to take action where failings occur; and
- providing a statutory basis for patients and staff to challenge poor levels of nurse staffing.⁶

⁵ Kirsty Williams’ intention being medical and surgical wards (see paragraph 189 of this report)

⁶ Explanatory Memorandum, para 3

Pre-legislative consultation

11. Kirsty Williams’ [initial proposal for legislation](#), as selected in the legislative ballot in December 2013, proposed a “Minimum Nurse Staffing Levels Bill” with the stated objective of:

- requiring the Welsh Government to produce regulations which set a minimum staffing levels for nurses in Wales;
- potentially requiring the Welsh Government to produce regulations which could address the complexity of patients’ needs and the skills mix in a hospital; and
- giving the Welsh Government the power to issue similar regulations for community nursing, but only when it considered that sufficient evidence existed to support regulations in this setting.

12. Kirsty Williams conducted two formal written consultations to inform the Bill’s development. An [initial consultation](#) on the proposed content of the Bill was held between May and June 2014. A [second consultation](#), on a [draft Bill](#), was undertaken between July and September 2014. A [summary of responses](#) to the consultations was published in January 2015.

13. The EM states that the majority of respondents to the pre-legislative consultations were supportive of the proposed legislation and welcomed “its changed focus to ‘safe’ rather than ‘minimum’ nurse staffing levels”.⁷ It goes on to list some of the changes made in response to the consultation feedback: “these include more consistent use of terminology throughout the Bill, amendments to wording to clarify or strengthen some provisions, and the inclusion of additional protections and safe nursing indicators”.⁸

Existing policies relating to safe nurse staffing

All Wales Nurse Staffing Principles

14. The EM sets out that, in April 2012, the Chief Nursing Officer (“the CNO”) issued non-statutory guidance to health boards in Wales—the *All Wales Nurse Staffing Principles*.

15. The guidance sets out the following core principles:

⁷ Explanatory Memorandum, para 132

⁸ Ibid

- numbers of patients per registered nurse should not exceed seven by day and 11 by night;
- the skills mix of registered nurse to healthcare support worker in acute areas should generally be 60:40;
- nursing establishments on acute wards should not normally fall below 1.1 whole time equivalent per bed, including a headroom of 26.9 per cent to allow for staff leave and training;
- professional judgement will be used throughout the planning process;
- the ward sister/charge nurse should not be included in the numbers when calculating patients per registered nurse;
- ward activity and demand will be considered when establishing staffing level as well as the number of beds, environment and ward lay-out; and
- for specialist areas and wards with tertiary services, professional standards, guidelines and national frameworks should be used to determine nurse staffing levels.

16. The guidance was issued with the expectation that each trust and health board would work towards its implementation in all adult medical and surgical wards. Exclusions to the implementation were advised by the CNO as being: mental health, critical care and other specialist inpatient areas; maternity services; and children’s services.

17. In his written evidence to the Committee, the Minister for Health and Social Services (“the Minister”) stated:

“the ratio is a recommended starting consideration and is not a compulsory requirement in itself [...] While the CNO & Nurse Director principles include the principle of a ratio of 1:7 nurse to patients, this is only a guiding figure to assist local considerations of nurse staffing levels.”⁹

Adult Acute Nursing Acuity and Dependency Tool

18. In May 2014, the Welsh Government issued the *Adult Acute Nursing Acuity and Dependency Tool*, and associated guidance. The

⁹ Written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2 \[Points of clarification\]](#), 5 March 2015

purpose of this tool is to assist NHS organisations locally to determine nurse staffing levels.

19. The EM explains:

“The tool will be used to capture acuity and dependency data across acute medical and surgical wards in NHS Wales on a twice yearly basis, in order to provide evidence based information for setting nursing establishments that meet patient and service needs. It is not intended as a daily tool to identify staffing needs on a shift, day or weekly basis. As highlighted in the Acuity & Dependency Tool’s accompanying guidance, information obtained through use of the tool should be used in combination with professional judgment and other care quality indicators in order to obtain a more comprehensive picture of nurse staffing requirements within a clinical area.”¹⁰

20. The Minister explained that the *All Wales Nurse Staffing Principles* had been introduced as an “interim measure, pending the full validation of the acuity tool”.¹¹

Approach in England

21. In July 2014, the National Institute for Health and Care Excellence (“NICE”) issued guidelines on [Safe staffing for nursing in adult inpatient wards in acute hospitals](#). The EM notes that this guidance applies to England only and is not mandatory.¹² However, the CNO confirmed in written evidence that the guidance:

“informs the Chief Nursing Officer’s work [...] Existing guidance such as that for the [Welsh] acuity tool already incorporates much of the advice from NICE and the All Wales Professional Nurse Staffing Group (AWPNSG) is considering revising other guidance if it is thought necessary in light of the latest NICE guidance.”¹³

22. In October 2014, NICE also endorsed a [Safer Nursing Care Tool](#) to be used alongside its guidelines.

¹⁰ Explanatory Memorandum, para 70

¹¹ Written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2](#), 5 March 2015

¹² Explanatory Memorandum, para 30

¹³ Consultation response, SNSL(Org)23

23. The NICE guidelines focus on wards that provide overnight care for adult inpatients in acute hospitals. They do not cover intensive care, high dependency, maternity, mental health, acute admission or assessment unit or wards, or inpatient wards in community hospitals.

24. NICE was not asked to set minimum staffing levels and therefore the guidelines do not include staffing ratios. Nevertheless, they do recommend that managers take into account the evidence of increased harm associated with a registered nurse caring for more than eight patients during a day shift.

25. In February 2015, NICE published guidance on [Safe midwifery staffing for maternity settings](#). Similar guidelines for accident and emergency, mental health, and community nursing are due to be published in the next 12 to 18 months.¹⁴

¹⁴ NICE, [Safe staffing guidance: forward work programme](#) [accessed 7 April 2015]

3. General principles and the need for legislation

26. In considering the general principles of the Bill and the question of whether there is a need for this legislation, the Committee explored the following issues:

- the evidence base linking nurse staffing levels (including staffing ratios) to patient outcomes;
- the level of compliance with existing guidance;
- the potential benefits of the Bill beyond those directly linked to patient outcomes; and
- the existing tools and powers at the Minister’s disposal.

Overall view of consultees

27. The Committee received 28 written responses from organisations, and six written responses from individuals. Of those:

- 16 indicated support for the legislation;¹⁵
- four stated explicitly that the legislation was not needed;¹⁶
- six expressed their support for the policy objectives of the legislation whilst either highlighting that legislation might be one of several routes to achieving these objectives and/or expressing concerns about the effect of unintended consequences;¹⁷
- some respondents did not provide a specific view on whether there was a need for legislation.¹⁸

28. The Committee also received 315 postcards and e-mails both from staff working in hospital settings and from patients, all of which

¹⁵ Royal College of Physicians; BMA Cymru; Royal College of Nursing; UNISON Cymru/Wales; Wales MacMillan Cancer Support; Wales Intensive Care Society; Cardiff and Vale of Glamorgan Community Health Council; Board of Community Health Councils in Wales; Paediatric Intensive Care Unit (Heath Hospital, Cardiff); North Wales Community Health Council; Professor Anne Marie Rafferty; Professor Dame June Clark; Professor Peter Griffiths; Richard Jones; Wendy Hughes; Susan Fletcher

¹⁶ The Welsh NHS Confederation; Chartered Society of Physiotherapy; Royal Society of Speech and Language Therapists; Chief Nursing Officer

¹⁷ Age Cymru; Older People’s Commissioner; Royal Pharmaceutical Society; Public Health Wales; UNITE; Care Forum Wales

¹⁸ Health Inspectorate Wales; Nursing and Midwifery Council; Socialist Health Association; Department of Health; Children’s Commissioner for Wales; NICE; Welsh Independent Healthcare Association.

were overwhelmingly in support of the legislation.¹⁹ The predominant themes from their evidence were that inadequate nurse staffing levels were:

- putting patient safety at risk;
- having a significant impact on patient care;
- causing high levels of stress, sickness absence and low morale amongst the nursing workforce.²⁰

29. There were also 1,579 signatories to a [petition](#) to the National Assembly’s Petitions Committee in support of the Bill. This petition was formally referred to the Health and Social Care Committee in April 2015 so that the support for the Bill expressed by its signatories could be taken into account as part of this report.²¹

Evidence base linking nurse staffing levels to patient outcomes

30. The EM and the evidence received by the Committee point to “the pivotal role of nursing staff and the importance of ensuring appropriate nurse staffing levels”²² for patient outcomes, as highlighted by a number of recent high-profile reports. These reports include:

- the February 2013 report of the Mid Staffordshire NHS Foundation Trust Public Inquiry (“[the Francis Report](#)”);
- the July 2013 review into the quality of care and treatment provided by English hospital trusts with persistently high mortality rates (“[the Keogh Review](#)”);
- the August 2013 review into patient safety in NHS England (“[the Berwick Review](#)”);
- the May 2014 report of the independent review of the Princess of Wales Hospital and Neath Port Talbot Hospital ([Trusted to Care](#), or “the Andrews Report”);
- the July 2013 response from the Welsh Government to the Francis Report ([Delivering Safe Care, Compassionate Care](#)); and

¹⁹ The vast majority of responses received were from medical staff (mainly nurses) whilst approximately 10 per cent were from patients.

²⁰ Health and Social Care Committee, [Summary of evidence received as a consequence of the Royal College of Nursing’s campaign in support of the Bill](#)

²¹ [Correspondence from the Chair of the Petitions Committee](#), April 2015

²² Explanatory Memorandum, para 9

- the September 2013 review of progress in delivering the recommendations of the 2011 *Dignified care?* report by the Older People’s Commissioner for Wales ([Dignified Care: Two Years On](#)).

31. The majority of witnesses (including nurses, medics and physicians,²³ academics specialising in the field,²⁴ trade union representatives,²⁵ and health board executives²⁶) told the Committee that there is a clear, consistent and well-established evidence base to show that poor nurse staffing levels result in poor patient outcomes over a period of time and across different countries.

32. Professor Peter Griffiths, an academic leading on work that explores the links between the hospital nursing workforce and patient outcomes as part of the international RN4CAST study,²⁷ reported:

- there are significant issues and problems in patient care that are associated with low nurse-staffing levels;²⁸
- there is compelling evidence to show that policies that improve nurse staffing lead to improvements in patient outcomes;²⁹ and
- evidence exists to show that legislation has led to improvements in nurse staffing in other countries.³⁰

33. Evidence submitted by Professor Anne Marie Rafferty, also involved in the RN4CAST project, stated that an increase in a nurse’s workload by one patient increases the likelihood of an inpatient dying within 30 days of admission by seven per cent.³¹

34. While acknowledging the important role of nurses, representatives of the allied health professionals emphasised that NICE’s recent evaluation of research, conducted as part of its work on safe nurse staffing levels, highlighted that the number of nurses on a

²³ National Assembly for Wales, Health and Social Care Committee, RoP [paras 26 and 233], 29 January 2015 (NB: unless otherwise stated, subsequent references in this report to “RoP” refer to the proceedings of the Health and Social Care Committee)

²⁴ RoP [paras 12-16], 12 February 2015

²⁵ RoP [para 297], 12 February 2015

²⁶ RoP [para 311], 12 February 2015

²⁷ The [RN4CAST](#) is an international study that seeks to determine how hospital nurse staffing, skill mix, educational composition, and quality of the nurse work environment impact hospital mortality, failure to rescue, quality of care, and patient satisfaction.

²⁸ RoP [para 89], 12 February 2015

²⁹ RoP [para 95], 12 February 2015

³⁰ RoP [para 97], 12 February 2015

³¹ Consultation response, SNSL(Ind)4 – Annex B

ward is only one of the many factors that contribute to the delivery of safe and effective care.³² The Welsh NHS Confederation agreed, emphasising that “while vital, nursing ratios and nurse staffing levels are one [sic] of many elements to consider – alongside technology, training, education, planning and good leadership – when it comes to patient safety”.³³

The role of staffing ratios

35. A core part of the Bill is the provision which would require health service bodies to “take all reasonable steps to maintain minimum registered nurse:patient ratios and minimum registered nurse:healthcare support workers ratios in adult inpatient wards in acute hospitals”.³⁴ The majority of respondents to the Committee’s consultation supported the Bill as drafted, including the provision for staffing ratios.

36. Although there was an overall consensus that higher nurse staffing levels had a positive impact on patient outcomes, some witnesses questioned whether there was a clear association between staffing ratios and patient outcomes:

- the CNO said that international academic research demonstrated patient outcomes and staffing ratios could not necessarily “be shown to have a direct causation”, with factors such as nurses’ education levels and experience also playing a part in improving patient care;³⁵
- representatives of allied health professionals argued that staffing ratios were “too rigid and too simplistic”³⁶ and would not guarantee patient care;³⁷ and
- some witnesses said “there is a risk that the minimum ratio becomes the target”.³⁸

37. NICE questioned the benefit of applying staffing ratios to “adult inpatient wards in acute hospitals” because of the variation in the

³² RoP [paras 335 and 346], 29 January 2015

³³ Consultation response, SNSL(Org)3

³⁴ New section 10A(1)(b) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill

³⁵ Consultation response, SNSL(Org)23

³⁶ RoP [para 232], 29 January 2015

³⁷ Consultation response, SNSL(Org)13

³⁸ Chartered Society of Physiotherapy, RoP [para 356], 29 January 2015; NICE, RoP [para 28], 25 February 2015

types of wards that fall within this bracket, and the range of patients with different needs.³⁹ Nevertheless, NICE acknowledged that the figure of 1:8 is referenced in its guidance as there was clear evidence that “things were likely to go wrong” if the staffing ratio fell below that level.⁴⁰

38. Some witnesses also emphasised the importance of considering the skills mix and competence within the team, as well as how sick and dependent patients are, alongside any staffing ratios.⁴¹ The CNO stated that where staffing ratios were advisory, they could be one of the factors taken into account when deciding on the number of nurses that should be available on a ward. She emphasised that having a fixed ratio was not particularly helpful for local decision-making, nor was it safe.⁴²

39. Speaking about his review of the evidence for NICE’s recent work on safe nurse staffing levels, and experiences in California, Professor Peter Griffiths said:

“the focus on local workforce planning systems in isolation, without an underpinning of a ratio, is not supported by any evidence whatsoever. So, although there are questions around the evidence on ratios, without a shadow of a doubt, the alternatives that are being proposed have absolutely no evidence [to support them].”⁴³

40. Professor Gillian Leng, representing NICE, contested this claim. She argued that evidence existed which suggested that workforce planning, rather than staffing ratios, improved patient outcomes.⁴⁴

41. To mitigate the risk of focusing on numbers alone, the Royal College of Nursing suggested that the word “minimum” be replaced so that the Bill referred to “safe” ratios. Tina Donnelly, Director of RCN Wales, said:

“I wouldn’t be talking about minimum staffing levels; I’d be talking about ‘safe’, and I think that that is an important

³⁹ RoP [para 13], 25 February 2015

⁴⁰ RoP [para 24], 25 February 2015

⁴¹ RoP [paras 92-94 and 240], 29 January 2015

⁴² RoP [paras 16 and 21], 5 March 2015

⁴³ RoP [para 89], 12 February 2015

⁴⁴ RoP [para 17], 25 February 2015

distinction. Safe staffing levels just doesn't talk about numbers, whereas minimum does."⁴⁵

42. Professor Dame June Clark stated that the word "minimum" should be replaced by the word "recommended" throughout the Bill. She argued that this would allow sufficient flexibility to respond to service developments, while retaining the advantage of preserving the concept of a staffing ratio in legislation.⁴⁶

International evidence and its application to Wales

43. The Committee heard evidence about:

- the link between nurse staffing levels and patient outcomes in other European countries; and
- legislation requiring nurse staffing ratios in California and Australia, passed in 1999 and 2012 respectively.

44. The EM outlines research findings in respect of outcomes for patients:

"The relationship between nurse staffing levels and safety/quality of care has been demonstrated in a number of academic studies. A major European study into nurse staffing and hospital mortality published in The Lancet medical journal (February 2014) revealed that an increase in a nurse's workload by one patient increased the likelihood of an inpatient dying within 30 days of admission by 7 per cent."⁴⁷

45. Research from King's College London's National Nursing Research Unit also reported:

"International evidence suggests that mandated registered nurse to patient ratio can improve nurse staffing and lead to better recruitment, generate a more stable workforce, and more manageable workloads for staff. The impact on patient outcomes is less clear but there is evidence that the resultant

⁴⁵ Consultation response, SNSL(Org)5; RoP [para 62], 29 January 2015

⁴⁶ Consultation response, SNSL(Ind)5

⁴⁷ Explanatory Memorandum, paras 17-29

lower caseloads are related to lower levels of patient mortality.”⁴⁸

46. In relation to evidence about statutory nurse staffing ratios in California and Australia, the EM notes:

- in California, legislation resulted in increased staffing levels, more reasonable workloads for nurses, leading to fewer patient deaths, higher levels of job satisfaction and no reduction in skills mix;⁴⁹ and
- in Australia, “evidence shows that ratios have led to better recruitment and retention of nurses, reduced reliance on agency staff, fully funded budgets for safe staffing levels, better patient care, more manageable workloads, increased job satisfaction and reduced stress”.⁵⁰

47. Mixed views were expressed about how international evidence relating to nurse staffing levels should be applied to Wales. A number of witnesses referred to the lessons that Wales could learn from positive experiences of similar legislation elsewhere.⁵¹ But others questioned the validity of making assumptions about the consequences of legislating in Wales based on international experiences.⁵² The CNO told the Committee:

“most of the examples we have from other parts of the world don’t have an NHS system. So, they’re different kinds of systems. So, you can’t say, ‘Yes, yes—well, it didn’t happen here in this country, so it won’t happen here in Wales or in the UK’, because our NHS is a slightly different beast to other health systems.”⁵³

48. Responding to this point, the Royal College of Nursing argued:

⁴⁸ King’s College London, [Is it time to set minimum nurse staffing levels in English hospitals?](#), March 2012

⁴⁹ Explanatory Memorandum, paras 43, 164 and 248

⁵⁰ Ibid, para 249

⁵¹ Royal College of Nursing, RoP [para 26], 29 January 2015; Professors Peter Griffiths, Dame June Clark and Anne Marie Rafferty, RoP [paras 12-16, and 89], 12 February 2015; BMA, RoP [para 233], 29 January 2015

⁵² Chartered Society of Physiotherapy, RoP [para 335], 29 January 2015 and SNSL(Org)1 and 7; Socialist Health Association, SNSL(Org)16; CNO, RoP [para 47], 5 March 2015

⁵³ RoP [para 47], 5 March 2015

“it doesn’t really matter whether you’re in a healthcare system in the States or in Australia, because [the] interventions are still the same at the bedside [...] the actual care given is very, very systematic in the way in which it’s delivered, and those ideas of patient safety are akin across the whole of the nursing profession, not peculiar to the healthcare delivery systems [...] you can extrapolate the exact same references in terms of mortality.”⁵⁴

Compliance with existing guidance

49. As set out in the previous chapter, the CNO issued non-statutory guidance to health boards in Wales—the *All Wales Nurse Staffing Principles*—in April 2012.

50. Data on the extent to which health boards in Wales were meeting the requirements of the *All Wales Nurse Staffing Principles*, as of May and June 2013, were provided in the EM.⁵⁵ As part of its consideration of the general principles of the Bill, the Committee requested updated data from all health boards. Their compliance with the CNO’s guidance as of January and February 2015 is summarised in Annex C to this report.

51. This data suggested:

- all but one of the health boards appeared to be meeting the daytime ratio;
- all but two were meeting the skills mix ratio as of February 2015; and
- not every health board was complying with the night-time ratios.

52. There was a difference of opinion about the extent to which health boards in Wales were complying with this guidance in the evidence received by the Committee. The Royal College of Nursing,⁵⁶ the BMA,⁵⁷ UNISON,⁵⁸ and Professor Dame June Clark, Professor Emeritus of Community Nursing at Swansea University,⁵⁹ argued that the guidance had failed to make sufficient impact and that compliance

⁵⁴ RoP [paras 62-63], 29 January 2015

⁵⁵ Explanatory Memorandum, Table 1, page 11

⁵⁶ RoP [paras 7 and 13], 29 January 2015

⁵⁷ RoP [para 229], 29 January 2015

⁵⁸ RoP [para 256], 12 February 2015

⁵⁹ RoP [paras 183-185], 12 February 2015

was variable. Professor Dame June Clark summarised this position by stating that legislation is needed because “the defining characteristic of advice is that it doesn’t have to be taken”.⁶⁰

53. Healthcare Inspectorate Wales drew attention to the inconsistent application of the CNO’s guidance across health boards in Wales. Its representatives stated that the proposed legislation could be useful in focusing attention on ensuring good levels of safe staffing across all healthcare settings and in providing an impetus for the consistent implementation of the CNO’s guidance.⁶¹

54. UNISON representatives explained that, while they were not wedded to the idea of having legislation on this matter if other ways could be found to deliver the same policy intention,

“there doesn’t appear to be any way of ensuring that those guidelines, those recommendations, are enforced. So that, I can see, is the benefit of legislation: that once you legislate for something, then there isn’t really a way around it.”⁶²

55. Other evidence suggested that significant progress had been made towards compliance with the CNO’s guidance,⁶³ and that it should be given more time to “bed in” before a new legislative tool is introduced.⁶⁴ The CNO told the Committee there had been a “very strong direction of travel” towards compliance, but emphasised that the *All Wales Nurse Staffing Principles* were only an interim measure to be replaced by the use of a validated acuity tool and a “triangulated methodology”⁶⁵ that would determine the appropriate staffing level and skill mix within each clinical area.⁶⁶

56. The Minister told the Committee that “with further effort and additional investment, which we have provided, we would reach

⁶⁰ RoP [para 49-50], 12 February 2015

⁶¹ RoP [paras 183-185], 12 February 2015

⁶² RoP [paras 251 and 256], 12 February 2015

⁶³ Health board nurse directors, RoP [paras 119 and 123], 29 January 2015 and the Minister for Health and Social Services, RoP [para 95], 5 March 2015

⁶⁴ Royal College of Speech and Language Therapists, RoP [para 364], 29 January 2015

⁶⁵ The CNO described the “triangulated methodology” in her written evidence as an approach under which staffing levels are set by drawing on three things: (1) professional judgement (2) the acuity tool (3) nurse-sensitive indicators; Kirsty Williams describes the “triangulated approach” as one that draws on (1) professional judgement (2) staffing ratios (3) evidence based and validated workforce tools (i.e. the acuity tools which are used at set intervals)

⁶⁶ RoP [para 11], 5 March 2015

compliance as things are now”.⁶⁷ In additional written evidence requested by the Committee, he confirmed that health boards will not be required to use the *All Wales Nurse Staffing Principles*, nor to report to the CNO about their use, once the acuity tool is implemented. He also stated:

“Following the agreement and issue of the principles in 2012, there was a debate by the nurse directors about staffing at night. The ratio of 1:11 was proposed as a guide which some nurse directors use. However, this was never formally adopted into the principles and is therefore not part of the monitoring by the CNO.”⁶⁸

57. Although Kirsty Williams acknowledged that there had been an improvement in compliance rates over the last year, she claimed that adherence across Wales remained inconsistent and argued that this illustrated the need to ensure that the principles of safe nurse staffing are underpinned by legislation.⁶⁹ She told the Committee that there is a “great deal of disparity” between the CNO’s evidence on health boards’ compliance with the *All Wales Nurse Staffing Principles* and the “feeling on the ground”.⁷⁰ This claim was supported by the evidence received from staff and patients that suggested staff shortages remain across Wales and that these are having a significant impact on patient care and safety.⁷¹

Other potential benefits of the Bill

58. The Committee heard that the Bill’s provisions could lead to a number of other potential benefits beyond improvements in patient outcomes.

59. Some witnesses argued, for example, that providing a legislative footing for safe nurse staffing levels could strengthen nurses’ voices when raising concerns about staffing levels.⁷² It was highlighted that

⁶⁷ RoP [para 95], 5 March 2015

⁶⁸ Additional written evidence from the Minister for Health and Social Services following the Committee’s meeting on 19 March 2015, SNSL AI 20

⁶⁹ RoP [paras 105-108], 15 January 2015

⁷⁰ RoP [para 113], 19 March 2015

⁷¹ Health and Social Care Committee, [*Summary of evidence received as a consequence of the Royal College of Nursing’s campaign in support of the Bill*](#)

⁷² Board of Community Health Councils, RoP [para 149], 12 February 2015; BMA Cymru Wales, RoP [paras 264-268] 29 January 2015; Professor Dame June Clark, RoP [paras 49-50], 12 February 2015; Royal College of Physicians, RoP [para 298], 29 January 2015; Kirsty Williams AM, [RoP paras 152-153], 15 January 2015

the Bill could “shine a light” on nurse staffing levels, drawing more attention to the issue.⁷³

60. Several respondents also suggested that the Bill could lead to a change in behaviour towards improving staffing levels, similar to that created by the law on seatbelts in cars and smoking in enclosed public spaces.⁷⁴ The Board of Community Health Councils argued that “without the force of law” and against the “background of severe financial restraint within NHS Wales”, staffing pressures across health services would continue.⁷⁵ The BMA asserted that, as non-statutory guidance often proved to be ineffective, statutory provision would provide “greater leverage”⁷⁶ to ensure health boards meet safe nurse staffing levels. They summarised the views of many witnesses by saying “without the Bill, there is no evidence that the policy objectives will be delivered”.⁷⁷

61. The Committee also heard that there was potential for the Bill to strengthen the scrutiny of staffing levels by:

- giving Healthcare Inspectorate Wales a statutory basis on which to judge the performance of health boards in relation to staffing;⁷⁸
- encouraging the executive boards of health boards to undertake more comprehensive monitoring of indicators of insufficient staffing, such as high sickness levels or complaints;⁷⁹
- providing Community Health Councils with a clearer framework for better scrutiny of health boards’ staffing levels;⁸⁰ and
- helping providers prepare for inspections by improving their understanding of the standards against which they would be measured.⁸¹

⁷³ Health board nurse directors [RoP para 215], 29 January 2015

⁷⁴ Royal College of Nursing, RoP [paras 27 and 36-37], 29 January 2015 and SNSL(Org)5; Kirsty Williams AM, RoP [para 113], 15 January 2015; Professor Dame June Clark, SNSL(Ind)5

⁷⁵ Consultation response, SNSL(Org)19

⁷⁶ Consultation response, SNSL(Org)4

⁷⁷ RoP [para 287], 29 January 2015

⁷⁸ Kirsty Williams AM, RoP [para 238], 15 January 2015

⁷⁹ Royal College of Nursing, RoP [paras 69-70], 29 January 2015

⁸⁰ Board of Community Health Councils, RoP [paras 127-129], 12 February 2015

⁸¹ Welsh Independent Healthcare Association and Care Forum Wales, RoP [paras 390-394], 25 March 2015

62. Several witnesses questioned the safety and robustness of workforce planning, and suggested that the Bill could improve it.⁸² This is explored in more detail in chapter 5.

Existing tools and powers at the Minister’s disposal

63. A number of those providing evidence to the Committee agreed with the Bill’s underlying principle of delivering safe nurse staffing levels, but questioned whether there was a need for legislation given the existing tools and powers at the Minister’s disposal.

Using the existing performance framework

64. It was suggested by some witnesses that an alternative to the Bill would be to implement the CNO’s *All Wales Nurse Staffing Principles* “properly” so that compliance could be monitored formally as a “tier 1 priority” within the health boards’ formal performance framework.⁸³

65. When asked about the extent to which they were challenged on their staffing levels performance, health board executives emphasised that they were asked to account formally to the CNO and Welsh Government twice a year. They also highlighted that the performance framework against which they were measured included an escalation process that would be triggered and could ultimately lead to the Minister placing a health board in special measures if performance on staffing were deemed unacceptable.⁸⁴

66. The Royal Pharmaceutical Society argued that legislation should only be considered once:

- there was a better understanding of why full compliance with NICE and CNO guidance had not been achieved under the existing performance framework; and
- all other avenues, such as improvements to workforce planning, had been exhausted.⁸⁵

⁸² Royal College of Nursing RoP [paras 27 and 36], 29 January 2015; BMA, RoP [para 304], 29 January 2015; Healthcare Inspectorate Wales, RoP [para 204], 12 February 2015

⁸³ Royal College of Speech and Language Therapists, SNSL(Org)13; Chartered Society of Physiotherapy, RoP [para 406], 29 January 2015; NICE, RoP [para 29], 25 February 2015

⁸⁴ RoP [paras 336-338], 12 February 2015

⁸⁵ Consultation response, SNSL(Org)14

Using powers of direction

67. Health board executives emphasised that while they welcomed the Bill's objective, they had concerns about whether legislation was the most effective way of achieving it.⁸⁶ They suggested that a viable alternative to the Bill could be to "mandate" in Wales the use of NICE guidance on safe nurse staffing levels.⁸⁷

68. In correspondence to the Assembly's Petitions Committee, the Minister stated that "it is entirely possible to achieve the policy aims set out in the member's bill under existing powers" using section 12 of the [National Health Service \(Wales\) Act 2006](#).⁸⁸ He explained that this Act would enable him to use his general and discretionary powers of direction to require health boards in Wales to use the acuity tool, which is currently being validated.⁸⁹

69. At the time of this report's publication, it was not clear whether the Minister intended to use his powers of direction. When pressed on the matter in Committee, the Minister said that he would cross that bridge if he came to it but, if there were to be no Bill, the case for using his powers of direction would be strengthened.⁹⁰

70. Furthermore, when asked for clarification on whether the validated acuity tool, which the Minister could choose to direct health boards to use as an alternative to the Bill, would include a fixed staffing ratio, the Minister confirmed:

"The acuity tool does not generate a fixed ratio for registered nurses to patients, nor for registered nurses to healthcare support workers, which could be applied as a minimum staffing ratio figure for the purposes of the Bill."⁹¹

⁸⁶ RoP [paras 310-311], 12 February 2015

⁸⁷ RoP [para 361], 12 February 2015

⁸⁸ [Correspondence from the Minister for Health and Social Services to the Petitions Committee](#), 11 March 2015

⁸⁹ Additional written evidence from the Minister for Health and Social Services following the Committee's meeting on 5 March 2015, SNSL AI 19

⁹⁰ RoP [paras 151-153], 5 March 2015

⁹¹ Additional written evidence from the Minister for Health and Social Services following the Committee's meeting on 19 March 2015, SNSL AI 20

The Minister's view

General principles and the need for legislation

71. Giving evidence to the Committee on 5 March 2015 the Minister stated:

“the principle has never been a matter of dispute; it’s whether the Bill provides us with a useful additional tool to achieve those shared ambitions.”⁹²

72. When asked why a piece of legislation is needed if he already has the powers to direct health boards to deliver safe nurse staffing levels, the Minister responded:

“the Bill is not a necessary condition for achieving what we want to achieve. But I’m open to the possibility that, suitably amended, it could be an additional tool. The force of law does underpin something with more significance than even, you know, statutory guidance and mandation through the action of a Minister. Whether that’s enough to make a law worth having is a question that I’m sure you will want collectively to think about in making your Stage 1 report. I’m open minded that it could make a difference, and a difference worth having. But I think it’s a very proper question to be weighing up.”⁹³

73. The Minister emphasised during oral evidence, however, that the Welsh Government could not support the Bill as currently drafted. He emphasised that amendments would be required in relation to the following three broad areas of the Bill before the Government’s support could be given:

- corrections to “technical issues throughout the Bill”, including better definitions, and ensuring consistency between the Bill’s sections, and between the Bill and other pieces of legislation;
- the removal of the reference to a “minimum” staffing ratio (considered in this chapter); and

⁹² RoP [para 89], 5 March 2015

⁹³ RoP [para 147], 5 March 2015

- adjusting the Bill’s reporting requirements to make them “more proportionate” (considered in more detail in chapter 7 of this report).⁹⁴

The use of the word “minimum” when referring to staffing ratios

74. It was clear from the evidence provided by the Minister that he would prefer to replace references to “minimum” staffing ratios within the Bill with another term. He argued that this would create a less “inflexible and impracticable” approach to nurse staffing levels.⁹⁵

75. The Minister did not state a preferred alternative term for “minimum”; he said that this would require further consideration and advice from drafting lawyers. However, the Minister did point to the evidence provided by the Royal College of Nursing which stated that references to “minimum” staffing ratios should be replaced with “safe”.⁹⁶

The Member in charge’s view

General principles and the need for legislation

76. Kirsty Williams argued that, without legislation, “we could be sitting here in a few years’ time knowing that advice from the chief nursing officer isn’t being achieved in Welsh wards”.⁹⁷

77. Kirsty Williams outlined what she believed to be the weaknesses of the mechanisms for delivering nurse staffing levels put forward as alternatives to the Bill. She argued that health boards’ failure to fully comply with the CNO’s non-statutory guidance during the three years it has been in place suggested that it would not be as successful a tool as the Bill in ensuring safe nurse staffing levels. She also said that making safe nurse staffing levels a “tier 1 priority” for health boards may not be as successful as enacting the Bill, particularly in light of the fact that a number of existing “tier 1 priorities” have not been achieved by health boards in Wales, despite their status.⁹⁸

⁹⁴ RoP [paras 90-92], 5 March 2015

⁹⁵ Written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2](#), 5 March 2015

⁹⁶ RoP [paras 108-110], 5 March 2015

⁹⁷ RoP [para 116], 15 January 2015

⁹⁸ RoP [para 113], 15 January 2015

78. In response to the suggestion that the Minister could use his powers of direction to require health boards to use the validated acuity tool to achieve safe nurse staffing levels, Kirsty Williams said:

- the Bill would establish a permanency and certainty about the principle of safe nurse staffing, regardless of whether any future Minister had different priorities;
- the Minister has had the powers to direct health boards since 2006 and has not yet used them in respect of this issue. The Bill, she argued, would “make sure it happens” and would allow scrutiny and monitoring;
- the Bill goes further than the powers of direction which, she argued, would not allow the Minister to put in place an overarching duty about safe nurse staffing on health boards;
- the Bill includes provision about using professional judgement and a minimum staffing ratio, neither of which the validated acuity tool is expected to include; and
- any regulations arising from powers of direction would be subject to the negative procedure and the Minister, rather than the legislature, would have control over the process.⁹⁹

The use of the word “minimum” when referring to staffing ratios

79. Responding to concerns raised about the inclusion of a “minimum” staffing ratio, Kirsty Williams emphasised that safe nurse staffing was not about ratios alone, and referred to the fact that the Bill uses a “triangulated approach” to nurse staffing. She explained that this approach requires three things to be taken into account in order to achieve the overall result of safe nurse staffing levels, namely:

- minimum nurse staffing ratios;
- the use of professional judgement; and
- evidence based and validated workforce tools (that is, the acuity tools that are used by health bodies at set intervals to determine staffing levels).

80. Kirsty Williams stated that safe staffing is more likely to be achieved if these methods are used in combination rather than, for

⁹⁹ RoP [paras 10-11], 19 March 2015

example, using staffing ratios in isolation. She emphasised that this is the reason why all three factors are included on the face of the Bill.¹⁰⁰

The Committee's view

General principles and the need for legislation

81. The Bill's principal policy aim is to ensure that nurses are deployed in sufficient numbers to ensure safe nursing care to patients at all times. The Committee unanimously supports this aim.

82. While the Committee acknowledges that the Minister has tools and powers at his disposal to deliver a large proportion of the provisions contained within the Bill, it is persuaded that primary legislation could be beneficial in order to:

- build on existing arrangements for ensuring safe nurse staffing levels in Wales, full compliance with which is yet to be achieved by means of non-statutory arrangements;
- increase the momentum behind the delivery of consistently safe nurse staffing levels in Wales;
- concentrate minds in a way that general guidance may not;
- empower nurses to raise concerns about staffing levels and have their voices heard;
- ensure that progress is made in this area in the absence of a clear indication from the Minister that he intends to use his powers of direction to require health boards in Wales to use the validated acuity tool; and
- ensure that the concept of staffing ratios is delivered, given that staffing ratios will not be included in the validated acuity tool (due to be launched in summer 2015).

83. Although the Committee supports the Bill's general principles and believes that a case for legislation has been made, it notes the concerns raised during Stage 1 proceedings about the Bill as currently drafted. These concerns are explored in more detail in subsequent chapters of this report, and include:

¹⁰⁰ RoP [para 136], 15 January 2015

- the detrimental impact the Bill as drafted could unintentionally have, not least in relation to health settings in which staffing ratios would not be implemented at commencement;
- the barriers to implementation, including the current shortage of nurses locally and internationally;
- the requirements for monitoring, reporting and providing information on compliance, particularly whether they strike the necessary balance between transparency and being overly time consuming and burdensome for front-line staff; and
- the financial implications of the Bill, particularly in the current context of significant resource constraints within the NHS in Wales.

Recommendation 1: The Committee recommends that, subject to the amendments proposed in this report, the Assembly agree the general principles of the Bill on the basis that primary legislation could be beneficial in order to build on the Minister’s existing tools and powers in this area.

Recommendation 2: The Committee recommends that, if the general principles of the Bill are not agreed, the Minister commit to:

- **using his powers of direction under the National Health Service (Wales) Act 2006 to ensure that relevant health service bodies are required to use the validated acuity tool and recommended staffing ratios to deliver safe nurse staffing levels in Wales; and**
- **consulting the Assembly fully in advance of issuing any guidance or making any regulations for this purpose under his powers of direction.**

The use of the word “minimum” when referring to staffing ratios

84. The Committee notes that the “triangulated approach” outlined in the Bill is based on the premise that safe nurse staffing levels are achieved by drawing on three things:

- professional judgement;
- “minimum” staffing ratios; and

- evidence based and validated workforce tools (i.e. the acuity tools which are used at set intervals).

85. The Committee also notes the CNO’s view that safe nurse staffing levels are achieved by combining the use of professional judgement, nurse sensitive indicators and evidence based and validated workforce tools.

86. The Committee is persuaded that the use of staffing ratios could be beneficial for achieving safe nurse staffing levels, subject to the following two conditions:

- that, as outlined in the Bill, staffing ratios are used in combination with professional judgement and evidence based acuity and workforce planning tools; and
- that the concerns raised about the use of the word “minimum”, and the practical impact this may have on the flexibility needed at ward level to deliver safe nurse staffing levels, are addressed by the Member in charge during the amending stages.

Recommendation 3: The Committee recommends that the Member in charge retain the concept of staffing ratios on the face of the Bill, but table amendments to replace the word “minimum” with a more appropriate term, for example “safe”, to reflect the evidence received at Stage 1.

4. Unintended consequences

87. The evidence collected by the Committee included a significant focus on the Bill’s potential unintended consequences, and whether they outweigh its potential benefits.

88. The main risks identified were in relation to patient care; specifically, there were concerns that the Bill might:

- divert staff and resources from one setting to another;
- increase the potential for bed and ward closures;
- undermine a multidisciplinary approach to patient care;
- encourage the recruitment of more junior or less experienced staff; and
- exacerbate recruitment issues in the independent sector.

89. Other risks identified were that the Bill might:

- lead to an increase in the use of agency/bank nursing staff; and
- lead to an increase in litigation against health service bodies.

The Bill’s impact on patient care

Diversion of staff and resources?

90. A significant number of witnesses and respondents to the Committee’s consultation stated that legislating to require certain staffing levels on “adult inpatient wards in acute hospitals” could lead to the diversion of resources and staff away from other clinical areas, particularly community settings.¹⁰¹ The Welsh NHS Confederation summarised concerns by stating:

“There is potential for one part of the system, nurses in adult acute wards, to be prioritised in relation to staffing above others. One example is that community nursing could see

¹⁰¹ Welsh NHS Confederation, SNSL(Org)3; Age Cymru, SNSL(Org)8; Royal College of Speech and Language Therapists, SNSL(Org)13; Socialist Health Association, SNSL(Org)16; UNITE, SNSL(Org)18; Board of Community Health Councils, SNSL(Org)19; Public Health Wales, SNSL(Org)22; BMA Cymru Wales, SNSL(Org)4; UNISON, RoP [para 257], 12 February 2015; Healthcare Inspectorate Wales, RoP [paras 191 and 195], 12 February 2015; Health board executives, RoP [paras 357-358], 12 February 2015; NICE, RoP [para 40], 25 February 2015; Chartered Society of Physiotherapy, RoP [para 394], 29 January 2015

reductions in staffing in order to comply with legislation in hospital settings.”¹⁰²

91. Dr Victoria Wheatley, representing BMA Cymru Wales, warned against creating a system in which health service bodies were “robbing Peter to pay Paul”.¹⁰³ She said:

“the worry about everything being okay in the acute sector, with the depletion of teams in other settings, is very valid. I work in a health board where they’ve tried really hard to follow the guidelines from the chief nursing officer, but that means that, in my community hospital, we are repeatedly facing insufficient nursing numbers [...] as well as supporting the acute sector, you need to put in place provisions that make sure that other areas of healthcare are not depleted and that there are adequate nursing numbers everywhere.”¹⁰⁴

92. Health board executives and nurse directors agreed that singling out “adult inpatient wards in acute hospitals” in the first instance could have a detrimental impact on nurse staffing levels in other areas.¹⁰⁵ The nurse directors emphasised that they would work hard to ensure that safe nurse staffing levels were maintained across the board but acknowledged “if we are legislating in one area only, that would be potentially the board’s focus”.¹⁰⁶ They went on to emphasise the importance of the Bill’s reference to the exercise of professional judgement when planning staffing levels,¹⁰⁷ but said:

“If we had legislation today, we know that we would not be able to fulfil the requirements of the legislation. We, as nurse directors, would be concerned that we would then be expected, potentially, to be pulling staff from elsewhere to meet the legislation in one area.”¹⁰⁸

93. The CNO stated that it was legitimate to ask whether legislating for “adult inpatient wards in acute hospitals” could have a detrimental impact on others, such as community nursing. She told the Committee that having a piece of legislation that fixes something in one area in

¹⁰² Consultation response, SNSL(Org)3

¹⁰³ RoP [para 300], 29 January 2015

¹⁰⁴ RoP [para 234], 29 January 2015

¹⁰⁵ RoP [paras 357-358], 12 February 2015

¹⁰⁶ RoP [para 111], 29 January 2015

¹⁰⁷ RoP [para 112], 29 January 2015

¹⁰⁸ RoP [para 203], 29 January 2015

isolation means that front-line staff may have to make difficult decisions between complying with the legislation—by moving staff or patients—or not complying, as the consequences for other parts of the system may put people at risk. She emphasised that this could be a particularly difficult decision for staff to face, often in the middle of the night, when they are trying to deal with very sick patients.¹⁰⁹

94. However, other witnesses emphasised the need to “start somewhere” and that concerns about possible impact on other settings should not prevent action being taken in an area where there was a well-evidenced need.¹¹⁰

95. Professor Peter Griffiths stated:

“there comes a point where one cannot advocate maintaining unsafe nursing in hospitals in order to protect district nursing [...] consideration of proper district nursing staffing levels also needs to be given, but I can’t see that becoming an inhibiting factor for this legislation [...] I very much doubt that there would be a direct knock-through.”¹¹¹

96. Professor Anne Marie Rafferty agreed that the dynamic would not work in such a way that one area would be starved to feed another.¹¹² Professor Dame June Clark said that there is “no evidence that improving staffing in one area has resulted in depletion in other areas” such as community settings.¹¹³ The Royal College of Nursing cited experiences in other countries where, it claimed, similar legislation had not led to a sudden and dramatic movement of staff.¹¹⁴ It also argued that providing the correct level of care in “adult inpatient wards in acute hospitals” would lead to better discharge arrangements that would, in turn, leave other settings in a better position.¹¹⁵

Bed and ward closures?

97. The CNO, Healthcare Inspectorate Wales, the Royal College of Physicians and the Minister suggested that a potential unintended

¹⁰⁹ RoP [paras 44-47], 5 March 2015.

¹¹⁰ RoP [para 146], 12 February 2015

¹¹¹ RoP [para 81], 12 February 2015

¹¹² RoP [para 87], 12 February 2015

¹¹³ Consultation response, SNSL(Ind)5

¹¹⁴ RoP [para 64], 29 January 2015

¹¹⁵ RoP [para 52], 29 January 2015

consequence of the Bill could be the closure of beds by health boards.¹¹⁶

98. The Inspectorate highlighted that legislating for “adult inpatient wards in acute hospitals” in isolation could lead to overall capacity being reduced in order to ensure that remaining wards and/or beds were appropriately staffed.¹¹⁷ Its representatives warned that this could impact on the flow of other areas of treatment:

“In order to maintain safe staffing in one particular area, you may have to constrain what you’re able to do on an elective or, you know, optional, basis in other areas. I wouldn’t say it’s never happened in the past at hospitals, in terms of managing the resources that they’ve got available, whether that’s people resources or other resources. They’ve had to close ward beds and open ward beds to respond to peaks and troughs.”¹¹⁸

99. In contrast, doctors’ representatives argued that the Bill need not lead to ward closures. Both the BMA and the Royal College of Physicians reported that, unlike in medicine or the hospice sector, senior nurses in managerial roles in the NHS in Wales do not have regular contact with patients. Rather than resorting to closing beds, they argued that these senior nurses should be available to cover any ward experiencing unsafe nurse staffing levels.¹¹⁹

Undermining a multidisciplinary approach to patient care?

100. Several witnesses and respondents to the Committee’s consultation suggested that the Bill could have a negative impact on other staff groups and could undermine the multidisciplinary approach to patient care.¹²⁰ The EM notes that this concern was also raised in some responses to Kirsty Williams’ pre-legislative consultations on the Bill, with some arguing that there was a need for a more holistic

¹¹⁶ Consultation responses SNSL(Org)2 and SNSL(Org)23; RoP [para 195], 12 February 2015; and written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2](#), 5 March 2015

¹¹⁷ RoP [para 191], 12 February 2015

¹¹⁸ RoP [para 195], 12 February 2015

¹¹⁹ RoP [paras 243, 257 and 259], 29 January 2015

¹²⁰ Chartered Society of Physiotherapy, SNSL(Org)7; Royal College of Speech and Language Therapists, SNSL(Org)13; Age Cymru, SNSL(Org)8; Royal Pharmaceutical Society, SNSL(Org)14; Socialist Health Association, SNSL(Org)16; UNITE, SNSL(Org)16; Public Health Wales, SNSL(Org)22 CNO, SNSL(Org)22

approach to ensuring safe, quality care, involving the whole healthcare team.¹²¹

101. The Chartered Society of Physiotherapy emphasised its “significant concern” that the Bill could lead health service bodies to reduce staffing in other groups, such as allied health professionals, or terminate some services to patients, in order to meet any new, legally enforced nurse staffing levels. It argued that this could have a perverse impact, including a reduction in the safety, quality and effectiveness of care; a reduction in patients’ access to services that would otherwise be of long-term benefit to their health and well-being; and compromise the delivery of cost-effective, affordable services that are responsive to changing population and patient needs.¹²²

102. Some witnesses referred to the risk of the Bill:

- limiting the use and development of the skills of non-nursing staff not covered by similar legislation;¹²³
- leading to the redefining of roles within a staff group “simply to justify staff quotas”;¹²⁴
- “drain(ing) staff from the very support services that assist nursing staff, so that nurses then find themselves undertaking tasks that were once the preserve of others”;¹²⁵ and
- leading to the diversion of resources away from other professional groups in order to fund additional nursing posts.¹²⁶

103. UNISON cited examples of health boards “downgrading healthcare assistants” posts to pay for additional qualified nurses, meaning nurses do not receive appropriate levels of support.¹²⁷ The CNO reiterated this point, arguing that the Bill could increase the risk of adding non-clinical tasks to nurses’ workloads.¹²⁸

104. When asked about the impact of the Bill on healthcare support workers, Professor Peter Griffiths reported that evidence from the USA

¹²¹ Kirsty Williams AM, [Summary of responses to the consultation on the proposed legislation](#)

¹²² Consultation response, SNSL(Org)1

¹²³ Welsh NHS Confederation, SNSL(Org)3; Royal Pharmaceutical Society, SNSL(Org)14

¹²⁴ Royal Pharmaceutical Society, SNSL(Org)14

¹²⁵ Socialist Health Association, SNSL(Org)16

¹²⁶ UNITE, SNSL(Org)18; Public Health Wales, SNSL(Org)22; CNO, SNSL(Org)23

¹²⁷ Consultation response, SNSL(Org)6

¹²⁸ Consultation response, SNSL(Org)23

suggested there was a marginal rebalancing of the workforce on the wards towards registered nursing and away from healthcare support workers. He emphasised, however, that the Bill, as drafted, contains an “in-built protection” given the reference to staffing ratios for healthcare support workers.¹²⁹

105. Responding to the suggestion that the Bill could have a detrimental impact on the multidisciplinary approach to care, Paul Roberts, representing health board executives, said:

“I don’t think boards would deliberately set about doing that, but I think, when there is a statutory duty on you, and you know you’re at risk of breaching a statutory duty, then you tend, inevitably, to put more emphasis on achieving that statutory duty.”¹³⁰

106. When asked the same question, the Royal College of Nursing argued that adequate nurse staffing levels would result in more appropriate and timely referrals. Its representatives claimed that this would prevent patient harm and avoid increased workloads for other professions.¹³¹ Citing research undertaken by Professor Linda Aiken, the Royal College of Nursing argued that there is evidence that nurse-staffing legislation introduced in other countries had increased cohesion and allowed other professionals to interject earlier and more appropriately.¹³²

107. The Royal College of Nursing emphasised that legislation is needed for nurse staffing levels specifically because of the unique role of the nurse:

“The weight of academic evidence demonstrating the significance of the nursing impact is not a testimony to the superiority of the nursing profession but merely a testimony to that fact that the nature of nursing is a 24/7 caring role by the side of patient encompassing the very fundamentals of care including nutrition, hydration, alleviating pain etc [...] Nurses make up the largest staff group in the NHS because they are

¹²⁹ RoP [para 80], 12 February 2015

¹³⁰ RoP [para 430], 12 February 2015

¹³¹ RoP [paras 22-23 and 67], 29 January 2015

¹³² RoP [para 67], 29 January 2015

needed by patient [sic] at all times – and their absence has a significant negative impact.”¹³³

Recruitment of more junior or less experienced staff?

108. UNISON,¹³⁴ the CNO,¹³⁵ and the Minister¹³⁶ suggested that the Bill could lead to the recruitment of more junior staff in order for health boards to meet their statutory requirements.

109. UNISON told the Committee that there was a danger the Bill could lead to an increase in the instances of nursing jobs being downgraded in order to bolster the recruitment of qualified nurses.¹³⁷ The CNO said:

“to keep costs down, hospitals may be tempted to recruit more nurses at lower grades, thus reducing the skills of the workforce. Another option to reduce costs would be to reconfigure existing services, so that more staff nurses are needed than higher grades, which would also reduce the skills of the workforce.”¹³⁸

110. Care Forum Wales representatives told the Committee:

“We’ve spent a lot of time focusing on recruiting the right nurses for the right jobs. I worry there would come a point [as a consequence of the Bill] that you just recruited anybody with a Pin number, so that you weren’t told off for not having enough nurses. I think it’s important, with all the stuff that’s in the press and the work that the older person’s commissioner’s been doing about the quality of care, that we don’t lose that in our effort to just say, ‘We’ve got this many nurses’.”¹³⁹

Exacerbating recruitment issues in the independent sector?

111. Representatives of the independent hospital and care sectors,¹⁴⁰ and Age Cymru,¹⁴¹ raised concerns about the potential for the Bill, as

¹³³ Consultation response, SNSL(Org)5

¹³⁴ RoP [para 290], 12 February 2015

¹³⁵ Consultation response, SNSL(Org)23

¹³⁶ RoP [para 176], 5 March 2015

¹³⁷ RoP [para 290], 12 February 2015

¹³⁸ Consultation response, SNSL(Org)23

¹³⁹ RoP [para 429], 19 March 2015

¹⁴⁰ Consultation responses, SNSL(Org)24 and SNSL(Org)25

¹⁴¹ Consultation response, SNSL(Org)8

drafted, to exacerbate existing issues in the independent sector relating to the recruitment of nurses.

112. Care Forum Wales, a professional representative organisation for independent health and social care providers in Wales, told the Committee that the nursing home sector faces a “fairly severe shortage of nurses”,¹⁴² with 480 nurse vacancies across Wales.¹⁴³ Both Care Forum Wales and the CNO suggested that the Bill could make the situation worse:

“there is a risk that the requirement to maintain safe nursing levels in acute wards will increase movement of nurses away from the independent sector, exacerbating the existing crisis facing care homes which has seen nursing homes close or de-register to provide personal care only. The net result will be staff shortages and further closures, placing residents at risk; threatening local employment; undermining stability and incoming investment in the sector; and diverting NHS resources from acute care.”¹⁴⁴

113. While the Welsh Independent Healthcare Association said that the private hospital sector had traditionally not faced the same recruitment challenges as the nursing home sector,¹⁴⁵ it acknowledged:

“The impact [of the Bill] may well be if there was a greater demand for nurses and the pool of nurses has remained the same, then we are competing more for the same pool of nurses.”¹⁴⁶

114. The Royal College of Nursing argued that evidence from other countries did not suggest that the Bill would result in a sudden increase in demand for nurses that could cause instability in another sector. It reported that, in contrast, legislation introduced in Australia had led to a number of nurses returning to practice due to the improved working conditions created as a consequence of statutory staffing levels.¹⁴⁷

¹⁴² RoP [para 363], 19 March 2015

¹⁴³ Consultation response, SNSL(Org)24

¹⁴⁴ Ibid

¹⁴⁵ RoP [para 409], 19 March 2015

¹⁴⁶ RoP [para 411], 19 March 2015

¹⁴⁷ Consultation response, SNSL(Org)5

115. Several witnesses commented on the potential for the Bill's provisions to lead to an increase in the number of nurses returning to practice if working conditions were to improve as a consequence of statutory safe nurse staffing levels. UNISON stated that safe nurse staffing levels had the potential to deliver improvements for the recruitment of nurses, including attracting nurses back into the profession because of "the stable employment situation they would create".¹⁴⁸

116. Health board executives acknowledged that, by improving staffing levels, a good working environment could be provided for nurses. They agreed that this could have a positive impact on recruitment and return to practice. They emphasised, however, that there was "still a way to go to reach that point".¹⁴⁹ Health board nurse directors acknowledged that although such a development would be welcomed if it occurred, it would not be sufficient to fill the current nursing shortfall in Wales.¹⁵⁰

The Bill's impact on the use of agency/bank nursing staff

117. The summary of responses to Kirsty Williams' pre-legislative consultation on the Bill highlighted concerns that "the Bill would result in a significant increase in the use of agency/bank nursing staff, particularly in the short term".¹⁵¹ This was a significant concern raised during the Committee's Stage 1 proceedings.¹⁵²

118. Healthcare Inspectorate Wales said that, in the short term, if there were insufficient nurses in the system to meet the Bill's requirements, a possible unintended consequence could be an increase in the use of bank and agency staff.¹⁵³ Health board executives agreed:

"if wards suddenly become obliged by statute to achieve minimum staffing ratios, it could result in more spend on agency staff in the short term."¹⁵⁴

¹⁴⁸ RoP [para 281], 12 February 2015

¹⁴⁹ RoP [para 320] 12 February 2015

¹⁵⁰ RoP [paras 158 and 162], 29 January 2015

¹⁵¹ Kirsty Williams AM, [Summary of responses to the consultation on the proposed legislation](#)

¹⁵² Healthcare Inspectorate Wales, SNSL(Org)2; CNO, SNSL(Org)23; Health board executives, RoP [para 400], 12 February 2015

¹⁵³ RoP [para 191], 12 February 2015

¹⁵⁴ RoP [para 400], 12 February 2015

119. Nevertheless, others argued that the Bill had the potential to reduce the reliance on agency/bank nursing staff.¹⁵⁵ The Royal College of Physicians referred to evidence from Australia and the USA, where mandatory nursing levels have been introduced. It said that this evidence showed that nurses had returned to practice as a consequence of similar legislation, taking away the need for agency/bank nursing staff “who are very expensive, unfamiliar with the ward and, perhaps, not the best-placed people to nurse”.¹⁵⁶

120. Similarly, Professor Griffiths told the Committee that although he understood concerns that more agency nurses would be needed to meet the Bill’s requirements, research literature did not suggest that this would be the case. He claimed that, to the contrary, evidence suggested improving staffing levels on the ward made it easier to attract and retain nurses, and easier to encourage nurses to return to practice, leading to a more stable and adequate workforce.¹⁵⁷ Professor Dame June Clark reiterated this point, adding that evidence also shows that stability of the nursing workforce is a factor in improving quality of care.¹⁵⁸

121. During the Committee’s discussions it was suggested that an increase in the use of bank or agency nurses could be avoided by amending the Bill to require health service bodies to seek to employ permanent staff to reach safe nurse staffing levels. Responding to this suggestion, the Royal College of Nursing said it believed an increase in the number of permanent staff would have a positive impact on patient outcomes but that the use of bank staff would remain necessary in order to react flexibly to the inevitable peaks and troughs in demand for healthcare.¹⁵⁹ Health board nurse directors also explained that, when they were able to fill the nursing vacancies they hold, they did not use as many agency/bank nursing staff; nevertheless, they still used some agency/bank nursing staff to manage their resources effectively.¹⁶⁰

¹⁵⁵ Royal College of Physicians, SNSL(Org)2; Professor Peter Griffiths, RoP [paras 23-25], 12 February 2015

¹⁵⁶ RoP [para 261], 29 January 2015

¹⁵⁷ RoP [paras 23-25], 12 February 2015

¹⁵⁸ RoP [para 24], 12 February 2015

¹⁵⁹ RoP [para 80], 29 January 2015

¹⁶⁰ RoP [para 96], 29 January 2015

The Bill's impact on litigation against health service bodies

122. Responding to the Committee's call for evidence, Macmillan Cancer Support warned that the Bill's provisions should be "cautiously applied" to the healthcare system in Wales with careful consideration being needed of the "potential legal consequence for health boards and individuals with responsibility for overseeing its delivery".¹⁶¹

123. When asked whether one of the potential consequences of the Bill, particularly the staffing ratios, could be increased litigation against the NHS in Wales, the Board of Community Health Councils said that this was a possibility but that this would not necessarily be a priority for patients.¹⁶²

124. When asked a similar question about the risk of increased litigation against the NHS in Wales as a consequence of the Bill, the CNO said:

"Certainly, if there is evidence of non-compliance with a piece of legislation, logically, it would suggest that that could be a consequence. I have no evidence. As I say, there is no legislation equivalent to this anywhere in the UK, so it's very difficult to know precisely what could happen. But, certainly, that is a real possibility."¹⁶³

125. Professor Gillian Leng, representing NICE, noted that there was evidence to suggest that improved staffing levels could lead to a reduction in litigation.¹⁶⁴

The Minister's view

The Bill's impact on patient care

126. When asked whether he thought the Bill could lead to one setting meeting the statutory requirement at the expense of another, the Minister responded:

"you can see how a health board faced with a fixed number of nurses and some settings that now have the force of law behind them would solve that problem by taking nurses from

¹⁶¹ Consultation response, SNSL(Org)10

¹⁶² RoP [para 172], 12 February 2015

¹⁶³ RoP [para 84], 5 March 2015

¹⁶⁴ RoP [para 93], 25 February 2015

other areas in order to comply in the ones where there's a statutory requirement, and rob ones where there isn't."¹⁶⁵

127. He went on to note:

“in the worst of circumstances, a health board could solve an immediate problem by moving patients, rather than moving staff. That would be a very sad and unintended consequence of the Bill, but you can see how, at 2.30 a.m., when you haven't got another member of staff to be found, moving a patient off the ward would render it compliant, and, if you thought that the law was breathing down your neck to be compliant, you could imagine how that could happen.”¹⁶⁶

128. In his written evidence, the Minister warned that other unintended consequences of the Bill could include:

- bed closures as a result of a shortage of nurses to meet mandatory staffing levels;
- the “hindrance” of the development of the Welsh Government's Prudent Healthcare¹⁶⁷ initiative, “as it [the Bill] creates an inflexible set number for staff that does not allow for role development and the contribution of other professionals to patient care on the ward”; and
- a “bias towards recruiting junior nurses rather than more senior nurses with enhanced and advanced skills as they may be deemed too expensive”.¹⁶⁸

129. In oral evidence, the Minister expanded on the possibility of the Bill's provisions resulting in the recruitment of more junior nurses:

“It's cheaper to recruit people who are called nurses, so you comply with the ratio, but they're not nurses that are that much use to you, because they're very new and they don't have the skills that you need. You have skill substitution.”¹⁶⁹

¹⁶⁵ RoP [para 175], 5 March 2015

¹⁶⁶ RoP [para 177], 5 March 2015

¹⁶⁷ The Welsh Government's Prudent Healthcare initiative, introduced in 2014, aims to: minimise avoidable harm; carry out the minimum appropriate intervention; and promote equity between the people who provide and use services.

¹⁶⁸ Written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2](#), 5 March 2015

¹⁶⁹ RoP [para 176], 5 March 2015

130. With respect to the possible impact of the Bill on care homes, the Minister argued “an increase in demand for registered nurses will mean that care homes will need to compete to recruit and retain their nursing staff as well”. He said, however, that the [Regulation and Inspection of Social Care \(Wales\) Bill](#), as introduced, includes a new requirement for local authorities and the Welsh Ministers to consider and publish reports on the present and future stability of the care sector, which will include staffing information, and which may help mitigate this possible unintended consequence of the Bill.¹⁷⁰

The Bill’s impact on the use of agency/bank nursing staff

131. While the Minister acknowledged “if you get the right number of nurses on the ward, it will make people more willing to work there and it will reduce your reliance on agency and bank staff”, he went on to say:

“I don’t know that the empirical evidence is all on that side, and I think the Bill, if it were to go the wrong way, could actually, in a perverse way, make it less attractive to work in these settings, rather than more.”¹⁷¹

The Member in charge’s view

The Bill’s impact on patient care

132. Kirsty Williams refuted suggestions that legislating for staffing ratios could result in other areas of the NHS in Wales facing reductions in capacity. Citing the example of Aneurin Bevan University Health Board’s “perfect ward” pilot, she argued that ensuring safe staffing levels gave the wider service a higher level of resilience because it was adequately resourced and, as such, had a wider complement of staff on which to call.¹⁷²

133. When asked whether the Bill could lead to ward closures if the staffing ratios could not be met on any given shift, Kirsty Williams emphasised that the purpose of the Bill would be to identify patterns of failure over time rather than to “jump in” and close a ward due to a one-off incident”.¹⁷³ She emphasised that the Bill was framed so that

¹⁷⁰ Written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2](#), 5 March 2015

¹⁷¹ RoP [para 183], 5 March 2015

¹⁷² RoP [para 195], 15 January 2015

¹⁷³ RoP [para 203], 15 January 2015

health boards would be required to demonstrate that they had taken “all reasonable steps” to ensure safe nurse staffing levels:

“I certainly don’t envisage the Bill being used as in the famous Briton Ferry bridge example: that, if a nurse got stuck on the Briton Ferry bridge as she travelled to work and the ward found themselves one down, that would be the reason why the ward would have to be shut or beds removed from that ward on that day. It would allow for that incident to be logged. What we’d be looking for, I think, is patterns of behaviour over a period of time.”¹⁷⁴

134. Kirsty Williams also emphasised the importance of recognising the overarching duty proposed in new section 10A(1) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill, which applies to “all services that are commissioned and provided for by a local health board”.¹⁷⁵ She said:

“Because the health boards will have a statutory obligation, under this legislation, to have regard to the importance of ensuring that registered nurses are deployed in sufficient numbers to enable the provision of safe nursing care in all settings, if they did divert staff from other settings and, as a direct result, could not provide safe care because they had done so, they would be equally accountable under the law as if they had failed to meet safe staffing in the acute wards. [...] That’s why we included the overarching duty to try and ensure that those unintended consequences did not happen. We’ve thought about that in drafting it.”¹⁷⁶

135. Responding to claims that the Bill could have a detrimental impact on other health professionals, Kirsty Williams reported that she had found no evidence to suggest that would be the case. She argued that, to the contrary, evidence from Australia suggested that having the correct number of nurses on the ward is of benefit to other members of the multidisciplinary team.¹⁷⁷ She went on to say:

“The principle of multidisciplinary teams is one that I wholeheartedly support, and this legislation has never been for

¹⁷⁴ RoP [para 133], 19 March 2015

¹⁷⁵ RoP [para 25], 19 March 2015

¹⁷⁶ RoP [para 39], 19 March 2015

¹⁷⁷ RoP [para 143], 15 January 2015

me about setting one professional group against another. But what I think we all realise is that nurses, and the role of nurses, is fundamentally different to other healthcare professionals, in the sense that it is only the nursing profession that is responsible for patients 24 hours a day, seven days of the week. Therefore, their contact with patients, and their ability to influence the outcomes for patients, is singularly unique within the health service. [...] it's not about setting professions against other professions, but I think what we do know is that the impact of unsafe staffing levels for nursing actually increases morbidity: people, potentially, are put at risk because of it."¹⁷⁸

136. In response to the suggestion that the Bill's provisions may result in lower grade nurses being employed to meet the staffing ratios, Kirsty Williams emphasised that the Bill as drafted includes a requirement for the Welsh Government to make statutory guidance in relation to qualified and non-qualified staff, as well as requiring the use of an acuity tool which also gives guidance on the nature of the qualifications that are necessary for staff on a particular ward.¹⁷⁹

137. Kirsty Williams refuted the Minister's suggestion that the Bill could hinder the Welsh Government's *Prudent Healthcare* initiative:

“investing in safe nurse staffing levels is a good use of money. It's a prudent use of money and you get better outcomes for people. [...] if you've got nurses in the right numbers on the wards, that can be of benefit to the multidisciplinary team because they ensure—especially if the nurse in charge is freed up to be the nurse in charge, and isn't looking after eight patients as well as being the nurse in charge—that the patient gets to the physio on time and gets to the occupational therapist in the hospital on time, and they can facilitate the discharge, and can work with people back in the community to facilitate that discharge. Actually, having nurses in the right numbers in our settings helps those other professionals play their role more effectively. That, to me, is prudent.”¹⁸⁰

¹⁷⁸ RoP [para 81], 19 Mach 2015

¹⁷⁹ RoP [para 146], 15 January 2015

¹⁸⁰ RoP [para 82], 19 March 2015

The Bill's impact on the use of agency/bank nursing staff

138. Kirsty Williams stated that international evidence suggested fewer bank and agency staff were needed when safe staffing arrangements were in place. This, she argued, was because providers were required to plan for a sufficient complement of staff in order to meet their statutory obligations.¹⁸¹ She went on to note:

“[legislation] makes sure that local health boards create permanent positions to make sure that they know that they can deliver on their statutory obligations. It brings nurses back into the profession. That’s the evidence and the experience from elsewhere where it’s happened. I don’t see anything peculiar about the Welsh NHS that would suggest that we would have a different pattern to that.”¹⁸²

139. Kirsty Williams told the Committee that she would be willing to consider an amendment requiring health boards to seek to deliver safe nurse staffing levels through the use of permanent rather than agency/bank nursing staff.¹⁸³

The Bill's impact on litigation against health service bodies

140. When asked whether she thought that litigation would be a “highly likely outcome of the Bill”, Kirsty Williams said:

“I don’t say it’s a highly likely outcome of the Bill. What I’m saying is that the legislation would certainly empower people to do that if there was a failing. My vision of the Bill would be that compliance with this legislation would form part of the regular monitoring of performance by local health boards, and that the Welsh Government and Welsh Ministers, if they felt local health boards were not performing in this regard, would use the existing intervention regime and mechanisms to hold the local health board to account.”¹⁸⁴

¹⁸¹ RoP [para 213], 15 January 2015

¹⁸² RoP [para 89], 19 March 2015

¹⁸³ RoP [para 147], 15 January 2015

¹⁸⁴ RoP [para 109], 19 March 2015

The Committee's view

The Bill's impact on patient care

141. The Committee notes the significant concerns raised by respondents to the Committee's consultation, witnesses and the Minister about the possibility of unintended consequences arising as a result of the Bill's provisions, particularly with regard to their potential impact on patient care.

142. The Committee is particularly concerned about the suggestion that the Bill could lead to staff being moved from other settings, such as community hospitals, to ensure compliance with staffing ratios in "adult inpatient wards in acute hospitals".

143. The Committee recognises that the Member in charge has sought to mitigate the risk of this potential unintended consequence by including within the Bill an overarching duty in respect of safe nursing care. The Committee notes that this overarching duty will apply in all settings within the NHS in Wales—and for all Welsh NHS commissioned/funded care—at commencement. It also notes the evidence from other countries in which similar legislation has been introduced which did not suggest that improving staffing in one area would result in depletion of staff in others.

144. Nevertheless, the Committee remains concerned that the Bill as drafted could have an impact on staffing levels in settings other than "adult inpatient wards in acute hospitals". This is a particular concern given the current shortage of nurses in Wales, and is discussed further in chapters 5 and 6.

Recommendation 4: The Committee recommends that the Minister for Health and Social Services ensure that the requisite guidance places particular emphasis on ensuring that health bodies' compliance with staffing ratios in 'adult inpatient wards in acute hospitals' does not have an adverse effect on nurse staffing levels in other NHS settings in Wales. The Committee believes that this should be reflected in new section 10A(5) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill.

145. A number of witnesses argued that the Bill's focus on nursing alone would have a detrimental impact on other health professionals. While the Committee notes the concerns expressed, and emphasises

the importance of a multidisciplinary and integrated approach to care, it is not convinced that sufficient evidence has been provided to substantiate the claim that the Bill would undermine the work of multidisciplinary teams. The Committee agrees with the Royal College of Nursing that adequate nurse levels could result in increased cohesion, and more appropriate and timely referrals. Furthermore, the Committee agrees with the Member in charge that the nature of a nurse's role, as the individual responsible for a patient's round the clock care, is sufficiently distinctive to warrant the Bill's focus.

146. The Committee notes the concerns raised about the potential for bed and or ward closures as a consequence of the Bill's provisions. It accepts Kirsty Williams' reassurances that the Bill as drafted requires health boards to demonstrate that they have taken "all reasonable steps" to ensure safe nurse staffing levels and, as such, would not lead to the closure of beds due to "one-off" instances of staff shortages. Nevertheless, the Committee believes that the Welsh Government would need to monitor the Bill's impact on capacity across health settings should the Bill be enacted.

147. The Committee also notes the concerns of the Minister and other witnesses that a staffing ratio could result in the recruitment of more junior nurses to ensure compliance with the legislation at minimum cost. Although the Committee accepts Kirsty Williams' reassurances that the Bill would require the Welsh Ministers' statutory guidance to make provision for an adequate nursing skills mix, it acknowledges that, given current financial constraints, there is a risk that less experienced staff could be recruited to meet the statutory requirement.

148. With regard to the concerns raised about the potential impact of the Bill on the independent sector, the Committee recognises that its provisions could exacerbate existing staffing problems, especially in the nursing home sector. The Committee believes that this risk is particularly acute given the current shortage of nurses across all sectors in Wales. The supply of nurses is considered in more detail in the next chapter; the Bill's application to the independent sector is considered in more detail in chapter 6.

149. The Committee does not believe that the evidence relating to ward closures, the impact of the Bill on other health professionals, or the recruitment of junior staff is sufficient to warrant the

recommendation of specific amendments to the Bill. Nevertheless, it believes that further consideration is needed of how these risks could be mitigated if guidance is issued and/or regulations are made by the Welsh Ministers under new sections 10A(3) and (4) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill.

Recommendation 5: The Committee recommends that the Minister for Health and Social Services ensure that the requisite guidance, and any future regulations, reflect his careful consideration of—and guard against—the possible unintended consequences arising from this legislation.

The Bill's impact on the use of agency/bank nursing staff

150. The Committee accepts the argument outlined in the EM that “inadequate staffing levels can lead to a reliance on overtime and temporary (agency and bank) staffing, which can be costly and inefficient”.¹⁸⁵ Furthermore, the Committee notes that while the use of agency/bank nursing staff is not prohibited on the face of the Bill, it requires the Welsh Government to publish a report that demonstrates the impact of the legislation by reference to a range of indicators, including the use of agency and bank nurses.

151. The Committee recognises the importance of retaining the flexibility to draw on agency/bank nursing staff in order to manage peaks and troughs in demand. Furthermore, the Committee acknowledges the important contribution made by agency and bank nurses to health and care services in Wales.

152. The Committee acknowledges that, in the longer term, the improved working conditions created by safe nurse staffing levels could reduce health services’ reliance on agency/bank nursing staff. It also notes the evidence to suggest that nurses might return to practice as a consequence of the improved working environment the Bill aims to create.

153. Nevertheless, the Committee has significant concerns that, in the short term, the Bill could lead to an increase in the use of agency/bank nursing staff, particularly given the current shortage of nurses. The Committee is concerned that this could raise costs and potentially

¹⁸⁵ Explanatory Memorandum, para 25

have an impact on the quality of care provided to patients, as agency/bank nurses may be less familiar with the wards on which they were working.

154. The Committee therefore believes that steps should be taken to ensure that an appropriate balance between the use of permanent and agency/bank nursing staff is maintained by health service bodies when making arrangements to meet the statutory staffing ratios proposed by the Bill.

Recommendation 6: The Committee recommends that the Minister for Health and Social Services ensure that the requisite guidance places particular emphasis on health bodies achieving a reasonable balance of permanent and agency/bank nursing staff when complying with the statutory staffing ratios. The Committee believes that this should be reflected in new section 10A(5) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill.

The Bill's impact on litigation against health service bodies

155. The Committee notes the evidence received in relation to the potential increase in litigation against health service bodies as a consequence of the Bill's provisions. It welcomes the Bill's creation of a statutory basis on which staff and patients could challenge unsafe staffing levels, and seek redress, both within the health service bodies and in court. The Committee is concerned about the potential financial and reputational costs that could arise if health service bodies do not comply fully with the Bill's requirements, but notes the evidence from NICE that improved staffing levels could lead to a reduction in litigation.

5. Barriers to implementation

156. The following factors were identified as barriers to the Bill’s implementation in the evidence submitted to the Committee:

- existing workforce capacity;
- workforce planning; and
- financial constraints.

Existing workforce capacity

157. The lack of existing workforce capacity was overwhelmingly cited as the most significant barrier to the Bill’s implementation.¹⁸⁶

158. Public Health Wales summarised several respondents’ views:

“The main barrier to the implementation of the Bill is having sufficient numbers of qualified nurses available to meet the suggested minimum staffing levels.”¹⁸⁷

159. The BMA and the CNO both referred to the fact that problems relating to staffing capacity exist not only in respect of permanent nursing staff, but also in relation to agency/bank nursing staff. The BMA explained that health boards “already experience difficulties in many instances in even recruiting agency nurses to fill gaps in rotas” and that several of its members had reported that “many nursing staff may regularly undertake additional shifts to ensure adequate staffing cover can be provided”.¹⁸⁸ The CNO told the Committee:

“[temporary nurse staffing] agencies are not immune to the problems of recruiting staff so there is a real risk that any suppliers will be unable to recruit new agency staff in sufficient numbers to meet local demand”.¹⁸⁹

160. Health board executives stated:

“The biggest barrier by far is recruitment. All health boards, over the last couple of years since the 2012 chief nursing officer guidelines came into place, have got programmes of

¹⁸⁶ Welsh NHS Confederation, SNSL(Org)3; BMA, SNSL(Org)4; Board of Community Health Councils, SNSL(Org)19; Healthcare Inspectorate Wales, SNSL(Org)21

¹⁸⁷ Consultation response, SNSL(Org)22

¹⁸⁸ Consultation response, SNSL(Org)4

¹⁸⁹ Consultation response, SNSL(Org)23

compliance, but the major issue for us is being able to recruit into those posts.”¹⁹⁰

161. They went on to explain that recruitment difficulties had arisen as a consequence of a more competitive international market for nurses, and an increase in demand more locally for nurses in light of the conclusions of the Francis report in England. The CNO reiterated these points.¹⁹¹

162. Health board nurse directors emphasised strongly the challenge posed to meeting safe nurse staffing levels by the lack of available staff to fill vacancies.¹⁹² They pointed to nursing vacancies across NHS organisations in Wales,¹⁹³ and stated that the number of students qualifying will not meet current demand.¹⁹⁴ They concluded by saying:

“if the picture across Wales is 700 to 800 vacancies, that’s an awful lot of nurses that we would be short, and if we’re then saying that actually we would see an increase in staffing if it was legislative, then actually that would mean more nurses, and three years to train nurses means we have a big gap between now and when the legislation could potentially come in.”¹⁹⁵

Workforce planning

163. Aligned to the issue of staffing capacity, some witnesses cited deficiencies in workforce planning in Wales as a barrier to the Bill’s implementation. The Board of Community Health Councils described workforce planning in Wales as “poor”,¹⁹⁶ and argued that insufficient numbers of nurses were being trained to meet the demand. It argued that although some improvements had been seen in nurse staffing levels, these had been largely achieved through the use of long shifts, agency staffing and overtime.¹⁹⁷

164. Healthcare Inspectorate Wales told the Committee “there would need to be a lot of scrutiny of workforce planning in order to meet

¹⁹⁰ RoP [para 316], 12 February 2015

¹⁹¹ RoP [para 59], 5 March 2015

¹⁹² RoP [para 89], 29 January 2015

¹⁹³ RoP [para 95], 29 January 2015

¹⁹⁴ RoP [para 121], 29 January 2015

¹⁹⁵ RoP [para 162], 29 January 2015

¹⁹⁶ Consultation response, SNSL(Org)19

¹⁹⁷ RoP [paras 121 and 131], 12 February 2015

those [safe nurse staffing] levels in the longer term”¹⁹⁸ and warned that its inspections suggested that nursing levels had been “propped up” with bank and agency staff on some shifts.¹⁹⁹

165. Written evidence from the Welsh NHS Confederation stated:

“One of the potential barriers to implementing the provisions of the Bill is that it takes little consideration for the workforce needed for the future and how it links with patient outcomes.”²⁰⁰

166. Both Public Health Wales and Healthcare Inspectorate Wales explained that, to provide the number of trained and experienced nurses necessary to meet the Bill’s requirements, consideration would need to be given to:

- effective future workforce planning; and
- provision of adequate levels of education and training.²⁰¹

167. NICE told the Committee that it is working with Health Education England—the body responsible for planning staffing across the health service there—to calculate what its guidance means in terms of staff numbers. It explained that the purpose of this work was to identify any projected staffing shortfalls to inform future training plans. Nevertheless, speaking on behalf of NICE, Professor Gillian Leng acknowledged:

“with the general nursing workforce, there’s the challenge of encouraging nurses to stay in the workforce, to come back to the workforce, or to train more nurses. It is a sense of there being a gap at the moment.”²⁰²

168. Professor Anne Marie Rafferty emphasised that safe nurse staffing levels are especially vulnerable because the nurse training and education budget is particularly sensitive to economic fluctuations.²⁰³ Professor Dame June Clark reiterated this point, emphasising that “this short-termism and this boom and bust is something that really has to

¹⁹⁸ RoP [para 237], 12 February 2015

¹⁹⁹ RoP [para 239], 12 February 2015

²⁰⁰ Consultation response, SNSL(Org)3

²⁰¹ Consultation responses, SNSL(Org)21 and SNSL(Org)22

²⁰² RoP [para 54], 25 February 2015

²⁰³ RoP [para 54], 12 February 2015

be tackled”.²⁰⁴ To this end, the three academics who gave evidence to the Committee agreed that consideration ought to be given to making stronger provision for workforce planning on the face of the Bill.

Arrangements for the Bill’s commencement

169. In light of the workforce capacity and planning challenges raised by several respondents and witnesses, it was suggested that further consideration ought to be given to the commencement arrangements outlined in section 4 of the Bill.

170. UNISON told the Committee that staff shortfall could be a possible barrier to commencing the legislation:

“[The Bill] isn’t a piece of legislation, I would suggest, that we can bring in on day one and implement on day two. There’s going to be a process that would need to take place whereby we have enough people in the system to be able to fill those positions.”²⁰⁵

171. When asked about the Bill’s commencement provisions, health board executives explained that the Bill could not reasonably take effect before three or four years had passed. This, they said, was to ensure that the current round of commissioned student nurses had graduated.²⁰⁶

172. Health board nurse directors agreed that the Bill’s commencement date would be crucial to ensuring that adequate workforce planning had been undertaken, and sufficient numbers of nurses were in place, before health bodies would be expected to comply with its provisions.²⁰⁷

173. The CNO said:

“NHS Wales is likely to identify a necessity to train more nurses in order to have enough staff to meet any compulsory ratio. These extra nurses would be commissioned by the Welsh Government, however the commissioning cycle works one year in advance and it takes three years to train one nurse, at a cost

²⁰⁴ RoP [para 67], 12 February 2015

²⁰⁵ RoP [para 282], 12 February 2015

²⁰⁶ RoP [para 421], 12 February 2015

²⁰⁷ RoP [para 206], 29 January 2015

of £38,000. The consequences of this planning cycle will not materialise for a number of years.”²⁰⁸

174. The Bill’s commencement provisions are considered in further detail in chapter 9.

Financial constraints

175. “Inadequate” financial resources were cited as a barrier to the Bill’s implementation by the Board of Community Health Councils.²⁰⁹ Healthcare Inspectorate Wales agreed: “The current financial environment facing Health Boards is likely to present challenges for them in meeting safe staffing levels at all times”.²¹⁰

176. UNITE told the Committee that “the financial circumstances that Health Boards in Wales find themselves in due to the impact of austerity” were a potential barrier to the Bill’s implementation.²¹¹ Financial matters relating to the Bill are considered in further detail in chapter 8.

The Minister’s view

177. In response to evidence about workforce capacity and planning, the Minister emphasised that the work health boards have undertaken in recent years to become more compliant with the CNO’s guidance should not be underestimated. However, he acknowledged that barriers remained to the recruitment of nurses, not least as a consequence of increased domestic and global demand.²¹²

The Member in charge’s view

178. Responding to concerns that current workforce capacity would be a barrier to the Bill’s implementation, Kirsty Williams said:

“It’s been argued that there’s a shortage of nurses, but that’s not necessarily a shortage of individuals with nursing qualifications; it’s just that they’re not choosing to practise [...] what lots of countries have done is to use mechanisms of this kind to actually bring people back into the nursing profession,

²⁰⁸ Consultation response, SNSL(Org)23

²⁰⁹ Consultation response, SNSL(Org)19

²¹⁰ Consultation response, SNSL(Org)22

²¹¹ Consultation response, SNSL(Org)18

²¹² RoP [para 105], 5 March 2015

and there is evidence to suggest that they've been successful in that."²¹³

179. Kirsty Williams went on to cite a 2013 report by the International Council of Nurses, and the work of Professor Linda Aiken, both of which she claimed showed that countries had turned successfully to mandated staffing ratios as a strategy to improve workforce conditions and to facilitate nurses to practise. She acknowledged, however, that "we're going to need more nurses brought into the service".²¹⁴

180. With regard to the claim that nurse workforce planning was inadequate in Wales and could post a challenge to the Bill's successful implementation, Kirsty Williams argued:

"the Bill would strengthen workforce planning to make sure that we were planning, training and recruiting the right number of staff. Because the best way for the local health boards to meet the statutory duties that will be placed upon them by the Bill would be to engage in long-term workforce planning, rather than what we do now, which is often flying by the seats of our pants, dragging people in off agency and bank to try and meet demands on an individual shift by shift basis."²¹⁵

181. When asked whether she believed financial constraints could hinder the Bill's implementation, Kirsty Williams stated:

"the Minister has made available additional moneys to local health boards to ensure that they are compliant with the CNO's recommendations, and, again, there is conflicting evidence, because, on one hand, we're told, 'Ah, well, we're 95 per cent compliant with CNO guidance', and then we have local health boards saying, 'Oh, we'll need loads and loads of extra money for staff if we're to—'. So, we can't have it both ways; we can't be compliant on one hand and then say, 'Oh, no, we can't afford to do this, because there're going to be loads and loads of extra nurses we need to make us compliant'."²¹⁶

182. She went on to say:

²¹³ RoP [para 70], 19 March 2015

²¹⁴ RoP [para 70], 19 March 2015

²¹⁵ RoP [para 69], 19 March 2015

²¹⁶ RoP [para 140], 19 March 2015

“we’ve never claimed that there would be cost savings as a result of this Bill, but I do believe—and the evidence from the LHBs suggested—that, actually, this is prudent investment. Actually investing in staff is a prudent way of spending health services’ money, because you get a return on it and potential savings and you don’t miss out on the opportunities of what safe staffing brings in terms of length of stay, falls, medicine mistakes, litigation.”²¹⁷

The Committee’s view

183. The Committee is particularly concerned about the impact the existing shortage of nurses is likely to have on the Bill’s implementation. The Committee welcomes the Minister’s announcement in February 2015 that 230 additional nursing places had been commissioned for the year 2015/16, an increase of 22 per cent from 2014/15.²¹⁸ The Committee is conscious, however, that:

- it will be at least 2018 before this cohort of students qualifies and is able to join the workforce in Wales; and
- it has been suggested to the Committee that the shortfall of nurses is significantly higher than 230.

184. The Committee acknowledges the potential the Bill has to create a working environment that will attract and retain nurses. Nevertheless, it does not believe that this is likely to happen quickly nor in the scale necessary to meet the current shortage and any additional demand created as a consequence of the Bill’s requirements. The Committee believes that the necessary supply of nurses is only likely to occur once:

- the improved working environment the Bill is aiming to create has had sufficient time to develop; and
- a more adequate and comprehensive approach to workforce planning has been established within health service bodies in Wales, which should lead to more informed and robust commissioning of training places.

²¹⁷ RoP [para 142], 19 March 2015

²¹⁸ Welsh Government, Mark Drakeford (Minister for Health and Social Services), [Health Professional Education Commissioning – 2015/16](#), Cabinet Written Statement, 11 February 2015

185. The Committee notes that section 121 of the National Health Service (Scotland) Act 1978 includes a duty for relevant health bodies to put and keep in place arrangements for the purposes of workforce planning. The Committee believes that further exploration should be undertaken of how the statutory provision for workforce planning in Scotland could inform new provisions within this Bill to mitigate problems relating to shortages in the nursing workforce.

Recommendation 7: The Committee recommends that the Member in charge:

- explore the statutory provision for workforce planning that exists in Scotland;**
- consider, in light of this work, including reference to arrangements for comprehensive workforce planning on the face of the Bill, to ensure that sufficient numbers of trained nurses are available across public and independent sectors.**

6. The settings to which the Bill applies

186. The Committee took evidence on the settings to which the Bill applies. Five specific issues emerged:

- whether a definition of “adult inpatient wards in acute hospitals”, as the setting to which the Bill’s current provisions in respect of staffing ratios will initially apply, is needed;
- whether the Bill’s provisions in respect of staffing ratios should apply to additional settings within the NHS in Wales at commencement;
- whether the Bill’s provisions in respect of staffing ratios should apply to Welsh NHS care delivered in other administrations, for example in England;
- whether the Bill’s provisions in respect of staffing ratios should apply to Welsh NHS care delivered in the independent sector (both in the nursing care sector and in independent hospitals); and
- whether the Bill’s provisions, both the overarching safe nursing care duty and the duty in respect of staffing ratios, should include independently funded care provided in the independent sector in Wales.

Defining “adult inpatient wards in acute hospitals”

187. The Bill places a duty on health service bodies in Wales to have regard to the importance of ensuring an appropriate level of nurse staffing wherever NHS nursing care is provided. This includes NHS services delivered in the NHS in Wales and also Welsh NHS care which is commissioned and/or funded in the independent sector (for example in nursing homes or in independent hospitals).

188. The Bill also places a separate duty to “take all reasonable steps” to maintain nurse to patient staffing ratios and nurse to healthcare support workers ratios. The Bill as currently drafted states that the duty in respect of staffing ratios applies initially in “adult inpatient wards in acute hospitals”. The Bill allows for staffing ratios to be extended to additional settings within the NHS in Wales.

189. The Committee asked Kirsty Williams to provide further information about the definition of “adult inpatient wards in acute hospitals” as set out on the face of the Bill. Kirsty Williams said:

“[...] the term ‘acute hospital’ is commonly used within the health sector. In drafting legislation I believe it is important to use phrases which resonate with their principal target audience (in this case the healthcare sector). Notably, the CNO and NICE define adult acute wards as being medical and surgical wards that provide overnight care for adult patients in “acute hospitals” (this should be taken to exclude critical care, maternity, and mental health services).”²¹⁹

190. The Minister asserted in his written evidence:

“Were the Bill to be enacted, it should be enacted for acute adult medical and surgical wards, rather than acute hospitals, as an acute hospital may also provide other, non-acute services. There is an opportunity to clarify this in the guidance to be issued, by defining the terms used, as is required by the Bill, or an amendment could be made to set out these key definitions on the face of the Bill, which is the preferred option of the Welsh Government.”²²⁰

Applying the staffing ratios to additional settings within the NHS in Wales at commencement

191. Paragraph 53 of the EM states:

“The Bill initially requires ratios to be set for adult acute wards as this reflects the initial focus of work carried out by the Chief Nursing Officer and NICE on nurse staffing levels, lessons learned from recent work such as the Francis report, the Keogh mortality review and the Berwick review into patient safety, and the evidence base demonstrating the link between nurse staffing levels and patient outcomes in these settings. The Royal College of Nursing’s guidance on safe nurse staffing levels in the UK highlights that most of the research evidence relates to hospital-based care, and there is currently a lack of

²¹⁹ Additional written evidence from Kirsty Williams AM, following the Committee’s meeting on 15 January 2015, SNSL AI 9

²²⁰ Written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2](#), 5 March 2015

equivalent research in primary and community care. The Bill includes provision for minimum ratios to be prescribed for other areas as the evidence base for these areas develops.”

192. The EM also includes a Child’s Rights Impact Assessment which aims to consider the effect of the Bill on children in Wales and their rights under the United Nations Convention on the Rights of the Child. Amongst its conclusions are that “the minimum nurse staffing ratios and the safe staffing guidance required by the Bill should be extended to children’s settings in due course”.²²¹

193. Some respondents to Kirsty Williams’ consultation on her draft Bill commented on the settings to which staffing ratios will initially apply. Paragraph 107 of the EM refers to the initial consultation on the content of the Bill and says:

“A strong theme that emerged from the consultation was that any action to ensure safe staffing should not be restricted to acute settings only, particularly given the current policy focus on shifting care from hospital to community settings.”

194. Similarly, evidence submitted to the Committee’s consultation questioned why the Bill’s provisions for staffing ratios only applied to “adult inpatient wards in acute hospitals”. The unintended consequence of resources being moved from other settings into “adult inpatient wards in acute hospitals” was one of the concerns highlighted (see chapter 4).

195. However, it was not always clear whether all respondents who commented in this regard were aware that the Bill, as drafted, includes a provision for Ministers to extend the staffing ratios to additional NHS settings. Kirsty Williams’ said that it was her intention for that to take place when the evidence base for applying staffing ratios within additional settings became available.

196. UNISON argued that there was a “very strong case for minimum standards across every clinical area, particularly in community nursing”. Whilst it acknowledged that the duty in respect of staffing ratios applied initially to “adult in patient wards in acute hospitals” as this was where the “main body of evidence lies”, it said that “data

²²¹ Explanatory Memorandum, para 283

collection in other healthcare settings should commence as soon as possible in order to identify reasonable staffing levels”.²²²

197. Whilst Health Inspectorate Wales welcomed the fact that the Bill contained provisions to allow the Welsh Ministers to extend its application to other settings, it reported that mental health wards for older people was the setting where their inspectors raised most concerns.²²³ Health board executives also referred to the findings of Healthcare Inspectorate Wales inspections, saying it could be argued that the priority for investment and recruitment should be in areas relating to mental health.²²⁴

198. The Children’s Commissioner for Wales and the Paediatric Intensive Care Association argued for extending the staffing ratios to children’s settings.²²⁵ The Royal College of Nursing suggested that there was sufficient staffing when children were cared for in children’s wards but not necessarily where children were looked after “in areas that are akin for adults” such as accident and emergency departments.²²⁶

199. Other respondents, such as the Royal College of Nursing²²⁷ and the Welsh NHS Confederation,²²⁸ pointed to a lack of academic evidence at this time (specifically linking nurse staffing levels to patient outcomes) to initially support the use of staffing ratios in other settings. They welcomed the Bill’s provisions to extend the staffing ratios to additional settings in the future as evidence became available.

200. Professor Anne Marie Rafferty suggested that it would be beneficial for lessons to be learnt from initially applying staffing ratios to “adult inpatient wards in acute hospitals” prior to it being implemented in other settings.²²⁹ This view was shared by the Minister.²³⁰

201. The Royal College of Nursing stated clearly that it did not advocate extending the settings to which staffing ratios apply as

²²² Consultation response, SNSL(Org)6

²²³ Consultation response, SNSL(Org)21

²²⁴ RoP [para 415], 12 February 2015

²²⁵ Consultation responses, SNSL(Org)11 and SNSL(Org)26

²²⁶ RoP [paras 56-57], 29 January 2015

²²⁷ Consultation response, SNSL(Org)5

²²⁸ Consultation response, SNSL(Org)3

²²⁹ RoP [para 112], 12 February 2015

²³⁰ RoP [para 159], 5 March 2015

sufficient evidence did not yet exist to support such a move. It said, however, that greater emphasis should be placed on collating the evidence that was needed to demonstrate the case for applying staffing ratios in additional settings.²³¹ Similarly, all three academic witnesses who provided oral evidence stated that the legislation should focus on “adult inpatient wards in acute hospitals” in the first instance, as this was where the strongest evidence base existed at present.²³² In written evidence, Professor Dame June Clark also said that the Bill’s initial focus on “adult inpatient wards in acute hospitals” was because “this is currently the only part of healthcare on which we have hard and overwhelming evidence”.²³³

202. The CNO said “whilst there is evidence about safe staffing levels in medical and surgical adult inpatient acute wards, there is as yet little evidence for staffing levels in other settings”.²³⁴ She referred to her planned work to look at safe staffing in relation to mental health inpatients, district nurse-led teams and health visitor generic services. She also said that she would be considering NICE’s draft guidance for safe nurse staffing in accident and emergency.²³⁵

Whether the Bill’s provisions in respect of staffing ratios should include Welsh NHS care delivered in other administrations and by the independent sector

203. Several respondents²³⁶ suggested the Bill’s provisions in respect of staffing ratios should be amended to include all settings where NHS care was provided, with the main emphasis being on:

- Welsh NHS care commissioned /funded in NHS England;
- Welsh NHS care commissioned/funded in independent hospitals;
- Welsh NHS care commissioned/funded in nursing homes and community settings.

204. In both oral and written evidence, Healthcare Inspectorate Wales suggested it may be more appropriate for the Bill to refer to “settings in which NHS care is provided”. Giving evidence on the Inspectorate’s behalf, Dr Kate Chamberlain said:

²³¹ RoP [para 50], 29 January 2015

²³² RoP [paras 108-112], 12 February 2015

²³³ Consultation response, SNSL(Ind)5

²³⁴ Consultation response, SNSL(Org)23

²³⁵ RoP [para 75], 5 March 2015

²³⁶ Healthcare Inspectorate Wales; Care Forum Wales; Socialist Health Association.

“I can understand why it’s limited to the settings that it is at the moment in terms of adult in-patient care, but welcome the flexibility that, as evidence emerges and as opportunities emerge, it could be broadened to other settings within NHS or NHS settings.”²³⁷

205. This, Dr Chamberlain argued, was to ensure that consideration would be given to equivalence of standards and equivalence of expectations across sectors and providers. She added that she would not want to see the opportunity to progress the legislation limited if the circumstances were right and the relevant evidence available.²³⁸

206. NICE told the Committee that its guidelines were developed primarily for use within NHS provider organisations, but were also relevant to non-NHS bodies that provide care for NHS patients.²³⁹

207. In the context of a shortage of nurses, representatives of the independent sector highlighted the need for their involvement in workforce planning if care provided in the independent sector were to be included within the Bill’s provisions. When questioned they said they agreed that the Bill needed to be amended to incorporate workforce planning, including the independent sector.²⁴⁰ (see recommendation 5, chapter 5)

Welsh NHS-commissioned/funded care in the nursing home sector

208. The Older People’s Commissioner referred to her 2014 report: *A place to call home? A Review into the Quality of Life and Care of Older People Living in Care Homes in Wales*. She pointed to the “key role that the Welsh NHS and its nurses play in the quality of care and safety of older people in residential and nursing care homes”.²⁴¹ She said it was disappointing that the Bill did not include provision to extend the staffing ratios to independently owned nursing care homes where placements were commissioned by the Local Authority or Health Board, arguing that “there are vulnerable older people living in these

²³⁷ RoP [para 221], 12 February 2015

²³⁸ Ibid

²³⁹ Consultation response, SNSL(Org)27

²⁴⁰ RoP [paras 432-435], 19 March 2015

²⁴¹ Consultation response, SNSL(Org)9

settings who receive care and treatment from nurse staff on a daily basis”.²⁴²

209. Care Forum Wales expressed concern that its members would be adversely affected if the Bill’s provisions did not apply to nursing homes. It argued that the Bill could restrict their ability to recruit and retain nurses, “aggravating an existing situation”.²⁴³ It stated:

“Whereas Welsh hospitals provided 11,495 beds in 2013, the independent sector provides over 11,500 beds for people with long term nursing needs who would otherwise have to be cared for in hospital settings at a much greater cost to the tax payer.”²⁴⁴

210. It also warned that if the Bill’s provisions were extended to include care homes, “funding would not automatically follow” and its members would “want to see some commissioning responsibility clearly included”.²⁴⁵

211. When questioned as to whether this Bill was the correct tool to deliver improved patient outcomes in its sector, Care Forum Wales said:

“It’s not a standalone tool, is it? There is a much wider issue around the nursing shortages that already exist in care homes, which are down to commissioning, issues with relationships with local health boards and so on. So, this Bill alone wouldn’t address those problems. Our main concern is about the unintended consequences of the Bill, rather than seeing it as a sort of cure-all.”²⁴⁶

212. When questioned on the settings to which the Bill should apply, a representative of the Board of Community Health Councils highlighted issues relating to the services commissioned or funded by health boards in other sectors, including the nursing home sector, saying “They can be a forgotten population, can’t they?”.²⁴⁷

²⁴² Consultation response, SNSL(Org)9

²⁴³ RoP [para 354], 5 March 2015

²⁴⁴ Consultation response, SNSL(Org)24

²⁴⁵ Ibid

²⁴⁶ RoP [para 443], 19 March 2015

²⁴⁷ RoP [para 158], 12 February 2015

213. Public Health Wales warned that extending the duty to NHS funded patients in nursing homes and NHS funded Continuing Health Care would cause a “significant increase in workload” for health boards as “they would not have the direct authority to influence nurse staffing levels” in those settings.²⁴⁸

214. The CNO told the Committee that she had recently begun to explore whether additional guidance was needed for nurse staffing in care homes as part of the commissioning process. She commented that, unfortunately, the current adult acuity tool was not designed for care homes because the kind of dependency and chronicity of the diseases in a care home were very different to the acutely ill, very sick patients found in a hospital.²⁴⁹

Whether the Bill’s provisions in relation to the overarching safe nursing care duty and staffing ratios should include independently funded care provided in the independent sector

215. During the Committee’s scrutiny, a question arose as to whether the Bill’s provisions should include independently funded care provided in the independent sector. The Committee subsequently agreed to seek further written and oral evidence from representatives of those organisations on this point.

216. The Committee received evidence from three organisations suggesting that provision for independent care provided in the independent sector should have been included within the Bill.

217. In response to the Committee’s original call for evidence, the Socialist Health Association said that if the Bill applied to NHS-commissioned/funded care in the independent sector “it would seem unwise to allow a two tier level of staffing to operate within the public and private sector; if safe levels are required, they must be required in both”.²⁵⁰

218. The Welsh Independent Healthcare Association said that if the Bill’s provisions were extended to include the independent sector, it should include all care delivered by the sector, not just NHS-funded care. It argued that the inclusion of private care in the Bill would allow the independent sector to reflect its support of safe staffing for all the

²⁴⁸ Consultation response, SNSL(Org)22

²⁴⁹ RoP [para 71], 5 March 2015

²⁵⁰ Consultation response, SNSL(Org)16

patients it treats.²⁵¹ It went on to state “were the Bill to only apply to NHS-funded patients it could lead to a discriminatory system between the two groups of patients which may cause confusion and care lapses”. It also stated that its members achieved “100% compliance as there is a zero tolerance approach to unsafe staffing”.²⁵²

219. In oral evidence, a representative of the Welsh Independent Healthcare Association said “on the basis of ratios, I don’t think that there’s any doubt that any of the independent sector’s acute providers would meet the standards within the Bill”. However they also said that including the independent sector within the Bill’s provisions would mean “there’s a standard to meet and a standard to measure” and that it would help them in preparing for Healthcare Inspectorate Wales inspections.²⁵³

The Minister’s view

220. The Minister said:

“As far as extending the Bill to other settings within the NHS, then I think the Bill gets it right in saying that we should start with acute clinical and surgical wards, because that’s where the evidence is clearest. If I were the Minister at the time that the Bill was being implemented, then I would certainly want to gather the experience of it in practice in those settings before wanting to take a decision to extend it to further settings within the Welsh NHS.”²⁵⁴

221. With regard to extending the Bill’s provisions to include Welsh NHS-commissioned/funded care, including in England, the Minister said that it was an important question that needed to be thought through. The Minister said that if section 2 of the Bill was not amended, then questions about how it could be applied “in other places would become significantly more difficult”, for example in respect of reporting requirements.²⁵⁵

²⁵¹ Consultation response, SNSL(Org)25

²⁵² Ibid

²⁵³ RoP [para 382], 19 March 2015

²⁵⁴ RoP [para 159], 5 March 2015

²⁵⁵ RoP [para 160], 5 March 2015

The Member in charge's view

222. Kirsty Williams explained that she has chosen, in the first instance, to confine the application of the Bill's staffing ratio provisions to "adult inpatient wards in acute hospitals"²⁵⁶ for two reasons:

- first, because it was in that setting, in her view, that the NHS had faced its most significant challenges to date; and
- secondly, because it was the setting with the strongest evidence base for applying staffing ratios.²⁵⁷

223. She went on to note, however, that the Bill was drafted to enable the Welsh Government to bring forward regulations to extend the Bill's provisions to other settings within the NHS in Wales should the evidence for those other settings become available.

224. She also emphasised that the Bill was underpinned by the "catch-all requirement" on the health boards to have due regard to safe staffing when exercising all of their functions.²⁵⁸ She said that she would not be averse to considering an amendment to the Bill to extend its provisions to children's wards if the Committee put forward evidence in favour of such a change.²⁵⁹

225. When asked about NHS-commissioned/funded care in settings outside Wales, Kirsty Williams said that "there is a debate to be had about whether that is possible/and or desirable".²⁶⁰

226. In response to the suggestion that the Bill should include provision for safe nurse staffing levels in independent hospitals or care homes, Kirsty Williams told the Committee:

"I'm trying to focus legislation on the largest group of patients that we can, where we know there is a problem, that's been identified, where we know we're not meeting the guidance issued by the chief nursing officer. With regard to other settings outside of the NHS, I think you're right. I think we

²⁵⁶ Kirsty Williams' intention being medical and surgical wards (see paragraph 189 of this report)

²⁵⁷ RoP [para 170], 15 January 2015

²⁵⁸ As set out in the proposed section 10A(1)(a) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill.

²⁵⁹ RoP [para 223], 15 January 2015

²⁶⁰ RoP [para 253], 15 January 2015

should be looking at all sorts of staffing ratios for other sectors, but within the scope of a private Member's Bill, and what I was given permission to bring forward by the Assembly, it wasn't in the scope of social care, it was in the scope of the NHS."²⁶¹

227. Kirsty Williams said that the independent sector had not been the focus of her work as "the vast majority of people in Wales are not treated in private hospitals".²⁶²

The Committee's view

Welsh NHS settings to which the staffing ratios initially apply

228. The Committee is particularly concerned about the drafting of the Bill in respect of the provisions to which the staffing ratios initially apply. Whilst the Bill, as currently drafted, requires staffing ratios to apply in "adult inpatient wards in acute hospitals", the Committee notes that it is Kirsty Williams' intention that staffing ratios initially only apply in adult medical and surgical inpatient wards in acute hospitals.

Recommendation 8: The Committee recommends that the Bill be amended to provide clarity about the particular settings to which it is intended to apply at commencement.

229. The Committee notes that section 2(1) of the Bill inserts a new section 10A(1)(a) into the National Health Service (Wales) Act 2006, which includes an overarching duty in respect of safe nursing care which will apply in all settings within the NHS in Wales at commencement.

230. The Committee also notes that professional bodies and associations already have recommended nurse staffing levels in their different specialities, including critical care, children's wards, and mental health wards.

231. The Committee understands and supports the rationale for the provisions in respect of staffing ratios applying initially only in "adult inpatient wards in acute hospitals" (with Kirsty Williams' intention being medical and surgical wards) on the basis that this is where the

²⁶¹ RoP [paras 231-232], 15 January 2015

²⁶² RoP [para 234], 15 January 2015

strongest evidence base to specifically link nurse staffing levels to patient outcomes exists.

232. However the Committee has significant concerns about three issues in this regard:

- the exclusion of mental health wards within acute hospitals, referred to in evidence from both Healthcare Inspectorate Wales and health board executives;
- the potential unintended consequence of staff being moved from other settings within acute hospitals, in order to meet the Bill’s initial requirements for ratios in medical and surgical wards (see recommendation 4 in chapter 4); and
- the potential unintended consequence of staff being moved from community hospitals, in order to meet the Bill’s initial requirements for ratios in medical and surgical wards in acute hospitals (see recommendation 4 in chapter 4).

233. The Committee notes that the topic areas for NICE’s work on safe staffing are prioritised according to where the most research is already available. Whilst acknowledging that forthcoming guidance may not have explicit staffing ratios, it will review some of the evidence relevant to ratios. The Committee notes that the initial topics referred to NICE and set out in its timetable include:

- safe midwifery staffing for maternity settings, published February 2015;
- safe staffing guidance for accident and emergency settings, due to be published May 2015; and
- guidance for “safe staffing for nursing in inpatient mental health settings” including adult and older adult inpatient mental health settings, due to commence its consultation in July 2015 with the intention of publishing final guidance in October 2015.²⁶³

234. The Committee also notes the CNO referred the Committee to work she has planned in respect of safe nurse staffing in relation to mental-health inpatients.²⁶⁴

²⁶³ NICE, [Safe staffing guidance: forward work programme](#) [accessed 7 April 2015]

²⁶⁴ RoP [para 75], 5 March 2015

Recommendation 9: The Committee recommends that the Member in charge review, as a matter of urgency, whether there will be a sufficient evidence base for staffing ratios within additional Welsh NHS settings to be included on the face of the Bill prior to its being passed, or for the Bill's provisions to be extended to those settings, by regulation, shortly after commencement.

Applying staffing ratios to Welsh NHS-commissioned/funded care

235. The Committee believes that a robust case has been made in respect of the need to ensure safe nurse staffing as part of Welsh NHS-commissioned/funded care. The Committee sought additional evidence from health boards on the contracts used for such arrangements and how health boards monitor compliance with the contracts/agreements that are in place for the delivery of care they have commissioned or funded.

236. The Committee was particularly concerned about the issues raised in respect of Welsh NHS care commissioned or funded in the nursing home sector, in particular evidence received from the Older People's Commissioner. However the Committee also notes that Care Forum Wales asserted that there is a much wider issue relating to nursing shortages that already exist in care homes, which it says are associated with commissioning and relationships with health boards. The Committee notes Care Forum Wales' view that this Bill alone would not address those problems and that their main concern is about the possible unintended consequences of the Bill.

237. The Committee again notes that the Bill as currently drafted does not require the Welsh Ministers to issue guidance in respect of the overarching duty provided for by new section 10A(1)(a) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill, which requires health service bodies in Wales to ensure that registered nurses are "deployed in sufficient numbers to enable the provision of safe nursing care". It is important to emphasise that it is the Committee's understanding that Welsh NHS-commissioned/funded care will be included within the scope of this overarching duty.²⁶⁵

238. The Committee notes the CNO's concerns that there would be practical "challenges" if the Bill's provisions in respect of staffing ratios

²⁶⁵ As set out in the proposed section 10A(1)(a) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill.

were applied to Welsh NHS-commissioned/funded care, for example in relation to compliance and reporting requirements. However it is not persuaded that, of itself, this is a reason not to extend the Bill's provisions in that regard given that such issues should be relatively straightforward to overcome.

239. The Committee concludes that the most appropriate way to address concerns about Welsh NHS-commissioned/funded care in the independent sector (including nursing homes) is by amending the Bill to require the Welsh Government to issue additional guidance in respect of the wider safe staffing duty, rather than by amending the settings to which the staffing ratios apply.

Recommendation 10: The Committee recommends that the Bill be amended to include a requirement for the Welsh Ministers to issue additional guidance in respect of the wider duty for health service bodies to have regard to the importance of safe nurse staffing levels in exercising all their functions. The Bill should specify that this additional guidance should include information about how health service bodies should give due regard to safe nurse staffing when making arrangements to commission and/or fund care in non-Welsh-NHS settings, including monitoring and reporting arrangements.

Independently funded care provided in independent settings

240. Members had different views about whether there was a need for this legislation to be amended to include independently funded care provided in independent settings.

241. The Committee commends the independent sector's aim of ensuring it delivers safe nurse staffing levels. However, based on the evidence that the independent sector was confident it was 100 per cent compliant with safe nurse staffing levels, the Committee is not persuaded that there is a need to recommend amending the Bill in this regard.

242. The Committee is particularly conscious of Kirsty Williams' focus on bringing forward legislation on safe nurse staffing within the NHS in Wales in order to address the well-documented staffing challenges it faces. The Committee is also mindful of the Bill's scope when considering the issue of the settings to which the Bill might apply. The stated focus of the Bill, throughout its passage to date, has been the

provision for safe nurse staffing levels within the National Health Service. The Committee notes that it would only be possible to use amendments to expand the Bill's provisions beyond care that is either delivered, commissioned or funded by the NHS in Wales if the Presiding Officer ruled that such amendments were within the scope of the Bill.

243. The Committee considers that there may be more suitable and proportionate legislative and non-legislative ways of continuing to deliver safe nurse staffing for independently funded care in the independent sector. It notes that the Minister has existing powers that were used to make the *Independent Health Care (Wales) Regulations 2011* with regard to independent hospitals. It therefore considers that amending those Regulations (which already include some provisions regarding staffing) could be explored as an alternative to including independently funded provision within the scope of this Bill, which was designed to deal with structures specific to the NHS in Wales. Nevertheless, the Committee notes the evidence provided by the sector about the importance of guarding against any unintended consequences this Bill may have on independently funded care provided in independent settings.

Recommendation 11: The Committee recommends that the Member in charge give consideration to the evidence received from the independent sector regarding the benefits of legislating to ensure safe nurse staffing levels for independently funded care provided in independent settings.

7. Information, compliance, monitoring and reporting requirements

244. The Committee took evidence in respect of:

- the monitoring and reporting requirements set out in the Bill;
- issues relating to health bodies’ compliance with the Bill;
- the proposed safe nurse staffing indicators set out in section 3 of the Bill; and
- the Bill’s requirements in respect of the provision of information to patients.

Monitoring and reporting

245. New section 10A(10) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill, requires each health service body in Wales to publish an annual report which:

- sets out the methods by which it aimed to comply with the Bill’s safe staffing duties in the previous year and the methods it intends to use in respect of compliance in the following year; and
- records the number of occasions when nurse staffing may have fallen below the specified minimum levels and the actions taken to prevent recurrence.

246. This section of the Bill also requires the Welsh Government to review the operation and effectiveness of the legislation at regular intervals, initially after one year, and at least every two years thereafter.

247. The Committee sought to examine whether the monitoring and reporting requirements as set out in the Bill are appropriate and whether they are sufficiently aligned with existing reporting mechanisms and cycles.

248. Concerns about the potential for additional bureaucracy to be created as a consequence of the Bill’s requirements were raised by the Royal College for Speech and Language Therapists.²⁶⁶ Healthcare Inspectorate Wales also said that “it is important that the requirements

²⁶⁶ Consultation response, SNSL(Org)13

of the Bill do not impose additional and excessive bureaucratic overheads on health bodies”. Its written evidence welcomed the recognition within the Bill that each of the requirements could be incorporated within existing monitoring and reporting processes.²⁶⁷ The BMA stated that it would not advocate anything that becomes overly complex or that takes carers away from patients.²⁶⁸

249. Whilst UNISON argued that reporting should be required more frequently initially, it also warned that bureaucracy associated with the monitoring and reporting work should be minimised.²⁶⁹ Health Board nurse directors agreed and emphasised the importance of having a “very clear IT system that would capture the data all at once”.²⁷⁰ They expressed concern at the potential for “expensive, very skilled staff coming away from caring for patients” as a consequence of the Bill’s monitoring and reporting requirements.²⁷¹

250. The Welsh NHS Confederation said “current arrangements for recording, monitoring and reporting nurse staffing levels in NHS Wales [are] adequate and appropriate”.²⁷² The Royal College of Physicians disputed this view, noting that it was “not convinced” that this was the case “or that this data was always strictly accurate”.²⁷³

251. Age Cymru and UNITE suggested that reporting requirements could be incorporated into existing documents such as the Annual Quality Statement, which NHS organisations in Wales were already required to produce.²⁷⁴

Compliance

252. The Committee took evidence on:

- whether the existing mechanisms to deal with non-compliance are robust enough to ensure that this Bill can be properly enforced;
- what other options Kirsty Williams considered in this regard; and

²⁶⁷ Consultation response, SNSL(Org)21

²⁶⁸ RoP [para 275], 29 January 2015

²⁶⁹ RoP [paras 294 and 301], 12 February 2015

²⁷⁰ RoP [paras 217-218], 29 January 2015

²⁷¹ RoP [para 109], 29 January 2015

²⁷² Consultation response, SNSL(Org)3

²⁷³ Consultation response, SNSL(Org)2

²⁷⁴ Consultation responses, SNSL(Org)8 and SNSL(Org)18

- whether the existing provisions for staff and or patients to raise concerns are sufficient and offer them appropriate protection.

253. The summary of responses to Kirsty Williams’ consultation on the draft Bill refers to respondents’ views on what action should be taken to address non-compliance with minimum nurse staffing requirements, and whether existing monitoring and intervention processes are appropriate. The summary says that “some evidence suggested that existing processes may be inadequate or inappropriate for the purposes of the Bill [...]” and that “a range of interventions were suggested in evidence, including financial penalties”.²⁷⁵

254. Some evidence to the Committee’s consultation also suggested that the Bill may not include sufficient provisions to deal with non-compliance:

- all three academics witnesses suggested that this was the one part of the Bill which needed to be strengthened;²⁷⁶
- UNITE said there was no evidence that there would be consequences for any health service body which failed to comply;²⁷⁷ and
- the BMA sought assurance “that either having a statutory duty in itself will provide sufficient incentive to ensure safe nurse staffing levels are delivered, or else that sufficient additional measures and/or sanctions are also agreed to ensure that this will be the case”.²⁷⁸

255. The Royal College of Physicians said the Bill “must be properly enforced to ensure it is effective”²⁷⁹ whilst the Board of Community Health Councils suggested that there needed to be clear sanctions for failure to meet the staffing ratios.²⁸⁰ UNISON agreed that serious consideration needed to be given to the available sanctions for non-compliance with the guidance, but suggested that applying financial sanctions may not be helpful in the current financial climate. It referred to the existing option of the Welsh Government intervening

²⁷⁵ Kirsty Williams AM, [Summary of responses to the consultation on the proposed legislation](#)

²⁷⁶ RoP [paras 59-64], 12 February 2015

²⁷⁷ Consultation response, SNSL(Org)18

²⁷⁸ Consultation response, SNSL(Org)4

²⁷⁹ Consultation response, SNSL(Org)2

²⁸⁰ Consultation response, SNSL(Org)19

directly in health boards' work if they failed to comply with the Bill's requirements.²⁸¹

Safe nurse staffing indicators

256. Section 3 of the Bill requires the Welsh Government to review the operation and effectiveness of the Bill once enacted. The Bill also requires the Welsh Government to publish a report of the results of each review, detailing the impact of the legislation by reference to a range of indicators as set out in section 3(5). It is stated on the face of the Bill that this list is not exhaustive.

257. The Committee sought to examine whether all indicators set out on the face of the Bill had a direct causal link with safe nurse staffing and, if so, whether they provided an appropriate framework against which to assess the impact of the legislation.

258. At the Committee's request, Kirsty Williams provided further explanation of how the safe nursing indicators set out in the Bill were aligned with indicators used in both the CNO's *All Wales Nurse Staffing Principles* and the NICE guidelines. She also pointed to the indicators included as a result of the responses to her consultation on the Bill.²⁸²

259. The NICE guidelines in England cite a number of "safe nursing indicators" including some of those listed on the face of the Bill. NICE also included some indicators which are not listed on the face of the Bill, including: missed breaks; planned, required and available nurses for each shift; and compliance with any mandatory training.

260. A number of respondents raised issues relating to the list of indicators in the Bill as drafted. The CNO²⁸³ and Age Cymru²⁸⁴ argued that little evidence existed of a direct causal link between the some indicators on the face of the Bill and safe nurse staffing. Health board nurse directors said that this was a challenging area as "there aren't any stand-alone nurse-sensitive indicators".²⁸⁵ While the Welsh NHS Confederation noted that it was concerned about how the indicators

²⁸¹ RoP [paras 269-271], 12 February 2015

²⁸² Additional written evidence from Kirsty Williams AM, following the Committee's meeting on 15 January 2015, SNSL AI 9

²⁸³ Consultation response, SNSL(Org)23

²⁸⁴ Consultation response, SNSL(Org)8

²⁸⁵ RoP [para 113], 29 January 2015

would be defined and monitored,²⁸⁶ the Chartered Society of Physiotherapy suggested:

“indicators of success should also include a focus on the positive aspects of quality care and patient outcomes, and not just the prevalence of the negative measures identified in the legislation that point to failures in care.”²⁸⁷

261. Healthcare Inspectorate Wales argued that “the list of indicators is a useful outline of things that should be tracked as they represent important metrics of the quality of care that’s being provided”. When questioned on the direct causal link between the Bill and the outcome of those indicators, its representative said “numbers are purely a signpost to where you need to go to ask questions. They don’t give you any answers”.²⁸⁸

262. In contrast, both the Older People’s Commissioner and UNISON welcomed the inclusion of indicators of safe nursing on the face of the Bill to measure outcomes. They also suggested a range of additional indicators for inclusion, such as: the amount of staff time that has been protected for training;²⁸⁹ whether a nurse’s break was taken at an appropriate time; staff wellbeing; reductions in hospital stays; and “care undone”.²⁹⁰

Information for patients

263. The Bill requires relevant Welsh Ministers’ guidance to health bodies to include provision about the publication to patients of the numbers, roles and responsibilities of nursing staff on duty, to the extent that the Welsh Ministers consider it appropriate. The EM states that “it will be for those developing the guidance to set out the way(s) in which nurse numbers should be published”.²⁹¹

264. The Committee took evidence on a range of issues in this regard, including views on whether it was realistic for such information to be published to patients on a shift by shift basis.

²⁸⁶ Consultation response, SNSL(Org)3

²⁸⁷ Consultation response, SNSL(Org)7

²⁸⁸ RoP [para 226], 12 February 2015

²⁸⁹ Older People’s Commissioner, SNSL(Org)9

²⁹⁰ UNISON, SNSL(Org)6

²⁹¹ Explanatory Memorandum, para 73

265. Several respondents were very supportive of the Bill’s provisions to provide information to patients. The Royal College of Physicians noted that it strongly supported making both medical and nursing staffing data publicly available and easily accessible, and displaying information about staffing numbers in every ward.²⁹² The Board of Community Health Councils emphasised the importance of the provision of transparent and clear information, and said they could assist health boards in this regard. It went on to say:

“it is also crucial that patients and their relatives are made aware of the numbers of staff that should be on duty against those that are actually on duty “in real time” at ward level (and other clinical area level).”²⁹³

266. Age Cymru also supported the Bill’s requirement to publish information to patients. In terms of the way the information should be presented, it said:

“If ensuring a safe nurse staffing level becomes a statutory duty, it would be appropriate to ensure that information is available to patients and the public regarding the numbers of staff on duty. Such data should also be provided in formats that are appropriate for people with sensory impairments. It is important, however, that any such data is presented in a format which makes the context clear in order to prevent misunderstandings of what can be expected in terms of nurse staffing levels.”²⁹⁴

267. Professor Anne Marie Rafferty also supported the Bill’s provisions in relation to monitoring and reporting:

“The duty on health services bodies and holding Boards accountable for staffing decisions is essential for safeguarding standards and providing stewardship of resource. Specifically, the public reporting of data is, and risk management surrounding decisions are, central to ensuring public accountability for safe staffing.”²⁹⁵

²⁹² Consultation response, SNSL(Org)2

²⁹³ Consultation response, SNSL(Org)19

²⁹⁴ Consultation response, SNSL(Org)8

²⁹⁵ Consultation response, SNSL(Ind)4

268. The Welsh NHS Confederation said that while they supported the publication of information, “the value of publically available reports would not be in simply publishing how many staff are on duty, but rather the numbers of occasions where safe staffing could have been compromised and the outcome”.²⁹⁶

269. The CNO argued that “listing each member of staff’s responsibilities would be difficult to understand, unnecessary and a time-consuming burden”.²⁹⁷

The Minister’s view

Monitoring, reporting and compliance

270. During the debate which followed the Bill’s introduction, the Minister stated:

“From my perspective as Minister, certainly, I will want to think about how Part 3 of the Bill might be improved to prevent it from dragging the NHS away from the focus on patient outcomes, which we need to achieve, back to a world focused on inputs and outputs—counting everything—with far too little interest in where all of that activity actually makes a difference for patients.”²⁹⁸

271. Whilst the Minister told the Constitutional and Legal Affairs Committee that he “completely agree[d] that a review mechanism would be necessary”,²⁹⁹ his written evidence set out his concerns about—and opposition to—the reporting requirements in the Bill as drafted. In summary the Minister said:

- the reporting requirements for the Welsh Government set out in the Bill present “a significant barrier” because they do not align with the structure of existing mechanisms nor the frequency of reporting;
- the EM does not explain clearly why there is considered to be the need for reports every two years. The Welsh Government considers it more cost effective and efficient to follow the three

²⁹⁶ Consultation response, SNSL(Org)3

²⁹⁷ Consultation response, SNSL(Org)23

²⁹⁸ National Assembly for Wales, Plenary, [RoP](#), 3 December 2014

²⁹⁹ National Assembly for Wales, Constitutional and Legislative Affairs Committee, [RoP \[para 43\]](#), 2 February 2015

- year planning cycle that health boards already use, so that the frequency of reporting appropriately responds to emerging patterns in data;
- existing data collection would need “significant modification” as a consequence of the Bill’s provisions;
 - any new reporting requirement which a health board could not incorporate into existing reporting and publication systems would necessitate additional workload and costs, diverting resources away from patient care; and
 - the Bill’s EM makes invalid assumptions that existing reporting frameworks, ICT systems, and data analysis, in their current form, are capable of delivering the Bill’s monitoring and reporting requirements.³⁰⁰

Safe nurse staffing indicators

272. The Minister stated that there was little evidence of a direct causal link between a number of the indicators on the face of the Bill and safe nurse staffing. He suggested that the nurse-sensitive indicators with the strongest links to nursing levels were: the number of falls on wards; pressure sores; and medication errors.³⁰¹

273. He referred several times to the indicator on readmission rates, questioning how this was a measure of safe nurse staffing given that a patient could be readmitted for “an entirely different reason in an entirely different part of Wales to an entirely different sort of hospital, many weeks after the first episode of care has ended”.³⁰² He also questioned whether patient satisfaction was a useful enough indicator of safe nurse staffing.³⁰³

Information to patients

274. The Minister’s written evidence pointed to existing information published to patients, such as “My Local Health Service”, saying that “this is a website specifically designed for the transparent communication of data on the performance of the NHS in Wales”.³⁰⁴ In

³⁰⁰ Written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2](#), 5 March 2015

³⁰¹ RoP [para 137], 5 March 2015

³⁰² National Assembly for Wales, Plenary, [RoP](#), 3 December 2014

³⁰³ RoP [para 141], 5 March 2015

³⁰⁴ Written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2](#), 5 March 2015

respect of the Bill’s provisions for the Welsh Government to issue guidance on information to patients, his evidence went on to say:

“it is important that the information is meaningful for patients and families. Information on ‘quality experience measures’ for example, would be far more relevant to patients as a means of quality assurance.”³⁰⁵

The Member in charge’s view

Monitoring, reporting and compliance

275. Kirsty Williams told the Committee:

- she wanted to “use the existing regime”;³⁰⁶ be proportionate;³⁰⁷ and did not want to create a “massive bureaucracy”;³⁰⁸
- the Bill would not require health boards to collect additional information beyond data they should already be able to access;³⁰⁹
- with the regard to compliance, the Minister’s existing powers of intervention could be used in health boards which were failing to adhere to the Bill’s provisions;³¹⁰ and
- there had been no consensus on an alternative approach to dealing with non-compliance (such as sanctions) during her consultation on the Bill.³¹¹

276. When asked about the absence on the face of the Bill of penalties to be incurred by any health board failing to adhere to guidance issued under it, Kirsty Williams explained her view that this legislation would create a different mind-set and culture. She said:

“[safe nurse staffing] isn’t just a target anymore; this is about complying with the law of the land, and that is a different level

³⁰⁵ Written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2](#), 5 March 2015

³⁰⁶ RoP [para 41], 19 March 2015

³⁰⁷ RoP [para 107], 19 March 2015

³⁰⁸ RoP [para 41], 19 March 2015

³⁰⁹ RoP [para 237], 15 January 2015

³¹⁰ RoP [paras 121-122], 15 January 2015

³¹¹ RoP [para 107], 19 March 2015

of focus than, perhaps, other expectations that are placed on the local health boards.”³¹²

Safe nurse staffing indicators

277. Kirsty Williams emphasised the importance of the provisions in section 3 of the Bill for measuring the extent to which the policy intent of the legislation had been achieved.³¹³ In additional written evidence, she also emphasised that the list of indicators on the face of the Bill was not exhaustive and that “there is nothing to prevent” other indicators also being used to measure the impact of the Bill if the Welsh Government considered this appropriate.³¹⁴

Information for patients

278. Kirsty Williams recognised the difficulties associated with providing public information about nurse staffing levels on wards on a shift by shift basis. She noted that it was as a consequence of her acknowledgement of this fact that she was not dictating to Welsh Government how this should be done.³¹⁵

The Committee’s view

Monitoring and reporting

279. The Committee notes the concerns raised by witnesses and the Minister about the possibility of additional bureaucracy arising as a consequence of the Bill’s monitoring and reporting requirements, and its potential impact on nurses’ time to care for patients. It also recognises the Minister’s desire to ensure that these requirements, if enacted, are aligned with existing reporting cycles and mechanisms.

280. Nevertheless, the Committee believes that robust reporting procedures are needed in order to ensure that transparent and timely information is available in respect of health bodies’ compliance with the Bill’s provisions.

³¹² RoP [para 121], 15 January 2015

³¹³ RoP [paras 266-267], 15 January 2015

³¹⁴ Additional written evidence from Kirsty Williams AM, following the Committee’s meeting on 15 January 2015, SNSL AI 9

³¹⁵ RoP [para 168], 15 January 2015

Recommendation 12: The Committee recommends that the Member in charge review the Bill’s reporting requirements to ensure that they:

- **do not create additional bureaucracy, in particular for nursing staff; and**
- **are aligned with the frequency and structure of existing reporting requirements.**

Compliance

281. The Committee took a specific interest in whether existing mechanisms to deal with non-compliance are robust enough to ensure that this Bill can be properly enforced. It also considered the potential merits of introducing other new mechanisms such as financial penalties.

282. The Committee notes Kirsty Williams’ ambition to use existing mechanisms where appropriate and notes the Minister’s existing power of direction in section 12 of the National Health Service (Wales) Act 2006 to intervene in the work of health boards.³¹⁶ Nevertheless, the Committee is concerned that the Bill does not address compliance adequately.

283. The Committee notes that there was no agreed view in evidence on any alternative approach to ensuring compliance with the Bill’s requirements, nor a strong case made in respect of any specific approach (such as financial penalties).

Recommendation 13: The Committee recommends that the Member in charge give consideration to strengthening the Bill’s provisions in relation to addressing non-compliance.

284. With regard to the separate issue of whether existing mechanisms for staff and patients to raise concerns are sufficient, the Committee was not persuaded that the evidence it heard made the case for any additional mechanisms to be created. It therefore concurs with Kirsty Williams’ view that a specific new requirement, or process, for raising concerns is not needed within this Bill.

³¹⁶ RoP [paras 121-122], 15 January 2015

Safe nurse staffing indicators

285. The Committee is not persuaded that all factors relating to safe nursing set out in section 3(5) of the Bill are proven indicators of safe nurse staffing. Whilst they all are factors associated with safe nurse staffing, the evidence of the direct causal link between safe nurse staffing levels and the listed indicators is not proven. As a consequence, the Committee does not believe that they provide an appropriate framework within which to assess the specific impact of this legislation.

286. The Committee also notes that some respondents suggested the inclusion of additional indicators. Some Members of the Committee were specifically interested for the link between safe nurse staffing and indicators relating to patient nutrition and hydration to be further explored.

Recommendation 14: The Committee recommends that the Member in charge review the indicators currently listed on the face of the Bill, taking into account the evidence heard during Stage 1 proceedings, to ensure that those listed provide the appropriate framework within which to assess the impact of this Bill.

Information to patients

287. The Committee believes that the publication of transparent information for patients is vital if the Bill is to achieve Kirsty Williams' stated objective of providing a statutory basis for patients to challenge poor levels of nurse staffing. The Committee therefore welcomes the Bill's provisions in this regard.

288. To have value and to ensure this Bill has its desired impact, the Committee believes that patients must be provided with the right information.

Recommendation 15: The Committee recommends that the Minister for Health and Social Services, when drafting the requisite guidance for health bodies, place particular emphasis on the provision of transparent, timely and meaningful information to patients.

8. Financial implications of the Bill

289. The Regulatory Impact Assessment (“the RIA”) set out in the EM considers the options available in respect of the main provisions of the Bill and analyses how far these would meet Kirsty Williams’ policy objectives. It also provides an analysis of the associated risks, costs and benefits of the identified options:

- Option 1: Do nothing – maintain working towards current CNO guidelines and acuity tool implementation;³¹⁷
- Option 2: Preferred option – introduce Bill to ensure nurse staffing levels within the NHS in Wales are sufficient to provide safe, effective and quality nursing care to patients at all times.³¹⁸

290. The EM sets out what Kirsty Williams anticipates to be the costs associated with the Bill’s introduction, including one-off and on-going costs (see table 1 below).

291. The total additional costs of the preferred option are stated as being approximately £133,000 over the five year period after the Bill becomes law. Of these, £45,300 annual reporting costs would, according to the EM, fall to NHS Wales bodies, with the remaining £87,500 falling to the Welsh Government. These additional costs are summarised in table 1 below.

Table 1: Total and additional costs of legislation for five years after introduction

Costs	Year 1	Year 2	Year 3	Year 4	Year 5	Total
One-off costs						
Guidance	40,000					40,000
Communication	5,000					5,000
Reviewing legislation	5,000					5,000
Ongoing Costs						
Staffing, including continuous professional development	275,000,000	275,000,000	275,000,000	275,000,000	275,000,000	1,375,000,000
Reviewing legislation	12,500	0	12,500	0	12,500	37,500
Annual Reporting	9,058	9,058	9,058	9,058	9,058	45,290
Total costs of Bill	275,071,558	275,009,058	275,021,558	275,009,058	275,021,558	1,375,132,790
Total additional costs of Bill	71,558	9,058	21,558	9,058	21,558	132,790

Source: Explanatory Memorandum – Safe Nurse Staffing Levels (Wales) Bill

³¹⁷ Explanatory Memorandum, paras 173-175

³¹⁸ Explanatory Memorandum, paras 195-205

292. The Committee sought to gather further evidence about the financial implications of the Bill. The main issues identified were:

- whether the Bill is cost neutral in respect of any additional staffing which may be required to comply with its provisions;
- whether the Bill could lead to an increase or decrease in expenditure on agency/bank nursing staff;
- the additional costs associated with the Bill as identified by the Welsh Government;
- whether there are more cost-effective means of achieving the intended outcomes of the Bill; and
- the potential benefits and savings resulting from introduction of the Bill.

Cost of additional staffing

293. The RIA states that staffing costs across “adult inpatient wards in acute hospitals” would remain the same as prior to the Bill’s introduction.

294. However evidence considered by the Committee included differing views as to whether the Bill would result in staffing costs remaining the same or whether it would result in an increase. In summary:

- Public Health Wales stated that significant implementation costs, including staffing costs, were likely if the Bill were to be enacted;³¹⁹
- Betsi Cadwaladr University Health Board described the cost implications of the Bill as “potentially huge”;³²⁰
- Kirsty Williams argued in the EM that any additional staffing costs would be incurred by health boards regardless of the Bill, as they would be looking to meet the standards set out in the CNO’s *All Wales Nurse Staffing Principles* by 2016-17. She noted, therefore, that they are not costs associated directly with the Bill; and

³¹⁹ Consultation response, SNSL(Org)22

³²⁰ Kirsty Williams AM, [Summary of responses to the consultation on the proposed legislation](#)

- Professor Anne Marie Rafferty and Professor Dame June Clark noted that, while there may be short-term costs associated with staffing ratios, savings could be made against initial outlays to balance these out.³²¹

Expenditure on agency/bank nursing staff

295. While the RIA suggests that a potential benefit of the Bill may be reduced expenditure on agency and bank nursing staff, the Committee received evidence from Healthcare Inspectorate Wales suggesting that an unintended consequence of the Bill might be an increase in the use of such staff.³²² Health board executives shared this view, suggesting this could lead to additional costs being incurred.³²³

296. According to research undertaken by the Royal College of Nursing, health boards in Wales have spent around £132.5 million on bank, overtime and agency payments for nursing staff over the past three years. The Royal College of Nursing’s written evidence noted that agency costs incurred by the NHS in Wales during 2014 had increased by 43 per cent compared to 2013, the highest level for four years.³²⁴ The RIA states that the Bill has the potential to reduce these costs.

297. A number of stakeholders, including the Board of Community Health Councils, Professor Dame June Clark, Professor Peter Griffiths and the Royal College of Physicians suggested that the introduction of the Bill would reduce costs associated with the use of bank and agency staff.³²⁵

298. The RIA cites the “perfectly resourced ward” pilot conducted by Aneurin Bevan University Health Board in 2012 as a useful indicator of the financial impact of implementing safe nurse staffing levels. It states that there were agency and bank staff cost reductions of 64 per cent over the three month pilot.

299. However, an Aneurin Bevan University Health Board update paper from July 2013 did not draw such firm conclusions as the RIA on the financial impact of the pilot. It stated:

³²¹ RoP [paras 34-35], 12 February 2015

³²² RoP [para 195], 12 February 2015

³²³ RoP [para 400], 12 February 2015

³²⁴ Consultation response, SNSL(Org)5

³²⁵ RoP [para 275], 29 January 2015

“The outcome of the perfectly resourced ward pilot is financially inconclusive. There was a significant reduction in spend for C6 West but costs marginally increased for C6 East. Bank and agency costs on both wards reduced but were not eliminated. In addition, the financial performance of the control ward significantly improved during the same three month period, with no increase in its ward establishment.”³²⁶

300. While agency costs on the two pilot wards reduced by much more than those on the control ward with which comparisons were made over the pilot period, bank staff costs reduced considerably across all three wards over this period.³²⁷

Other cost-effective means of achieving the Bill’s intended outcomes

301. The Welsh NHS Confederation and health board executives claimed that the potential alternative approaches to achieving safe nurse staffing levels that they proposed could be more cost-effective than legislation.

302. In its written evidence, the Welsh NHS Confederation stated:

“The key critical factor when considering the financial implications of the Bill is whether the outcomes desired by this Bill can be achieved by means other than legislation. The cost and complexity of this Bill may mean that there are more cost effective and more rapid means of achieving the same outcomes.”³²⁸

303. The Welsh NHS Confederation suggested that a better way of achieving the aims of the legislation could include:

- “ensuring the right staffing pattern and skill mix to meet patients’ needs”;
- “recruiting staff more on their values”;
- “better training of nurses”;
- “further commissioning of registered nurse training places”; and

³²⁶ Aneurin Bevan University Health Board, Public Board meeting papers, [Perfect ward briefing for executives \(v2\)](#), July 2013

³²⁷ Ibid

³²⁸ Consultation response, SNSL(Org)3

– “making sure all staff operate in organisations that value compassion and care”.³²⁹

304. However, Professor Dame June Clark suggested in her written evidence that none of the alternatives to the Bill proposed thus far were able to achieve the Bill’s objectives. She also noted that although alternatives had been available, none had been used to date to achieve safe nurse staffing levels.³³⁰

Potential benefits and savings resulting from the Bill

305. While the RIA does not quantify specifically the potential benefits resulting from the Bill, some illustrative examples are included. These include a number of costs that could be reduced considerably by having safe nurse staffing levels—such as those incurred as a consequence of treating pressure ulcers, healthcare-acquired infections and falls—and are mainly based on benefits identified for England in a resource impact commentary for NICE’s safe staffing guidelines.

306. The RIA also includes examples from Wales on potential reductions in litigation and agency/bank nursing staff costs. The RIA states that around £70 million per year is spent within the Welsh risk pool on litigation claims due to poor care, which could be reduced if the Bill were to be enacted. Professor Gillian Leng, representing NICE, also noted that there was evidence to suggest that improved staffing levels could lead to a reduction in litigation costs.³³¹

307. Professors Dame June Clark and Anne Marie Rafferty stated that implementing safe nurse staffing levels may create upfront costs, but that these could be offset by savings.³³² Professor Clark also felt that the reduction in “complications” would decrease costs, as would the reduced length of stay in hospitals.³³³

308. Professor Peter Griffiths noted that evidence from Australia tended to point to a favourable cost-benefit ratio following the introduction of mandatory staffing policies.³³⁴

³²⁹ Consultation response, SNSL(Org)3

³³⁰ Consultation response, SNSL(Ind)5

³³¹ RoP [para 93], 25 February 2015

³³² RoP [paras 34-35], 12 February 2015

³³³ Consultation response, SNSL(Ind)5

³³⁴ RoP [paras 37-38], 12 February 2015

The Minister's view

309. The Minister has suggested that it is difficult to calculate some of the costs arising as a consequence of the Bill. In respect of the ratios, the Minister's written evidence noted:

“A mandatory ratio is likely to have an impact on the nursing workforce; however, it is not possible to estimate the cost of this impact. Local Health Boards put forward the number of nurses to be trained every year, based on their requirements to fulfil the health needs of their population. The Welsh Government cannot anticipate the nursing levels required by Local Health Boards nor the numbers of registered nurses available to the Welsh NHS.”³³⁵

310. In oral evidence the Minister said:

“My current anxiety about the Bill is in being able to provide credible financial information to go alongside the Bill. I don't think the information provided by the Member in charge does accurately cost the consequences of the Bill itself. [...] So, I do have some anxieties about the current reliability of the financial information that is available to give you, in making decisions, confidence that, if this Bill were to be enacted, this is how much it would, by itself cost.”³³⁶

311. In written evidence, the Minister highlighted a number of areas in which the Welsh Government believed the RIA underestimated costs associated with implementing the provisions in the Bill. In summary, the Minister argued:

- developing new guidance or revising existing guidance would cost more than anticipated;
- collecting all the indicators at ward level and producing reports would represent a considerable burden on staff resource in the NHS in Wales; and

³³⁵ Written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2](#), 5 March 2015

³³⁶ RoP [para 180], 5 March 2015

- a major review of the guidance would be required after the first five years of the Bill’s implementation, representing an additional cost.³³⁷

312. In respect of the potential for additional costs associated with an increased use of agency/bank nursing staff, the Minister referred to the Aneurin Bevan University Health Board “perfect ward pilot”. He stated that the financial consequences of the pilot were inconclusive in terms of whether having a perfectly staffed ward meant:

- sufficient staff would be attracted and recruited via permanent contracts; and
- the use of bank and agency staff would be reduced.³³⁸

The Member in charge’s view

313. Kirsty Williams acknowledged that, due to the staffing ratios not being on the face of the Bill, it was difficult to develop robust costings. She noted that this was because any additional costings would depend on the content of the statutory guidance that would be produced by the Welsh Government if the Bill were to be enacted. As a consequence, the EM costs:

- what is in the Bill, including the costs associated with data collection, publication and communication between Welsh Government and health boards; and
- the costs associated with producing an annual report.

314. In relation to any additional costs associated with an increased use of agency/bank nursing staff, Kirsty Williams also cited Aneurin Bevan University Health Board’s “perfect ward pilot”. She stated that this showed a reduction in bank and agency staffing costs of over 60 per cent and a slight reduction in the overall costs of running these wards while the pilot was underway.³³⁹

315. In relation to costs associated with collecting and reporting data, Kirsty Williams stated:

³³⁷ Written evidence from the Minister for Health and Social Services, [HSC\(4\)-07-15 Paper 2](#), 5 March 2015

³³⁸ Ibid

³³⁹ Additional written evidence from Kirsty Williams AM, following the Committee’s meeting on 15 January 2015, SNSL AI 9

“we’ve been very, very careful not to expect local health boards to start collecting lots and lots of extra data that they don’t already have. They should, if they are properly managing their quality assurance within their institutions, have access to all of these data.”³⁴⁰

The Committee’s view

316. The Committee notes the Minister’s concerns about the credibility of the financial information presented in the EM and is concerned that it remains difficult to assess fully the costs of implementing the legislation without knowing what the staffing ratios will be. Whilst the Committee agrees that the specified staffing and skills mix ratios should be included in guidance rather than on the face of the Bill, it notes that they are a fundamental part of the Bill’s provisions and therefore the expenditure associated with them is an important consideration. However it also notes the Member in charge’s view that health boards’ staffing plans should already be including the necessary funding to deliver the staffing ratios advised by the CNO’s *All Wales Nurse Staffing Principles*.

317. The Committee remains to be convinced that increases in expenditure on agency/bank nursing staff would not occur in the short term, following the Bill’s implementation. Whilst the Committee accepts that such costs may decrease in the medium to long term, and that cost savings could be made, it believes that the Member in charge should consider undertaking further analysis in this regard.

Recommendation 16: The Committee recommends that the Member in charge undertake further analysis of the potential increases in expenditure on agency/bank nursing staff that could occur in the short term as a consequence of the Bill’s implementation. This information should be used to inform a revised Explanatory Memorandum.

318. The Committee concludes that, in the longer term, there is evidence to suggest that the costs of not providing safe nurse staffing levels could outweigh any costs associated with the Bill’s implementation.

³⁴⁰ RoP [para 237], 15 January 2015

9. Subordinate legislation, guidance and commencement

Subordinate legislation

319. The Bill contains a single power for the Welsh Ministers to make regulations. This power allows the Welsh Ministers to extend the duty to take all reasonable steps to meet staffing ratios—as outlined in section 2(1) of the Bill—to “additional settings”, other than “adult inpatient wards in acute hospitals”. Regulations using this power would be subject to the affirmative procedure in the Assembly.

320. Paragraph 168 of the EM states:

“This provision is included in order that the duty to take all reasonable steps to meet recommended minimum ratios can be extended to settings, other than adult inpatient wards in acute hospitals, should there be sufficient evidence that such an extension is necessary. Any regulations made by the Welsh Ministers will be by way of affirmative procedure. This is considered appropriate as the power extends the settings to which the new duty may apply.”

Respondents’ views

321. As noted in in chapter 6, a number of respondents commented that additional settings beyond “adult inpatient wards in acute hospitals” should be listed on the face of the Bill and subject to its provisions at commencement. Notwithstanding that evidence, no objections were raised to the regulation-making powers granted to the Welsh Ministers by the Bill.

The Minister’s view

322. When asked about the Bill’s delegated powers, the Minister noted that he believed the approach adopted was “sensible” and allowed sufficient flexibility to extend the Bill’s provisions to other settings should relevant evidence emerge. He also noted that he was content that the affirmative procedure would apply should regulations of this nature be brought forward.³⁴¹

³⁴¹ National Assembly for Wales, Constitutional and Legislative Affairs Committee, [RoP \[para 57\]](#), 2 February 2015

The Member in charge's view

323. Kirsty Williams told the Constitutional and Legislative Affairs Committee that the Bill's regulation making powers have been drafted to give the Welsh Ministers the ability to bring forward regulations for additional settings as and when relevant evidence becomes available.³⁴² She noted that she felt it was important for the Assembly as a whole to have a say on any future extension of the Bill's provisions to other settings, hence the Bill's requirement for any subordinate legislation to be subject to the affirmative procedure.³⁴³

The Committee's view

324. Subject to the conclusions and recommendations listed in chapter 6, the Committee is content with the Bill's regulation-making provisions.

Guidance

325. Section 2(1) of the Bill would insert a new section 10A(4) of the National Health Service (Wales) Act 2006. New section 10A(4) of that Act would require the Welsh Ministers to issue extensive guidance about health service bodies' compliance with the proposed duty to take all reasonable steps to maintain minimum registered nurse to patient ratios, and minimum nurse to healthcare support workers ratios in "adult inpatient wards in acute hospitals". This guidance would not be made by statutory instrument nor would it be subject to a formal Assembly procedure.

326. The Bill would require that the guidance include, among other things, the staffing ratios themselves and definitions of the terms used on the face of the Bill.

Respondents' views

327. Several respondents to the Committee's consultation noted that the definition of terms used on the face of the Bill needed to be clearer.³⁴⁴ These included:

³⁴² National Assembly for Wales, Constitutional and Legislative Affairs Committee, [RoP \[para 170\]](#), 2 February 2015

³⁴³ Ibid, [RoP \[para 108\]](#), 2 February 2015

³⁴⁴ Welsh NHS Confederation, SNSL(Org)3; Chartered Society of Physiotherapy, SNSL(Org)7; BMA, SNSL(Org)4; UNISON, SNSL(Org)6; Royal College of Speech and

- “safe nursing care”;
- “all reasonable steps”;
- “healthcare support worker”; and
- “adult inpatient wards in acute hospitals” (see chapter 6 for the Committee’s recommendation about this particular term).

The Minister’s view

328. Giving evidence to the Constitutional and Legislative Affairs Committee, the Minister noted that, while he believed the Bill “gets the basic approach right here in leaving to guidance a range of important factors that would need to be taken into account in achieving its objectives”, the provisions in relation to guidance were “over-prescriptive”.³⁴⁵ He went on to say:

“what the Bill should do is to set out the requirement for guidance and then leave it to the process of consultation and the actions that would flow from that to decide what it contains. [...] The long list of things in subsection (5) is over-prescriptive as it stands and should be illustrative of the things that guidance could cover, rather than insisting that it must.”³⁴⁶

329. With respect to the definition of terms, the Minister noted that the Bill could benefit from the inclusion of certain core definitions on its face. Government officials noted that these would include “adult inpatient wards”; “acute hospitals”; and “health service body”.³⁴⁷ The Minister acknowledged, however, that changes to services and treatments meant that some terms were better left to the guidance in order to retain the flexibility necessary to react to developments in healthcare.³⁴⁸

The Member in charge’s view

330. Kirsty Williams explained her rationale for leaving the detail of the Bill’s implementation to guidance to the Constitutional and Legislative Affairs Committee:

Language Therapists, SNSL(Org)13; Board of Community Health Councils, SNSL(Org)19; Public Health Wales, SNSL(Org)22; CNO, SNSL(Org)23

³⁴⁵ National Assembly for Wales, Constitutional and Legislative Affairs Committee, [RoP \[para 21\]](#), 2 February 2015

³⁴⁶ Ibid, [RoP \[paras 21-23\]](#), 2 February 2015

³⁴⁷ Ibid, [RoP \[para 33\]](#), 2 February 2015

³⁴⁸ Ibid, [RoP \[para 27\]](#), 2 February 2015

“what we have tried to do is create a scenario that allows for flexibility. If the ratios were on the face of the Bill, any changes to medical technology, how we do our care, how we do our nursing, would require a whole new legislative process. But, at the same time, what I’ve tried to do in subsection (5) is to try and define very closely my expectations of the Minister.”³⁴⁹

331. In response to the Minister’s view that the requirements were “overly prescriptive”, Kirsty Williams stated:

“the listing of ‘must’ gave me some confidence that the guidance would be fit for purpose, would include the right elements, and would give to Assembly Members whom I was asking to support this Bill a greater idea of what that guidance would contain, when sometimes we have no idea what guidance will look like and we’re asked to vote on it. So, it’s about trying to get that balance, that balance of flexibility but also clarity for Members, when I’m asking them to vote.”³⁵⁰

332. When asked whether the details currently left to guidance would have been better prescribed in regulations, Kirsty Williams said:

“how we do our nursing today is very different from how we did our nursing five years ago; the nature of the patients that nurses are looking after now, as we know, is very different from what we were looking after even five years ago. So, again, it’s this constant battle to achieve flexibility, which allows the law to respond to situations in hospitals, in the profession, versus a statutory procedure that would be required to come back and back and back, which, potentially, could leave us in a situation where you had unsafe practices potentially going on in hospitals by virtue of needing a legislative process to come back [...] on balance, I think safety is best delivered by the flexibility of the guidance, rather than regulation.”³⁵¹

333. With regard to the question of whether core terms would be better defined on the face of the Bill rather than being left to guidance, Kirsty Williams told the Committee that, as a large part of her Bill

³⁴⁹ National Assembly for Wales, Constitutional and Legislative Affairs Committee, [RoP \[para 131\]](#), 2 February 2015

³⁵⁰ Ibid, [RoP \[para 133\]](#), 2 February 2015

³⁵¹ Ibid, [RoP \[para 135\]](#), 2 February 2015

sought to amend the National Health Service (Wales) Act 2006, she had intended definitions already provided in that Act to be used.³⁵²

334. Nevertheless, when asked by the Constitutional and Legislative Affairs Committee whether she would consider including definitions of key terms on the face of the Bill, Kirsty Williams said:

“there are definitions that already exist, and I am open to the suggestion, if Members felt that the legislation would be more complete if some of those definitions were included on the face of the Bill.”³⁵³

The Committee's view

335. The Committee agrees with the Minister and the Member in charge that guidance is the most appropriate way to specify the detail of how the Bill's provisions should be implemented in practice. The Committee believes that this approach would provide the flexibility necessary to react to developments in the acuity and treatment of patients into the future.

336. The Committee notes the evidence received in relation to the definition of relevant terms used in the Bill. The Committee does not believe that it is appropriate to define statutory terms in guidance, as proposed in the new subsection 10A(5)(d) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill.

Recommendation 17: The Committee recommends that the Bill be amended to include definitions of key terms on its face.

Commencement

337. Section 4 of the Bill states “This Act comes into force on Royal Assent, and has effect in relation to each financial year of a health service body beginning on or after Royal Assent”.

338. Few respondents and witnesses commented on the Bill's commencement provisions. Nevertheless, those who did, concentrated on their significant concern that sufficient numbers of nurses were needed before the Bill could be commenced effectively (see chapter 5).

³⁵² Additional written evidence from Kirsty Williams AM, following the Committee's meeting on 15 January 2015, SNSL AI 9

³⁵³ National Assembly for Wales, Constitutional and Legislative Affairs Committee, [RoP \[para 152\]](#), 2 February 2015

The Minister's view

339. When asked about the Bill's commencement provisions, the Minister noted:

“You couldn't commence the Bill until the guidance was available. The guidance will need to be very carefully crafted and it will need to be consulted on, I believe, to make sure that it would be the best possible guidance. [...] the key thing for me to say is that guidance would have to be available prior to implementation and some time would be needed to make sure that that guidance was properly crafted, consulted upon and available.”³⁵⁴

The Member in charge's view

340. Kirsty Williams told the Assembly's Constitutional and Legislative Affairs Committee that she could not envisage it being possible or workable to commence the Bill without the statutory guidance required under section 2(1) of the Bill being in place.³⁵⁵ In additional written evidence to the Health and Social Care Committee, she noted:

“I would envisage that the Welsh Government guidance would be issued to coincide with Royal Assent and the Act coming into force. I would anticipate that Welsh Ministers would wish to make appropriate preparations to meet impending new statutory duties, as they commonly do with legislation introduced by the Welsh Government.”³⁵⁶

341. When asked to clarify the meaning of the reference to “each financial year” in section 4, Kirsty Williams explained:

“The reference to ‘each financial year’ is included to make it clear (to health service bodies) that the new duties imposed by the Act will only take effect from the 1st April of the year following Royal Assent having been given. [...] The annual reporting requirements would therefore cover a full financial year, rather than a partial year. The intention behind this provision is to make it easier for health service bodies to use

³⁵⁴ RoP [para 194], 5 March 2015

³⁵⁵ National Assembly for Wales, Constitutional and Legislative Affairs Committee, [RoP \[paras 177-179\]](#), 2 February 2015

³⁵⁶ Additional written evidence from Kirsty Williams AM, following the Committee's meeting on 15 January 2015, SNSL AI 9

existing structures to produce these reports at the same time as they are producing other reports.”³⁵⁷

342. Giving evidence to the Committee at the end of its Stage 1 proceedings, Kirsty Williams noted that she had listened to the evidence received in relation to the Bill’s commencement provisions and would be willing to consider altering the commencement date should the Committee think it necessary.³⁵⁸

The Committee’s view

343. The Committee notes that both the Minister and the Member in charge agree that it would not be possible to commence the Bill without the statutory guidance required under section 2(1) of the Bill being in place.

Recommendation 18: The Committee recommends that the Bill’s commencement provisions be amended to:

- clarify that the duty to maintain staffing ratios is not to apply in the absence of the guidance required by new section 10A(4) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill;
- allow reasonable time for the recruitment of nurses to the level necessary to meet the Bill’s requirements.

Recommendation 19: The Committee recommends that the Member in charge consider whether a sunrise clause may be a more realistic alternative to commencement on Royal Assent as:

- **effective guidance will be required by new section 10A(4) of the National Health Service (Wales) Act 2006, to be inserted by section 2(1) of the Bill; and**
- **consideration will need to be given to the issues outlined in Chapter 5 of this report about the possible barriers to the Bill’s implementation.**

³⁵⁷ Additional written evidence from Kirsty Williams AM, following the Committee’s meeting on 15 January 2015, SNSL AI 9

³⁵⁸ RoP [para 74], 19 March 2014

Annex A – Witnesses

The following witnesses provided oral evidence to the Committee on the dates noted below. [Transcripts of all oral evidence sessions](#) can be viewed on the Committee’s website.

Public oral evidence sessions

15 January 2015

Kirsty Williams AM	Member in charge of the Safe Nurse Staffing Levels (Wales) Bill
Lisa Salkeld	Legal Services, National Assembly for Wales Commission
Philippa Watkins	Research Service, National Assembly for Wales Commission

29 January 2015

Tina Donnelly	Royal College of Nursing Wales
Lisa Turnbull	Royal College of Nursing Wales
Rory Farrelly	Abertawe Bro Morgannwg University Health Board
Ruth Walker	Cardiff and Vale University Health Board
Dr Phil Banfield	BMA Cymru Wales
Dr Victoria Wheatley	BMA Cymru Wales
Dr Rhid Dowdle	Royal College of Physicians (Wales)
Dr Sally Gosling	Chartered Society of Physiotherapy
Philippa Ford	Chartered Society of Physiotherapy
Dr Alison Stroud	Royal College of Speech and Language Therapists

12 February 2015

Professor Dame June Clark	Academic attending in a personal capacity
Professor Peter Griffiths	Academic attending in a personal capacity
Professor Anne Marie Rafferty	Academic attending in a personal capacity
Peter Meredith Smith	Board of Community Health Councils in Wales

Kate Chamberlain	Healthcare Inspectorate Wales
Alun Jones	Healthcare Inspectorate Wales
Dawn Bowden	UNISON Cymru Wales
Tanya Bull	UNISON Cymru Wales
Paul Roberts	Abertawe Bro Morgannwg University Health Board
Anne Phillimore	Aneurin Bevan University Health Board

25 February 2015

Professor Gillian Leng	National Institute for Health and Care Excellence (NICE)
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5 March 2015

Mark Drakeford AM	Minister for Health and Social Services
Dr Jean White	Chief Nursing Officer
Fiona Davies	Lawyer, Welsh Government
Helen Whyley	Nursing Officer, Welsh Government

19 March 2015

Kirsty Williams AM	Member in charge of the Safe Nurse Staffing Levels (Wales) Bill
Lisa Salkeld	Legal Services, National Assembly for Wales Commission
Philippa Watkins	Research Service, National Assembly for Wales Commission
Melanie Minty	Care Forum Wales
Anne Thomas	Linc Cymru and representing Care Forum Wales
Michele Millard	Spire Cardiff Hospital and representing the Welsh Independent Healthcare Association
Simon Rogers	Welsh Independent Healthcare Association

Annex B – Written evidence

The following people and organisations provided written evidence to the Committee. All [consultation responses](#) and additional written information can be viewed in full on the Committee’s website.

Organisation	Reference
Chartered Society of Physiotherapy – paper 1	SNSL(Org) 01
Royal College of Physicians	SNSL(Org) 02
The Welsh NHS Confederation	SNSL(Org) 03
BMA Cymru Wales	SNSL(Org) 04
Royal College of Nursing	SNSL(Org) 05
UNISON Cymru Wales	SNSL(Org) 06
Chartered Society of Physiotherapy – paper 2	SNSL(Org) 07
Age Cymru	SNSL(Org) 08
Older People’s Commissioner for Wales	SNSL(Org) 09
Wales Macmillan Cancer Support	SNSL(Org) 10
Paediatric Intensive Care Unit	SNSL(Org) 11
Welsh Intensive Care Society (WICS)	SNSL(Org) 12
Royal College of Speech and Language Therapists	SNSL(Org) 13
Royal Pharmaceutical Society	SNSL(Org) 14
Nursing and Midwifery Council	SNSL(Org) 15
Socialist Health Association	SNSL(Org) 16
Cardiff and Vale of Glamorgan Community Health Council	SNSL(Org) 17
UNITE	SNSL(Org) 18
Community Health Councils	SNSL(Org) 19
North Wales Community Health Council	SNSL(Org) 20
Healthcare Inspectorate Wales	SNSL(Org) 21
Public Health Wales	SNSL(Org) 22
Chief Nursing Officer	SNSL(Org) 23
Care Forum Wales	SNSL(Org) 24

Welsh Independent Healthcare Association	SNSL(Org) 25
Children's Commissioner for Wales	SNSL(Org) 26
National Institute for Health and Care Excellence	SNSL(Org) 27
UK Government Department of Health	SNSL(Org) 28

Individuals

Richard Jones	SNSL(Ind) 01
Wendy Hughes	SNSL(Ind) 02
Susan Fletcher	SNSL(Ind) 03
Professor Anne Marie Rafferty CBE	SNSL(Ind) 04
Professor Dame June Clark	SNSL(Ind) 05
Professor Peter Griffiths	SNSL(Ind) 06

Reference

Royal College of Nursing campaign

Summary of evidence received

Additional written information was received from the following organisations:

Organisation

Organisation	Reference
Rory Farrelly	SNSL AI 01
Hywel Dda University Health Board	SNSL AI 02
Aneurin Bevan University Health Board	SNSL AI 03
Betsi Cadwaladr University Health Board	SNSL AI 04
Abertawe Bro Morgannwg University Health Board	SNSL AI 05
Cwm Taf University Health Board	SNSL AI 06
Cardiff and Vale University Health Board	SNSL AI 07
Chartered Society of Physiotherapy	SNSL AI 08
Kirsty Williams AM, Member in charge of the Safe Nurse Staffing Levels (Wales) Bill	SNSL AI 09
National Institute for Health and Care Excellence	SNSL AI 10

Additional written information requested at the Committee's meeting on 5 March was received from the following organisations:

Organisation	Reference
Welsh Independent Healthcare Association	SNSL AI 11
Cwm Taf University Health Board	SNSL AI 12
Hywel Dda University Health Board	SNSL AI 13
Abertawe Bro Morgannwg University Health Board	SNSL AI 14
Cardiff and Vale University Health Board	SNSL AI 15
Powys Teaching Health Board	SNSL AI 16
Public Health Wales	SNSL AI 17
Betsi Cadwaladr University Health Board	SNSL AI 18
Minister for Health and Social Services	SNSL AI 19

Additional written information requested at the Committee's meeting on 19 March was received from the following:

Organisation	Reference
Minister for Health and Social Services	SNSL AI 20
Kirsty Williams AM, Member in charge of the Safe Nurse Staffing Levels (Wales) Bill	SNSL AI 21

Annex C – Health boards’ compliance with the CNO’s guidance as of January and February 2015

Data on the extent to which health boards in Wales were meeting the requirements of the CNO’s *All Wales Nurse Staffing Principles*, as of May and June 2013, were provided in the EM.³⁵⁹ The Committee requested updated data from all health boards. Their compliance with the CNO’s guidance, as of January and February 2015, is summarised below:

Health Board	Number of patients per registered nurse		Ratio of registered nurses to nursing support workers
	day	night	
CNO guidance	7	11	60:40
Abertawe Bro Morgannwg	7 (average)	11 (average)	60:40
Aneurin Bevan	7	11	60:40
Betsi Cadwaladr	7 (average)	11-15	Majority of wards meet 60:40 or higher. ³⁶⁰
Cardiff and Vale [did not provide the actual staffing ratios on the wards which were not complying with the CNO guidance ratios]	All 12 of the surgical wards comply. 3 of the 14 medical wards comply.	7 of the 12 surgical wards comply. 5 of the 14 medical wards comply.	9 of the 12 surgical wards comply. 9 of the 14 medical wards comply.
Cwm Taf	7	1-13 (average)	61:39
Hywel Dda	Does not exceed 7 (includes a senior ward sister)	9-15 (average)	All wards meet the skills mix ratio

³⁵⁹ Explanatory Memorandum, Table 1, p11

³⁶⁰ Two wards are slightly below at 52:48 & 54:46 due to requirement for a higher proportion of nursing support workers to meet patient needs